



Proposed Fire Management Categorical Exclusions

CAT
Content
Analysis
Team

Summary of Public Comment

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April 7, 2003

Executive Summary

Introduction

The following is a summary of the public comment received in response to the proposed fire management categorical exclusions, applicable to both the United States Department of Agriculture Forest Service (USDAFS) and the Department of Interior (DOI) public lands management agencies, including the Bureau of Land Management, National Park Service, Fish and Wildlife Service, the Bureau of Indian Affairs, and the Bureau of Reclamation.. The public comment period was initially open for 30 days, from December 16, 2002 to January 15, 2003. It was extended 15 days, closing on January 31, 2003. The agencies received 38,874 responses—including letters, e-mails, and faxes—of which 1,825 contained original language. The remaining 37,049 responses were organized response campaign (form) letters. This *Summary of Public Comment* document is based on the 1,825 original responses and the text of each form letter master copy (see Appendix E for a summary of the organized response campaign comments and the total number of each form received).

All responses have been analyzed using a process called content analysis, described below. Although this summary and accompanying list of public concerns attempts to capture the full range of public issues and concerns, it should be used with caution. Respondents are self-selected; therefore their comments do not necessarily represent the sentiments of the public as a whole. However, this report does attempt to provide fair representation of the wide range of views submitted. In considering these views, it is important for the public and decision makers to understand that this process makes no attempt to treat input as if it were a vote. Instead, the content analysis process ensures that every comment is considered at some point in the decision process.

Content Analysis Process

Content analysis is a method of evaluating messages in order to elicit meanings and derive information. A specialized Forest Service unit, the Content Analysis Team (CAT), has applied this approach to the analysis of public comment. The team uses both qualitative and quantitative tools in its analysis. The CAT process provides a mailing list of respondents, identifies demographic information, isolates specific comments by topic in each response,¹ evaluates similar comments from different responses, and summarizes like comments as specific concern statements. The team uses a relational database capable of reporting various types of information while linking comments to original letters.

Through the content analysis process, CAT analysts strive to identify all relevant issues, not just those represented by the majority of respondents. The breadth, depth, and rationale of each comment are especially important. CAT analysts organize the concern statements to facilitate systematic review and response by decision makers.

¹ Responses refer to single, whole submissions from respondents—e.g., letters, e-mails, faxes, etc. Comments refer to identifiable expressions of concern made within responses.

Proposal Background

In the fall of 2002, President Bush announced the Healthy Forests Initiative. Coming at the end of an active and costly fire season in the western United States, the President put forward this initiative to address forest health issues and to reduce the risk of fire on public lands administered by the Bureau of Land Management and the Forest Service (referred to hereinafter as “the agencies” or “the USDAFS & DOI”).

The initiative proposes a series of administrative rule changes to accomplish these goals. Three separate notices describing the proposed changes were released for public review and comment in the Federal Register during December, 2002. This *Summary of Public Comment* report corresponds to proposed rule changes published in the Federal Register (FR) on December 16, 2002 (67 FR 77038). In the notice, the agencies propose adding two categorical exclusions (CEs) to the existing lists in the USDA Forest Service Manual (FSM) and the Department of Interior Department Manual (DM). Certain hazardous fuels reduction and post-fire rehabilitation activities would therefore be excluded from individual project-level environmental analysis and documentation under the National Environmental Policy Act (NEPA) in order to expedite project implementation. The agencies propose to add the new categories based on findings from their review of more than 3,000 recent fuel treatment and rehabilitation projects.

Two additional administrative changes proposed under the Healthy Forests Initiative would modify the rules governing the process by which the public may appeal USDAFS and DOI decisions (Notice, Comment, and Appeal Procedure for Projects and Activities on National Forest System Lands—67 FR 77451, December 18, 2002, and Special Rules Applicable to Public Land Hearings and Appeals—67 FR 77011, December 16, 2002). Other components of the Healthy Forests Initiative include the December 2002 DOI Endangered Species Act Net Benefit Guidance issued by the Fish and Wildlife Service and the National Marine Fisheries Service and additional guidance from the Council on Environmental Quality (CEQ) regarding clear and concise preparation of environmental assessments (EAs).

The following summary of public comment reviews only those comments submitted by the public in response to the proposed hazardous fuels reduction and rehabilitation categorical exclusions, which we refer to hereinafter as the proposed fire management CEs. The *Summary of Public Comment* is organized topically, framed around the primary action requested within a given comment statement. Please consult the Table of Contents and the Public Concerns List (Appendix B) to help navigate to specific topics of interest.

In some cases, respondents discuss the proposed fire management CEs in relation to the other proposed components of the Healthy Forests Initiative. This summary also covers these comments.

Comments submitted on the proposed fire management CEs may pertain to proposed actions conducted by the Forest Service, agencies within the Department of Interior, or both. We note that public comments often address implementing agencies in a generic manner across departments and agencies. Therefore, this summary document refers to them generically as USDAFS & DOI except in cases where the comments are clearly addressed to a particular agency.

Planning

Purpose and Need for Proposed Action

Those respondents who request adoption of the proposed fire management CEs present a wide range of reasons regarding the need for the USDAFS & DOI to take such action. According to some respondents, the USDAFS & DOI should enact the proposed fire management CEs in order to allow more active and effective management of public lands. Respondents state that such a policy is overdue and will grant local field managers the necessary authority to perform maintenance and remove hazardous fuels in a timely fashion. They assert that many recent large fires could have been slowed or prevented had proposed fuel reduction projects been implemented years ago. Some comment that these categorical exclusions should be implemented immediately due to current drought conditions and below normal snow pack in the western United States.

Some respondents who request implementation of the proposed fire management CEs state that the USDAFS & DOI provided documentation of sufficient review of prior projects to justify their conclusions that these rule changes will not have a significant effect to the environment. Others assert that the USDAFS & DOI placed adequate restrictions on use of the categorical exclusions (e.g., no use of herbicides or pesticides) to protect the environment. According to these respondents, these procedural changes are needed to protect habitat, watersheds, air quality, rangelands, communities, homes, property, and human lives.

Other respondents who request implementation of the proposed fire management CEs assert that they will not shut the public out of the decisionmaking process because collaboration goals ensure that local affected communities will be involved. They say it is appropriate that those people most affected by fire management projects should be primarily responsible for reviewing their scope and content.

Some respondents who request adoption of the proposed fire management CEs assert that the original purpose of the National Environmental Policy Act (NEPA) to inform decision makers of environmental effects has been lost. They say that litigation has caused agencies to spend more time and money on NEPA analysis—up to 40 percent of personnel time—than intended by statute, and that protracted delays often occur following analysis and decisions due to appeals and lawsuits. Respondents also state that appeals and litigation should not be allowed to supercede local collaborative efforts by communities that are suffering adverse economic effects from agency actions and policies.

Some respondents state that agencies typically require at least 24 months to gain approval for actions to treat insects, disease, and fuel conditions due to the lengthy NEPA process. These respondents assert that during such delays, resource problems are exacerbated and may expand to a larger affected land area than that covered by the initial project design. They comment further that merchantable timber such as Douglas fir deteriorates during such delays, reducing the economic feasibility of salvage.

Respondents comment that a categorical exclusion (CE) is needed for rehabilitation to allow officials to restore areas and salvage burned material, and that such salvage harvest could return funds to benefit local economies, schools, and roads through the 25 percent fund. Respondents comment that the proposed fire management CEs would allow residents to care for the land,

protect their communities, and pursue employment and economic opportunities. Some assert that the proposed fire management CEs are needed to protect tourist economies and real estate values that are harmed by large fires, and to prevent imports of foreign timber.

Those respondents who request that the proposed fire management CEs not be implemented also present a wide range of reasons regarding the need, or lack thereof, for the USDAFS & DOI to take such action. These respondents address many of the same forest health, environmental, social, and economic resource and procedural considerations as those who request implementation, but from a different perspective. Some respondents assert that the proposed fire management CEs are not needed inasmuch as existing laws and policies already allow sufficient action to be taken to lower the forest fire risk where it threatens public health and safety and to address forest health conditions. Respondents state that current NEPA guidelines and agency policies already provide sufficient authority for using existing CEs for these purposes. Some say that prior to changing or expanding them, the USDAFS & DOI should demonstrate how existing CEs have proved inadequate and disclose any adverse consequences they have found.

Some respondents say that the proposed fire management CEs are internally inconsistent with respect to their aims—that if continued fire prevention and suppression (goal #1) is the goal, then the restoration of fire-adapted ecosystems (goal #3) cannot be. These respondents suggest that the goals should be made consistent by, for example, rewriting goal #1 to read, “improve fire prevention and suppression in and around at-risk communities.” Others say that the proposed fire management CEs are inconsistent with their intent to eliminate the short time required for National Environmental Policy Act (NEPA) analysis and public involvement as compared to policies that give timber harvesters five years (or more with extensions) to complete projects.

Respondents state that the USDAFS & DOI have failed to substantiate the claim that 190 million acres contain excessive fuels and are at risk for wildland fires. Respondents state that the USDAFS & DOI have not provided baseline data to support this claim, nor disclosed how the conclusion was made that fuels reductions across the entire landscape would restore low intensity fire regimes. Some respondents assert that, based on spatial data on wildland fire and fuels management published by the Forest Service in 2002, only 424,000 acres have a high risk of igniting structures in urban-wildland interface areas. Some respondents note that western forests are actually founded on high frequency, low intensity fires, and that there is no ecological evidence that fires are occurring outside of historical ranges or properly functioning conditions.

Some respondents state that the proposed fire management CEs will not fulfill their intended purpose. Respondents comment that large fires in 2002, including the Hayman Fire, occurred in an area that had been subjected to prescribed fire, mechanical thinning, and timber sales, but burned anyway. They also note that the fire was intentionally started by a Forest Service employee and that such acts will not be prevented by curtailing NEPA and public involvement. Some respondents question what the USDAFS & DOI's contingency plans will be if the frequency and severity of wildfire remains the same or increases after fuels reduction projects.

Respondents state that the proposed fire management CEs will necessitate spending millions of dollars over decades to reduce fuel loadings and restore more natural fire regimes. Some comment further that millions of dollars will be required to maintain such treatments, and additional fuels reduction will be needed every three to ten years. Respondents state that such fuels reduction efforts are ineffective and inefficient and will not reduce the risk of fire within urban-wildland interface areas.

Other respondents say the proposed list of activities included in the proposed fire management CEs is so broad that it could include virtually any activity. Some state that the proposed fire management CEs will promote the removal of old growth and large diameter trees and thus may increase fire risks. Some also say that if the USDAFS & DOI implement the proposed fire management CEs, every commercial timber harvest project will identify hazardous fuels reduction as its primary purpose to avoid the environmental review process. Respondents state that the proposed fire management CEs will result in actions that adversely affect numerous environmental resources, including municipal watersheds, riparian areas, recreation; threatened and endangered species; and critical habitat for migratory species.

Respondents say the USDAFS & DOI should replace the proposed fire management CEs with an alternative approach focusing on restoration of natural processes, such as fire cycles. Some assert that fire-dependent forests in the western United States actually need more fires, not less, due to decades of fire suppression. These respondents state that this alternative approach would more effectively promote forest health, wildlife habitat, watershed quality, and ecological integrity in general. Others propose, as an alternative to the proposed fire management CEs, that the USDAFS & DOI should focus efforts on local communities at risk of wildfire. According to these respondents, the USDAFS & DOI should assist private property owners in conducting simple and inexpensive treatments to protect their homes and focus any fuels management on public lands in urban-wildland interface areas and community protection zones.

Some respondents who request that the CEs not be implemented counter that existing environmental laws do not cause gridlock, red tape, “analysis paralysis,” or prevent needed actions on the ground. Some respondents state that analysis paralysis is the result of the USDAFS & DOI’s own actions. They say that over the years, environmental assessments have grown from a few concise pages to lengthy, detailed documents, but that such complexity was not required by the rules or courts—except where the courts ruled that an environmental impact statement (EIS) was required. They comment further that an environmental assessment (EA) is the best tool for an agency to verify that an EIS is not required.

Respondents say that NEPA and citizen appeals have not been the cause of federal inaction and cite studies by the General Accounting Office (GAO) that less than one percent of thinning projects have been appealed. Some respondents state that the Forest Service’s study of a subset of 1,671 projects examined as part of the 2001 GAO’s report, “Appeals and Litigation of Fuel Reduction Projects,” was methodologically flawed and should not be used as evidence against the value of the appeals process generally. They state that the conclusion that 48 percent of the projects were appealed on NEPA grounds is erroneous because of the subset of cases selected by the reviewers was a biased sample and only a portion of the sampled appeals cases involved NEPA claims. Further, these respondents assert that no information was presented regarding the number of projects subject to subsequent lawsuits or injunctions, the results of such legal actions, or the on-the-ground consequences of appeals and litigation such as whether any proposed project areas experienced wildfire during the delays. Respondents also assert that, according to agency personnel, much of the information was collected in a few hours via telephone interviews across the country; these respondents question the credibility of information collected under such cursory, unscientific means.

Some respondents cite a report by the Northern Arizona University Ecological Restoration Institute which, they assert, provides evidence that the USDAFS & DOI do not maintain records in a way that allows systematic evaluation of the effects and outcomes of administrative appeals.

They state that, per the report, the USDAFS & DOI have failed to track appeals or decisions according to project type, appeal type, grounds for appeal, or resulting delays, etc. They also say that the USDAFS & DOI lack the capability to systematically and objectively evaluate the characteristics, effects, and outcomes of administrative appeals, and that agency assertions regarding the effects of appeals is conjectural.

Among those respondents who counter the rationale that the level of appeals justifies the proposed fire management CEs, some say, moreover, that thinning projects are rarely challenged except when large trees and clear-cuts are included in projects that resemble standard commercial timber sales. Other respondents assert that fuels management problems are a result of agency decisions made thirty to fifty years ago; and that the proposal to eliminate NEPA analysis, public involvement, and appeals returns forest management to practices implemented during those pre-NEPA days that led to the current situation. Any extended delays, some assert, occur because agencies fail to adequately comply with NEPA or inappropriately mix commercial timber harvest with hazardous fuels reduction efforts; do not ensure sound decisionmaking and project management by line and staff officers; do not ensure adequate education in the regulatory acts and planning process, as well as in recent social and ecological sciences; or come to the conclusion themselves through environmental analysis that some projects are inappropriate.

Some respondents state that the proposed fire management CEs will make the process more burdensome and confusing than it is now. They assert that so many exceptions exist that decisions will never withstand judicial review. These respondents also state that the proposed fire management CEs will result in additional paperwork while still necessitating environmental assessment. Some state that the number of legal challenges will increase for fire management projects that have not been subject to environmental review.

Respondents comment further that the scoping process for CEs is not sufficient to ensure meaningful public involvement as environmental effects are not known and understood until completion of an in-depth environmental analysis. Some comment that forests within California have kept the public out of the scoping process on CEs and special uses by making the decision, implementing the action, and then publishing the action in the next quarterly schedule. These respondents state that, according to the agencies, post-publication served as scoping, although the public was not informed until after the action occurred. Some respondents ask the USDAFS & DOI to provide specific guidance on how, under the proposed fire management CEs, collaboration will be implemented at state, regional, and national levels.

Respondents state that the public involvement process works as designed to bring legal issues and potential effects to light that were not adequately considered during internal review and analysis. Some assert that the proposed fire management CEs are inconsistent with the Forest Service's Cohesive Strategy [Fire-Adapted Ecosystems – A Cohesive Strategy] and the Forest Service's response to the GAO Report GAO/RCED-99-65, in both of which the Forest Service states that successful restoration of fire regimes depends upon legal compliance and public involvement in determining the details of fuel reduction and restoration programs. According to some, the proposed fire management CEs are a repeat of the salvage rider provision, which was then used by the timber industry to harvest large diameter healthy trees. These respondents say that failure to conduct environmental analysis and public involvement for such salvage projects resulted in negative environmental effects.

Respondents ask the USDAFS & DOI to provide sufficient advance public notice of any project authorized under the proposed fire management CEs as well as hearings for public comment. Others state that if public comment is not considered, then it is likely that people will exercise influence on decisionmaking via other means, such as legal challenges or civil disobedience.

Scope of Proposed Fire Management CEs

Some respondents state that the proposed fire management CEs should be adopted without exception across all USDAFS & DOI-managed lands in order to address critical fuel loads and restoration needs. Others state that the proposed fire management CEs inappropriately forward a nationwide approach over a site-specific approach. These respondents state that regions of the country vary in their propensity for wildfire and fire dependence, and that the proposed fire management CEs have little applicability for eastern forests, alpine forests, and forests in the Pacific Northwest inasmuch as fire does not play a significant role in these areas due to high precipitation and humidity. Respondents ask the USDAFS & DOI to limit the scope of the proposed fire management CEs by exempting certain geographical regions or areas with specific ecological characteristics. Suggestions include exempting the southern Appalachian forests, roadless areas, endangered species habitat, or degraded watersheds; and limiting projects to the western United States as that is where the threat of catastrophic fire is the greatest. Additional sideboards suggested in public comment are discussed in the sections *CEs General* and *Timber Resource Management and Hazardous Fuels Reduction* that follow.

Role of State and Local Governments

Some representatives of state and local agencies request that they be afforded an opportunity to participate as full partners in the planning, decisionmaking, and implementation of actions for forest health that occur within their state.

Some comment that the USDAFS & DOI should consult with state governments, state agencies, and local agencies on any proposed actions to ensure that states have input on actions and environmental effects, and that such actions are based on interagency evaluation and agreement. Respondents also comment that state and local agencies need to be involved because of the effects of decisions on the environment, wildlife management, and industries.

Some respondents say that the USDAFS & DOI should work with states to craft a collaborative planning, monitoring, and adaptive management process to account for state and regional differences. Respondents say that the USDAFS & DOI should adopt the collaborative and analytical framework used in California where data drives the selection of areas for treatment. Respondents also state that the USDAFS & DOI, in cooperation with states, should design risk assessments that outline opportunities for fuels reduction and constraints on implementing treatments.

Some respondents say that the USDAFS & DOI should establish a joint state and federal technical taskforce to identify lessons learned and best management practices. These respondents write that the team should be composed of state and federal fire scientists, ecologists, and wildlife biologists. They suggest that the taskforce should review projects implemented during the initial two-year period to formulate guidance to improve the process. They say that such an approach will provide a landscape laboratory to identify and evaluate best practices not only for their performance in reducing fire risk, but also for their effects on wildlife habitat and other

environmental factors. They state further that the taskforce would be beneficial in the planning phase by helping to design projects based on prior analytic work. In addition, they say that the team should systematically monitor, review, and suggest adaptive changes to the planning process and fuels treatment prescriptions.

Finally, some respondents comment that the USDAFS & DOI should not implement any changes in the NEPA and public involvement process without the approval of the state forester of the effected state. Others propose that the USDAFS & DOI should work with the Western Forestry Leadership Coalition.

Public Involvement

Some respondents say that adequate public involvement has been provided for the proposed fire management CEs. Other respondents state that the USDAFS & DOI should inform local communities near forests of the proposed fire management CEs and extend the comment period so that residents can provide input. They say that local residents were unaware of the proposed fire management CEs or comment period. Some state that the 30-day comment period is insufficient for the average citizen to research and understand the issues. Others request a 60-day extension for the comment period.

Some respondents say that the USDAFS & DOI should conduct public meetings on the proposed fire management CEs and provide people the opportunity to provide testimony.

Others comment that the rulemaking is controversial and should not have been issued during the holiday season when people are traveling and spending time with their families, and at a time when the country is discussing war. Some say the simultaneous issuance of several proposals has reduced the ability of the public to respond.

Some question the integrity of the email submission option—they report that they received error messages and that the problems developed right before the deadline. Some respondents state that the USDAFS & DOI should not block emails originating from a common domain third party. These respondents say that such email generators are important to groups interested in the environment and that such blocking prevents voices from being heard. Other respondents state that the USDAFS & DOI should accept and consider all comments and not just those deemed to be “original and substantive.” They say that not all citizens have the time or expertise to thoroughly analyze multiple proposals, but that they should be able to make their views known through a simple means.

Some respondents state that the USDAFS & DOI should provide opportunities for public involvement on the proposed fire management CEs following the release of the forthcoming report from the GAO which will provide an updated and detailed study of the relationship between administrative appeals and fuels reduction projects. They say that the public should have an opportunity to comment on the proposed fire management CEs in light of the GAO findings.

Respondents state that the USDAFS & DOI should allow public comment on the proposed fire management CEs after the Council on Environmental Quality (CEQ) has reviewed it and issued its position. They say that the agencies’ efforts violate the intent of CEQ consultation in that the public has not been informed of the results of the CEQ review. Further, these respondents assert

that the public cannot adequately comment until they have reviewed the results of the CEQ consultation.

Some respondents comment that the USDAFS & DOI should provide addresses listing where hard copies of information can be obtained. These respondents say that they do not have access to the Internet and that they have not been able to obtain information.

Some respondents question why the public should have to cite specific laws, regulations, or policies when making comments. Some comment further that, according to the Federal Register notice, instructions for applying the proposed fire management CEs will not be issued until after the rule is finally established; thus neither the agencies nor the public can comment on how, where, when, and how often these CEs will be utilized.

Some respondents assert that the current administration has disregarded the public's input on proposals regarding the management of roadless areas and the use of snowmobiles in Yellowstone National Park, and request that comment on the proposed fire management CEs be respected. Some respondents suggest that the USDAFS & DOI should use professional mediation to engage the public in constructive dialogue to develop solutions that serve the public interest and that respect natural processes.

Trust and Integrity

Trust and integrity is one of the most prominent themes running through public comment on the proposed fire management CEs. Respondents offer remarks related to trust and integrity with respect to virtually every topic associated with the proposed fire management CEs. Some comment that forest management has been hampered too long by rules and policies meant to curry favor with groups who are intent on restricting activities on forest lands, and by the constant need to defend projects against litigation brought by such groups. These respondents say the proposed fire management CEs are needed to allow efficient forest management and to maintain forest health.

Others question the motives of the administration and USDAFS & DOI in advancing the proposed fire management CEs. These respondents suggest that the primary motivation is to benefit corporate interests and that the proposed fire management CEs are consistent with the current administration's attempts to weaken environmental legislation. Some state that while the administration states publicly that it supports public involvement and collaboration, its actions would actually restrict these roles. They state that the administration and USDAFS & DOI are not fully considering the input of people who suggest there are undue risks associated with many forest activities, and that they are putting too much emphasis on the input of natural resource industries.

Some respondents state that the agencies are trying to shift the blame for this year's large wildland fires to environmental groups in order to distract attention from their own actions that have contributed to fuels accumulation and increased fire hazards. Some also question the credibility of fire management plans developed by silviculturalists—they assert that a silvicultural prescription will be used to treat stands by harvesting as opposed to other possible methods. Some respondents write that the USDAFS & DOI cannot be trusted to harvest timber only for hazardous fuels reduction—they say that specific criteria are needed to overcome agency pressure and the mentality to get the cut out.

Some respondents suggest that the USDAFS & DOI should reduce the risk of human caused fires by conducting background checks on agency staff and taking measures to prevent employees or firefighters from starting fires.

Use of Science in Decisionmaking

Respondents state that the USDAFS & DOI should rely on the best available science in developing the proposed fire management CEs. According to some, the proposed fire management CEs are scientifically well founded and appropriately rely on the expertise of local forest managers in collaboration with knowledgeable local interests. These respondents assert further that the USDAFS & DOI's review of over 3,000 completed projects was sufficient to conclude that no significant effects will occur under the proposed fire management CEs.

Others say there are no grounds for that conclusion. These respondents question the review's methodology, such as how the projects were sampled. They ask how many of the projects were located in watersheds critical to municipal drinking water, and how many projects involved threatened and endangered species and how the species were affected. Some state that an independent, external team of scientists should have reviewed the projects, existing data, and the proposed fire management CEs. They suggest that the USDAFS & DOI should now retain a panel of scientists to comment on the proposed fire management CEs and then publish its findings.

Some respondents state that the review of 3000 projects and data does not comply with Office of Management and Budget (OMB) guidelines for information quality and objectivity. Others state that the personal observations do not meet the "hard look" requirement. Some assert further that the data in background materials is misleading and contains contradictory numbers given for the reviewed projects ranging from 3,000 to 4,300, without explanation. Some state that the projects review only provides frequency counts without substantial analysis and data to document environmental effects. Some also say the projects review fails to provide sufficient details on categorically excluded projects to compare predicted effects with actual effects, and that it fails to specify how the ten future fuels reduction pilot projects were selected.

Some assert that the proposed fire management CEs are similar to the Heartwood case, which was judged by the court to have insufficient analysis to support the conclusion that there would be no cumulative effects. According to these respondents, similar findings are likely for the proposed fire management CEs due to the lack of upper limits on fuels reduction and salvage timber harvest.

Respondents state that many of the reviewed projects were for the purpose of timber harvest and had no relation to hazardous fuels reductions close to at-risk communities. They state that mixing such projects confounds methodologies and issues. Some respondents state that many of the projects involved green timber that had nothing to do with the stated purpose and clearly required NEPA analysis. Some state that the projects did not include the kind of timber sales and controversial projects for analysis that may have significant environmental effects. According to some, 25 percent of the projects consisted of small non-controversial projects implemented by the Fish and Wildlife Service. Some assert that the analysis should have included controversial projects associated with the Quincy Library Group, while others say it should not have included any projects conducted during the Salvage Rider period when environmental regulations were suspended.

Others state that the review should have examined the role of appeals and modifications made following such appeals. Some respondents state that the review did not include sufficient studies in fire regimes I and II. Others state that some CEs were not in fire conditions II and III. Some respondents state further that the fact that more than half of the projects merited an EA constitutes an explicit admission that the majority of the projects require NEPA documentation.

Respondents assert that project feedback was inappropriately limited to fires/fuels management staff. They say that fire staff are trained in fire-related criteria such as the number of acres affected, the intensity, and whether the fire was within prescription, etc., but lack backgrounds on environmental effects. Respondents say that any such analysis should include input from field biologists who have actively monitored resource impacts, population trends, and cumulative effects on species and resources. Others state that the USDAFS & DOI should institute a cumulative effects framework to assess effects and trends at the district, forest, regional, and national levels. Respondents also comment that the USDAFS & DOI should develop standardized monitoring protocols to analyze environmental effects. Others comment that meaningful monitoring will require easily accessible and quality recordkeeping, and that such records should include the actions taken, the time and place at which they were taken, and the resultant effects.

Respondents state that the proposed monitoring will be insufficient to validate the conclusion of no significant impacts. According to these respondents, the USDAFS & DOI should conduct field monitoring to document the environmental effects of both wild and prescribed fires for a period of years following a fire event. According to these respondents, the USDAFS & DOI have not implemented the inventory and monitoring requirements set forth in the National Forest Management Act (NFMA) such as those for management indicator species. Some question whether any cumulative effects analysis was conducted for any project on sensitive and management indicator species. Others question if, and how, the effects of mitigation were considered and analyzed, and what the cumulative effects of the mitigation will be. Some also ask what extraordinary circumstances were encountered over the course of the 3,000 projects.

Some respondents question the USDAFS & DOI's use of fire statistics in the proposed fire management CEs. Some pose questions as to fire frequencies over decades and say the proposed fire management CEs did not provide adequate data. Some question whether the fire statistics refer only to USDAFS & DOI land jurisdictions or whether they included all recorded fires within the United States. They say that the proposed fire management CEs should have provided data on the number of fires and acreages for the specific agencies. They say that the data fails to provide sufficient information to make any conclusions that justify the proposed fire management CEs.

Respondents suggest numerous areas of research which they state the USDAFS & DOI should carry out. Some suggest that the USDAFS & DOI should analyze fuel reduction and rehabilitation/stabilization efforts separately in order to consider their differential effects. Respondents also ask the USDAFS & DOI to analyze the effects of last year's fires to determine effects on forest health; and to analyze thinning, rehabilitation, salvage timber harvest, and seeding efforts, with a review of the literature and data on cumulative effects. Some also ask the USDAFS & DOI to indicate the true scope of the proposed fire management CEs and how many acres of trees will be harvested each year. Some also ask the USDAFS & DOI to provide site-specific information to enable the public to comment on the scientific accuracy and adequacy of ecosystem integrity assessments.

Some respondents suggest that the USDAFS & DOI should conduct biological evaluations for each project and accurately quantify and assess management indicator species populations. Respondents also state that the USDAFS & DOI should conduct population counts and not substitute the presence of suitable habitat as a proxy for actual population numbers. Respondents state that data needs to be quantified in a manner such that it can be readily understood by the public.

Some respondents say that the USDAFS & DOI should systematically consider environmental factors at the landscape-scale. They say that the USDAFS & DOI should examine the effects of treatments on landscape-scale fire hazard, as well as on habitat suitability for management indicator species, community protection, old growth, and other values. Other respondents say that the USDAFS & DOI should conduct landscape level assessments for both public and private lands. They write that the USDAFS & DOI should identify and assess areas that are most in need of treatment, areas that cannot be treated, and treatment activities.

Some respondents suggest that the USDAFS & DOI needs additional research and data prior to implementing the proposed fuels reduction CE. They assert that fewer than twenty empirical studies have been conducted on the effects of fuels reduction treatments. Some respondents state that the agencies should examine the effects of fire and prescribed burns on state and federal air quality standards and relation to the Clean Air Act. Respondents say further that the agencies should consider the connected and cumulative effects associated with maintenance fuels reduction activities that will need to be repeated every three to ten years. Some state that the USDAFS & DOI should analyze how many acres within the 190 million acres qualify for extraordinary circumstances and could be withdrawn.

Some respondents say that the USDAFS & DOI should work with the Forest Ecosystem Restoration Analysis (FERA) project being conducted by Northern Arizona University. These respondents assert that the USDAFS & DOI should pursue a region-wide or multi-forest programmatic approach through which projects and their effects are nested within a larger ecological context. Some respondents also state that the USDAFS & DOI should base the approach and actions on a single repository of seamless, current data and state-of-the-art analytical tools such as those used by FERA. They say that FERA is developing a framework for assessing ponderosa pine restoration treatments at landscape and regional scales, which will provide a data-based means of analyzing cumulative effects of multiple treatments across broad scales while integrating fire and forest ecology with wildlife and biodiversity data. Respondents assert that the project will provide a landscape ecology framework to guide future projects.

Some respondents assert that the USDAFS & DOI should conduct research on the effects of understory treatments on native plants and animals. These respondents say that the removal of herbaceous and shrub layers eliminates food material, seeds, pollinators, invertebrate prey, vertebrate prey, and cover required by wildlife.

Respondents suggest that the USDAFS & DOI should conduct research on drought to isolate the effects of that variable from other variables related to fires. Some state that the discussion on fires is incomplete and misleading while lacking such knowledge. Respondents suggest that if drought represents a major cause of intense fires, the situation would be exacerbated by new roads and timber harvests.

Respondents assert that the proposed fire management CEs should provide some guidance and analysis for measuring proposed projects in terms of short-term and long-term effects and

benefits. They state further that agencies are legally required to consider the cumulative effects of all projects within a geographical region and to consider connected actions. Some respondents comment that the proposed projects should be evaluated through written, measurable goals and objectives; and that once effectiveness has been determined, with public input, modifications can be made.

Some respondents say that the USDAFS & DOI should have made the data call information available in various formats. Some state that the data was only available in Microsoft Excel and they were therefore unable to open and review it. Some comment that while agency personnel were helpful in trying to provide information, they were only able to obtain data for eight national forest projects.

Finally, some state that the USDAFS & DOI should use sound science-based data to negotiate competing requests by various interest groups.

Agency Organization and Funding

Some respondents state that the agencies have become overgrown and inefficient in the management of public lands, and that the USDAFS & DOI should require accountability with respect to agency size, actions, and performance. Some respondents state that the proposed fire management CEs will make the USDAFS & DOI less accountable for actions, the use of resources, and spending, particularly with the discontinuation of TSPIRS. They cite GAO reports that details problems with agency accountability.

Some respondents say that the USDAFS & DOI have historically mismanaged forests with respect to fire suppression, clear-cutting, and road construction, and that this mismanagement serves as evidence that the agencies lack the ability to manage the forests properly without close public oversight. Some respondents suggest that the USDAFS & DOI should implement management appraisal systems that reward managers for conducting fuels reduction projects on the most serious hazards and threats to life and property instead of rewarding them for the number of acres treated.

Some state that agency staff often lack knowledge of the local area and conditions and lack ties to the community, and that state and local public involvement is needed to offset these issues. Some respondents say that the USDAFS & DOI should improve training and communication among employees to promote the safety record of employees as a whole. Some also suggest that the USDAFS & DOI should appoint a national coordinator to ensure that all forests and regions implement projects consistently and treat the most critical areas first.

Some respondents say that the USDAFS & DOI should establish a regional NEPA team to produce sound analyses and decisions. They suggest that the team should be composed of a cross section of professional expertise, such as landscape ecology, conservation biology, law, etc. They write that the team's sole purpose should be to ensure timely, scientifically rigorous, legally defensible, and regionally coordinated NEPA analyses. Further they comment that the team should not be subject to fire assignments or other details.

Some respondents state that Congress should provide funding so that the agencies can perform regular maintenance and preventative actions rather than provide economic benefits to the timber industry.

Respondents state that the USDAFS & DOI should assist communities in accessing and leveraging funds available under the National Fire Plan and Secure Rural Schools and Community Self-Determination Act. Respondents state that \$20 million is available for fuels reduction and fire reduction beyond the agencies' annual budgets and may be used to protect communities and watersheds.

Respondents state that the USDAFS & DOI should provide earmarked funding to conduct timber harvest and thinning for small diameter fuels. These respondents say that such products are not economically viable for commercial timber harvest and that such funding and restrictions to small diameter fuels is necessary to ensure that the proposed fire management CEs will result in actions consistent with their intended purpose. They state further that the USDAFS & DOI should provide funding for fuels reduction in urban-wildland interface areas and fireproofing of private structures as opposed to pursuing management actions located outside of this zone. Some also write that the USDAFS & DOI should provide funding to reeducate and train timber industry workers to help them transition to other lines of work.

Respondents state that the USDAFS & DOI should earmark funding to conduct mandatory monitoring for each action taken on a forest, and support peer review. Respondents state that the USDAFS & DOI should earmark funding for the National Fire Plan and Operations Reporting System to support the required monitoring of restoration and rehabilitation, fuels reduction, community assistance, and NEPA compliance.

Some respondents comment that the USDAFS & DOI should earmark funds to obliterate and restore temporary roads immediately following management activities. Respondents say that roads left to recover naturally create erosion and sedimentation problems and/or become used as de facto permanent roads. Others state that funding should be earmarked for maintaining existing roads. Some ask the USDAFS & DOI to earmark funding for monitoring and enforcing restrictions on off-road vehicle use. Additionally, some suggest that project objectives should include regional and national reductions in the annual expenditures for firefighting.

Relation to Other Plans, Directives, Etc.

Relation to Other Plans and Directives General – Respondents comment that the proposed fire management CEs are so inextricably intertwined with numerous other proposals that it is not possible to comment without reviewing and cross-referencing multiple proposals. Respondents state further that the USDAFS & DOI should conduct NEPA and public involvement on all of the proposed rules because they are related. They assert that the breadth of the proposed changes affects the management of public lands; generates significant environmental effects; and warrants analysis, review, and input to examine the combined effects of the various rules. Some comment further that several of the proposals effectively block citizen input such that no public comment would be allowed on fuel reduction or rehabilitation.

Respondents assert that the USDAFS & DOI should propose modifications to NEPA, the Appeals Reform Act, and NFMA to ensure and expand public involvement and the right to appeal. These respondents comment that a transparent decisionmaking process is necessary to a democratic society, and that checks and balances are needed to prevent actions that are unacceptable to the public.

Some also state that the USDAFS & DOI should support the Western Governors Initiative.

10-Year Comprehensive Strategy Implementation Plan –Some assert that the collaboration that occurred on the 10-Year Comprehensive Strategy Implementation Plan was inadequate. According to these respondents, participation of non-governmental representatives was limited to national environmental groups such as the Natural Resources Defense Council and the Wilderness Society, which do not represent the views and interests of other environmental groups, the timber and livestock industries, or local and regional organizations. Respondents assert that plan efforts excluded groups and individuals with a known interest in the process. Respondents further state that such limited collaboration does not meet the mandates of NEPA.

Some respondents state that the 10-Year Comprehensive Strategy Implementation Plan’s goals are mutually exclusive—that fire suppression and thinning are inconsistent with restoring fire-adapted ecosystems. Respondents also state that the proposed fire management CEs refers to projects that will be identified based on the 10-Year Comprehensive Strategy Implementation Plan, but that the plan does not provide such criteria.

Some respondents state that the USDAFS & DOI should alter the 10-Year Comprehensive Strategy Implementation Plan to specify benchmarks, guidance, and standards for implementation. Some say it should specify criteria limiting projects spatially, temporally, and with delineations for project implementation. Others say it should specify that the proposed fire management CEs cannot be issued for national monuments; they say that NEPA analysis should be conducted for any activities proposed on national monument lands.

Some assert that the USDAFS & DOI should change language in the proposed fire management CEs to specify that they will be “guided by” rather than “be consistent with” the 10-Year Comprehensive Strategy Implementation Plan. They state that failure to implement such changes will result in new causes for appeals and litigation due to inconsistency.

Other respondents say the 10-Year Comprehensive Strategy Implementation Plan is needed to protect forests, watersheds, wildlife, and communities. They state that the USDAFS & DOI should follow the 10-Year Comprehensive Strategy Implementation Plan and that additional laws or regulations are not needed. Respondents note that Secretary of Interior Gale Norton and Secretary of Agriculture Ann Veneman spoke at the Western Governors Conference on the 10-Year Comprehensive Strategy Implementation Plan and that, according to them and the strategy planners, fire risks can be reduced without any changes to existing laws. Others comment that the strategy was developed through consensus and should be respected by the administration.

Some state that the USDAFS & DOI should have included the content of the 10-Year Comprehensive Strategy Implementation Plan in the proposed fire management CEs. People say that the information was needed so that the public could review and comment on prioritized projects. Respondents assert further that because the strategy is being used to justify the proposed fire management CEs, and because the strategy is being used to determine which activities will be allowed under these CEs, the strategy has direct environmental effects and constitutes a major federal action which requires public scoping and preparation of an EIS. People assert that since no scoping or EIS analysis has occurred, the USDAFS & DOI should not make any CEs based on the 10-Year Comprehensive Strategy Implementation Plan.

Some respondents state that the USDAFS & DOI should specify which implementation tasks within the 10-Year Comprehensive Strategy Implementation Plan are addressed by the proposed fire management CEs. They also say that the USDAFS & DOI should specify how the proposed

fire management CEs relate to the 10-Year Comprehensive Strategy Implementation Plan's guidance to develop a collaborative process for fuels reduction and ecosystem restoration.

Some respondents state that the USDFS & DOI should delete statements which say that collaborative participants must demonstrate a commitment to the 10-Year Comprehensive Strategy Implementation Plan as it is tantamount to saying that only those who agree with the plan will be able to participate; participation and collaboration, respondents say, should be available to all regardless of their viewpoints. Some respondents also say that the 10-Year Comprehensive Strategy Implementation Plan should specify how stakeholder groups with broad representation will be involved in local decisionmaking. Respondents say further that the USDAFS & DOI should provide mechanisms for involving citizens who are not members of stakeholder groups. Others state that the USDAFS & DOI should specify procedures to give local governments, adjacent or nearby property owners, and the general public opportunities to comment on specific projects.

Additionally, some respondents state that the USDAFS & DOI should not follow the 10-Year Comprehensive Strategy Implementation Plan's guidance that lead collaborators should include the Wildland Fire Leadership Council, state foresters, and counties. These respondents say that these individuals lack the appropriate background in forest ecology and fire science to make valid decisions related to fuels reduction projects.

Some respondents state that the elimination of environmental reviews is inconsistent with page nine of the 10-Year Comprehensive Strategy Implementation Plan, which states that local environmental conditions should be factored into planning.

Some respondents state that the USDAFS & DOI should not use market based approaches specified in the 10-Year Comprehensive Strategy Implementation Plan and A Collaborative Approach for Reducing Wildland Fire Risks inasmuch as these approaches encourage the agencies to reduce fuels through commercial timber harvest, and commercial benefit will become the priority.

Respondents offer specific recommendations for implementing the 10-Year Comprehensive Strategy Implementation Plan. Some respondents state that the USDAFS & DOI should use existing state and local mitigation plans to determine at-risk areas for more effective use of funding, as many such plans have been developed by state governments and member counties of the National Association of Counties. Some state that the USDAFS & DOI should allow agency personnel to respond to areas outside those specified in the 10-Year Comprehensive Strategy Implementation Plan, as drought conditions may necessitate such actions. Respondents also state that the class condition mapping for application at the scale of national forests is unreliable at the project level. These respondents question the lack of consideration of risk factors and prioritization based on risks. They suggest that the USDAFS & DOI should overlay maps of risk factors and hazardous fuels in order to determine the need for treatments, and prioritize such needs. These respondents also state that such analysis requires NEPA.

Some respondents state that the USDAFS & DOI should incorporate the National Fire Plan into the 10-Year Comprehensive Strategy Implementation Plan.

2000 Agency Strategy for Fire Management – Some respondents state that the proposed fire management CEs are inconsistent with the Forest Service's 2000 Agency Strategy for Fire Management in which the agency and public are described as active partners.

Cohesive Strategy and Report to the President – Respondents state that the Cohesive Strategy and the Report to the President targets fuels reduction priorities in only naturally short fire interval systems, which make up only a small percentage of the total public lands.

Council on Environmental Quality Regulations – Respondents state that the USDAFS & DOI should comply with CEQ regulations for the implementation of NEPA. Respondents state that NEPA is required by CEQ for major actions as well as the proposed fire management CEs. Some state that the USDAFS & DOI should consult with CEQ prior to developing and publishing procedures for comment, and that the notice does not indicate that such consultation occurred or that CEQ provided comments.

Federal Wildland Fire Management Policy – Some respondents state that the proposed fire management CEs are inconsistent with the Federal Wildland Fire Policy, which requires consideration of the best available science, environmental considerations, and public involvement.

Some respondents say that the USDAFS & DOI should specify the relationship of the proposed fire management CEs to the Federal Wildland Fire Management Policy. They also say that the USDAFS & DOI should specify its relation to the Program Review, Implementation Action Plan, and agency manuals. These respondents say that according to the Federal Wildland Fire Management Policy, fire management plans are mandated for all areas subject to wildland fires, and should address all potential occurrences and fire management actions. Respondents say further that plans should facilitate landscape-scale prescribed burning and provide guidelines to manage lightning caused ignitions with the goal of restoring fire to fire-dependent ecosystems. Respondents also comment that the USDAFS & DOI should disclose how the proposed fire management CEs facilitate the restoration of fire to fire-dependent ecosystems.

Interim Directive 1909.15-2002-2 – Respondents assert that the USDAFS & DOI should rescind the Forest Service Interim Directive that gives the agency discretion to determine whether a resource condition should be considered an extraordinary circumstance. Respondents state that the directive gives the agency official the discretion to exempt such conditions from environmental review and would allow approval of nearly any project. Respondents also say that such discretion will lead to inconsistent decisionmaking that will lead to significant effects to the environment and resource conditions.

Mexican Spotted Owl Recovery Plan – Some respondents state that the USDAFS & DOI should comply with the Mexican Spotted Owl (MSO) Recovery Plan. These respondents say that land management plans and actions in Arizona and New Mexico are obligated to comply with the MSO Recovery Plan which prohibits reductions of tree densities below specified thresholds in the woodland, ponderosa, and mixed-conifer zones. Respondents state that the thresholds have been identified as placing the forests at risk to insect and disease infestation and wildfire. Respondents say that the proposed fire management CEs will put agencies in the Southwest in a Catch-22 for complying with the MSO Recovery Plan.

National Fire Plan – Respondents state that the USDAFS & DOI should comply with the National Fire Plan priority, and direction from Congress and the OMB, to reduce the number of communities at risk as identified in the National Fire Plan. They say that the National Fire Plan's top priority is to reduce fuels in urban-wildland interface areas, and that the USDAFS & DOI should therefore specify priorities for fuels reduction in urban-wildland interface areas.

Some respondents state that review and monitoring under the National Fire Plan will be too late to gauge effectiveness. They say that because the proposed fire management CEs eliminate review procedures, monitoring will only occur after project effects have occurred, if at all. They say further that if the projects cause significant environmental effects, the ecological damage will already have been done to the resource. These respondents assert that the USDAFS & DOI should therefore specify that monitoring will be conducted under the National Fire Plan Operations and Reporting System and that its effectiveness must be demonstrated. They say that it is not sufficient to offer the proposed fire management CEs on unclear and untested mechanisms. Some respondents say that the USDAFS & DOI should specify how the monitoring should be implemented, who should collect data, who should supervise monitoring, when monitoring should occur, and how often monitoring should take place. They say that the USDAFS & DOI should develop standards to address the multitude of ecological data necessary to fully describe actions and their possible effects. They say that the USDAFS & DOI should use a multi-party monitoring framework such as the Forest Service Stewardship Projects.

Some respondents state that the USDAFS & DOI's incorporation of the National Fire Plan into land management guidelines require NEPA analysis and consultation related to the Endangered Species Act. Some respondents also state that the USDAFS & DOI should develop information quality standards to comply with congressional mandates and OMB guidelines.

Northwest Forest Plan – Some respondents say that the USDAFS & DOI should not implement actions that dismantle the Northwest Forest Plan or other existing management plan frameworks.

Planning Rule – Some respondents state that the proposed Planning Rule revisions are needed to allow managers the flexibility they need to address specific problems at the local level in an efficient and timely manner. Others state that the USDA FS & DOI should not be able to readily amend forest plans without NEPA and public involvement; they state that proposed regulations would allow forest plans to be amended for up to four years without public notice.

Respondents also state that the USDAFS & DOI should not issue CEs for forest plans. Some respondents state that the proposed fire management CEs will allow projects that are inconsistent with management goals of forest plans. Other respondents state that the agencies should not be able to make the activity and forest plan consistent by simply issuing an amendment without NEPA and public involvement.

Respondents state further that the USDAFS & DOI should continue to require the maintenance of viable populations of native wildlife species; should require monitoring with the implementation of forest plans and management actions, and provide for peer review; and should require environmental impact statements for forest plans and analysis of cumulative effects of all projects.

Roadless Area Conservation Rule – Respondents state that the proposed fire management CEs are contrary to the Roadless Area Conservation Rule, which prohibits road construction in roadless areas unless needed to protect public health and safety under an imminent threat of a catastrophic event which would cause the loss of life or property. These respondents comment that generally there is no imminent threat to life or property in roadless areas and therefore the proposed fire management CEs are inappropriate in these areas. Respondents assert further that the recent federal court decisions mandate that the Roadless Area Conservation Rule must be implemented and cannot be overturned by executive action.

Sierra Nevada Framework – Some respondents comment that the USDAFS & DOI should follow the Sierra Nevada Framework as a model for involving state agencies, scientists, environmental groups, and the public in plan development in a manner consistent with the National Fire Plan and for placing priority on urban-wildland interface areas. They describe the Sierra Nevada Framework as the first landscape-level management plan in the country that prescribes a fuel treatment strategy for every acre, and suggest that the USDA FS & DOI should implement the hazardous fuels reduction and restoration activities by following the standards and guidelines established in the Sierra Nevada Framework.

Others suggest overriding the Sierra Nevada Framework requirement for 50 percent or greater canopy closure in order to facilitate properly functioning fuel breaks; changing the buffer specification for riparian habitat conservation areas from 300 feet back to 50 to 100 feet in order to forestall excessive hazardous fuels buildup; and working with the Quincy Library Group in California to provide exemptions for the construction of fuel breaks for the purpose of protecting urban-wildland interface areas.

Some respondents state that the Sierra Nevada Framework is not consistent with the National Fire Plan. Others state that the Sierra Nevada Framework is too restrictive and will preclude the use of the proposed fire management CEs.

CEs

CEs General

Some respondents write that they are not opposed to the judicious use of CEs that are well documented and that allow only actions that are warranted and have a low potential for negative effects. Respondents also comment that proposed actions should be carried out if they are needed, if they enhance ecosystem conditions, and if they are subject to a site-specific environmental effects analysis in which the analysis is proportional to the potential risks to the natural resources.

Some respondents ask the USDAFS & DOI to clarify the conditions under which the proposed fire management CEs would be appropriate. Respondents comment that, typically, projects are considered significant and require NEPA if they meet one or more of the following criteria (such as listed in DM 516 and 40 CFR 1508.27): create adverse effects on public health and safety; pose adverse effects on geographical, historical, or cultural resources, etc.; generate controversial environmental effects; create uncertain and potentially significant environmental effects; set a precedent for future action; relate to other actions; cause adverse effects on listed or proposed species or habitats related to the list of threatened and endangered species; effect floodplains or wetlands; or violate environmental laws.

Some respondents state that the USDAFS & DOI should strengthen the proposed fire management CEs by adding a paragraph that specifies that the CEs apply even in extraordinary circumstances in either Presidential Disaster Declaration areas, or in areas where it is demonstrated that a high risk to human life, safety, property, or infrastructure exists. Respondents say that the USDAFS & DOI should modify the proposed fire management CEs to specify that they can be used in storm/wind damaged forest areas. They say that in the Southeast, quick action is needed because damaged timber decomposes rapidly and loses its value in a short period of time. Other respondents comment that the USDAFS & DOI should modify the

proposed fire management CEs to specify that they cannot be issued for national monuments. They say that NEPA analysis should be conducted for any activities proposed on national monument lands.

Others comment that the USDAFS & DOI should clearly define the proposed fire management CEs to preclude unacceptable actions. Respondents suggest specific criteria to define and limit projects that may qualify for these CEs—e.g., project goals, outcomes, acreage limitations, the number of projects within a single watershed, and the types of forests for which methods apply. Some respondents state that the USDAFS & DOI should limit the size of the proposed fire management CEs to 40 acres or less and within one-half mile of communities.

Other respondents state that the proposed fire management CEs contradict the original intent of CEs—i.e., to expedite minor, routine administrative actions such as mowing. According to these respondents, there will be more stringent requirements under the proposed fire management CEs for mowing and trail maintenance than for vegetation management on hundreds of thousands of acres of land. Some state that the proposed fire management CEs operate under the presumption that no significant effects will occur, which is a predetermined decision and violates NEPA. Some respondents also state that the USDAFS & DOI should specify that citizens have the right to appeal categorically excluded projects.

Analysis/Documentation Requirements

Some respondents comment that NEPA analysis and documentation requirements for management actions are too burdensome and too vulnerable to appeal. These respondents say the proposed fire management CEs will appropriately reduce the documentation necessary to carry out needed actions on the ground, and thus lead to healthier, more efficiently managed forests. Some respondents state further that the USDAFS & DOI should prepare environmental impact statements that are less voluminous and cumbersome. These respondents comment that documents are too thick and often contain duplication among reports.

Others state that the USDAFS & DOI should not categorically exclude projects from NEPA analysis and documentation requirements. Some respondents request that the USDAFS & DOI provide evidence, based upon the study of 3,000 projects, that NEPA review and public participation is not worth the time and cost required. They say further that such evidence should have been set forth in the proposed fire management CEs with supporting evidence provided.

Respondents say the application of extraordinary circumstances screens is insufficient and open to abuse. Some assert that the proposed fire management CEs could allow implementation of large projects (e.g., 10,000 acres) at the landscape level, and say that such large projects would have negative environmental effects and should require NEPA analysis and consideration of alternatives. Some comment that all of the listed activities should require the preparation of an EIS to assess, analyze, and evaluate effects, and to determine how to reduce, eliminate, or mitigate those effects.

Some respondents say that, in accordance with the historical practices of the Forest Service, the USDAFS & DOI should conduct NEPA analysis for all projects. They say that the Forest Service has historically conducted environmental analysis due to the fact that projects often result in significant environmental effects. They say that the proposed fire management CEs run counter to the consistent precedent established by the Forest Service and are contrary to the agency's own longstanding findings of significance and presumptions of potential significance.

Respondents state that the USDAFS & DOI should conduct NEPA analysis for all projects to comply with case law and legal precedence. Some respondents point to *Blue Mountains Biodiversity Project v. Blackwood*, in which the court ruled that significance exists if substantial questions exist whether a project may have a significant effect on the environment. Respondents also point to *Kleppe v. Sierra Club* regarding the court's ruling that agencies are required to take a "hard look" at potential effects of projects, and state that reviewing courts review EAs and EISs to determine whether agencies have met the hard look requirement. Others point to *Baltimore Gas & Electric Co. v. Natural Resources Defense Council* regarding obligations under the twin aims of NEPA to consider environmental effects and inform the public of potential effects and how decisions address those effects. Others state that the forests must consider cumulative effects and connected actions; these respondents cite court decisions requiring NEPA analysis for projects.

Additionally, some respondents state that the USDAFS & DOI should document all decisions in writing. Some respondents state that the USDAFS & DOI should implement decision memo procedures specified in Forest Service Handbook 1909.15, Chapter 30, Section 31.2, which outlines requirements for decision memos and notification, and also suggest that the USDAFS & DOI mail and email notices to all interested parties. Other respondents state that the USDAFS & DOI should document the rationale for a CE prior to issuance or such action would be improper as found in the court decision for *Jones v. Gordon*.

Wording of the Proposed Fire Management CEs

Some respondents submit comments regarding the content and wording of the proposed fire management CEs. According to some, FSH 1909.15, Section 31.2 (6) (b) and 31.2 (6) (d) are redundant with existing text, and the USDAFS & DOI should explain how the two new categories differ from existing guidance. Others suggest that the USDAFS & DOI should describe the proposed fire management CEs for 31.2 (6) (b) and 31.2 (6) (d) as replacements to the current requirements. Some question whether the public was ever informed of the existing guidance.

Respondents also suggest that the use of language in the Federal Register notice is misleading. According to some, the statement that the proposed fire management CEs would apply only to noncommercial activities implies that fewer effects will occur for fuels reduction when it is carried out as part of a noncommercial timber harvest than will occur when part of a commercial timber harvest. These respondents assert that the effects may be identical for both commercial and noncommercial activities, and suggest that language was chosen to make the actions more palatable to the public. Some also comment that the Federal Register notice was misleading by stating that the proposed fire management CEs would not cover timber sales that do not have hazardous fuel reduction as their primary purpose, but then several pages later stating that products would be sold. According to these respondents, the notice should be clarified and republished so that the public understands the consequences of the proposed fire management CEs.

According to some, the language in the proposed fire management CEs is misleading due to the selective use of historical data surrounding wildfire incidence on public lands. These respondents assert that by failing to state the average annual burn rates of past decades, the proposed fire management CEs create a public misperception that wildland fire generally is unnatural and harmful. This use of language, these respondents assert, indicates that agencies are using fire as a

tool to accomplish timber harvesting goals that the public would otherwise find unacceptable. Some also state that the background information is misleading, as most fires are not in forests—they cite the Virginia Lake Fire in Washington, which was a sagebrush fire.

Some respondents state that the list of routine actions (e.g., reseeding and replanting) cited in the proposed fire management CEs is misleading inasmuch as the effects from the listed actions are not comparable to the effects that will be created by road construction, skid trail and landing construction, and timber harvest. Some people also state that phrases such as “small combustibles,” “overstocked stands,” and “brush thinning” are inadequate with reference to likely timber harvest activities under the proposed fire management CEs. Additionally, some assert that the stated requirements that activities must be consistent with land and resource management plans (forest plans) is misleading since forest plans will be categorically excluded.

Additionally, some suggest that the USDAFS & DOI should clearly define such terms as “hazardous,” “hazardous fuel reduction,” “primary purpose,” “ecosystem integrity,” and “adverse effect” as it pertains to extraordinary circumstances. Some state that the USDAFS & DOI should involve the public in defining adverse effects. Some respondents comment that the USDAFS & DOI should define healthy and unhealthy forest conditions. They state that such terms are very subjective, and that all forests have some varying degree of disease and that some insects serve vital, useful functions. Some also suggest that the wording be modified to clarify that trees cut in moderate to high risk areas are considered to be harvested for fuels reduction.

Extraordinary Circumstances

Some respondents state that the USDAFS & DOI should clarify that when extraordinary circumstances exist, an EIS is not required, the decision maker may rely on mitigation, and the project can be conducted as a CE.

Others comment that the USDAFS & DOI should state that the existence of any extraordinary circumstance prohibits the issuance of CEs when proposed actions may have adverse effects on the environment. Respondents say that a determination of adverse effects should not be left to the discretion of forest supervisors or district rangers, and that guidelines are needed to assist the official in determining adverse effects.

Some respondents say that the USDAFS & DOI should have disclosed to the CEQ that, according to the agencies, the existence of an extraordinary circumstance does not mean that a CE cannot be issued. Respondents say that that the USDAFS & DOI communicated information to the CEQ that was to the contrary.

Respondents question how the USDAFS & DOI decision makers will know of the existence of extraordinary circumstances. They write that without NEPA analysis, it is unlikely that managers will be aware of such circumstances. Respondents also inquire as to what other conditions may constitute extraordinary circumstances. As an example, they state that multiple actions in a small area may constitute extraordinary circumstances.

According to some respondents, the USDAFS & DOI should clearly define conditions that qualify as extraordinary circumstances and exemptions. Some suggest that extraordinary circumstances should include 40 CFR Section 1508.27 (1), (2), (4), and (7). Others suggest that they should include roadless areas, endangered species habitat, wilderness areas, old growth areas, national monument lands, national park lands, areas with minimal residents or other lands

on which there is no immediate threat to human life, riparian areas and critical salmonid watersheds, highly erosive soils, steep slopes, and areas of 5,000 acres or larger. Some respondents state that the USDAFS & DOI should consider public involvement to be an extraordinary circumstance, and that an EA should be conducted if a project receives strong negative feedback.

Some respondents state that the USDAFS & DOI should clarify whether the list of extraordinary circumstances listed in the proposed fire management CEs or those listed in the Forest Service Handbook (which includes steep slopes or highly erosive soils) will be determinative.

Respondents also request that the USDAFS & DOI establish procedures through which the public is informed of extraordinary circumstances, and clarify that the existence of any extraordinary circumstances precludes the use of CEs in all cases.

Additionally, some respondents state that the website referral on extraordinary circumstances and exemptions is inadequate due to its nonintuitive design and unclear explanations.

Legal Considerations

Legal Considerations General – Some comment that NEPA and other environmental laws have served the country well for years, and that the USDAFS & DOI should follow these laws in conducting fuels reduction efforts. Respondents suggest that if rule changes are needed, they should be made through Congress, not through administrative actions.

Administrative Procedures Act – Some respondents assert that the proposed fire management CEs violate the Administrative Procedures Act inasmuch as the USDAFS & DOI have failed to demonstrate that fuels reduction and rehabilitation qualify for a CE under NEPA. Other respondents state that the Interim Directives and proposed changes to the Planning Rule restrict notice and comment, and are therefore in violation of the act.

Some respondents state that the proposed fire management CEs violate the act by being arbitrary and capricious. Respondents say that because the USDAFS & DOI have failed to substantiate government decisionmaking with appropriate information, legal precedent suggests that the actions will be ruled arbitrary and capricious (e.g., *Sierra Club v. Bosworth*).

Some respondents cite a report by the Northern Arizona University Ecological Restoration Institute and state that the elimination of appeals prevents opportunities for the USDAFS & DOI to negotiate a mutual agreement during the appeals process and avoid lawsuits. These respondents say that removing the appeals process will likely result in lengthy litigation.

Appeals Reform Act and Administrative Appeals Act – Some respondents state that the USDAFS & DOI should seek amendments to the Appeals Reform Act to restrict appeals of management decisions. Respondents suggest that the USDAFS & DOI should codify who is allowed to appeal; some suggest that appellants should be limited to affected stakeholders. Some respondents state that the USDAFS & DOI should require appellants to post bonds to cover costs and project damages (e.g., fire, insects, and disease) that occur during delays if such appeals and suits are found to be frivolous or based on false information.

Others comment that the USDAFS & DOI should not modify the Appeals Reform Act to allow agencies to exempt CEs from public notice, comment, and administrative appeal. Respondents state that the proposed fire management CEs would preclude public notice and virtually any

public involvement and allow agencies to conduct any type and size project without public involvement or oversight. They say further that appeals are resolved within 90 days, and that the agencies have not identified any project that burned as a result of an appeal. Respondents state that prohibiting appeals is contrary to the Appeals Reform Act of 1992 which specifies that all forest plan activities must be subject to citizen appeal.

Clean Air Act – Respondents state that the USDAFS & DOI should comply with the Clean Air Act. Respondents assert that under the proposed fire management CEs, agencies and the public will lack information regarding particulate emissions from fires and controlled burns. Some respondents state that data is needed to ensure that forests comply with state and federal air standards.

Clean Water Act – Respondents state that the USDAFS & DOI should comply with the Clean Water Act. Some state that the USDAFS & DOI should not be constrained by wetlands issues [Section 404], particularly in the Chugach National Forest as most of the wetlands there are muskegs, not swamps or ponds.

Endangered Species Act – Some respondents state that the USDAFS & DOI should fulfill procedural requirements specified under the Endangered Species Act and NEPA. Some respondents state that the USDAFS & DOI should act proactively to protect species before they become endangered, and should act proactively to protect endangered species. Some state that the existence of listed species or habitat automatically triggers NEPA analysis, and that agencies have a legal obligation not to segment projects.

Some respondents question how the USDAFS & DOI will determine whether threatened and endangered species exist in an area without undergoing NEPA analysis. Others comment that the USDAFS & DOI should clearly specify how endangered species/critical habitat issues are addressed so that agencies cannot eliminate projects from exclusion (or delay them) without very good reason. Some respondents say that the USDAFS & DOI should make the proposed fire management CEs consistent with the Forest Service Manual and Handbook, which specify that a line-officer cannot issue a CE without analysis to show that the project will not affect threatened and endangered species. According to others, the USDAFS & DOI should modify the wording of the proposed fire management CEs to specify that they will not be issued for extraordinary circumstances such as adverse long-term effects on threatened and endangered species.

Some assert that agencies are required to consult with the U.S. Fish and Wildlife Service and National Marine Fisheries Service to assess effects on threatened and endangered species and to develop environmental baseline data. Some state that all projects in a watershed should come under the umbrella of one U.S. Fish and Wildlife Service and National Marine Fisheries Service consultation. Some respondents state that the USDAFS & DOI should specify provisions to guide actions when the U.S. Fish and Wildlife Service fails to review and issue a decision on the designation of critical habitats. These respondents say that the U.S. Fish and Wildlife Service sometimes fails to identify or designate critical habitat, and this may jeopardize decisions. Others state that the USDAFS & DOI should modify the proposed fire management CEs to specify that consultation with the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration that results in a biological opinion of adverse effects should not automatically prevent project approval through a CE. Respondents state that these agencies operate under the “precautionary principle” which assumes adverse effects, but projects may still be conducted by implementing measures and recommendations of the biological opinion.

Some respondents say that designation of critical habitat and the existence of threatened and endangered species is a ploy used by environmental groups to eliminate activities on federal lands. These respondents say that habitat is designated over broad areas, and that when overlain with critical habitat for other species, there is little federal land left which has not been designated. Others comment that the Endangered Species Act has resulted in prohibitions on fuels reduction for many places, and that these prohibitions have placed such locations under imminent risk of catastrophic fire and insect and disease infestations.

Some respondents state that the Endangered Species Act should be modified. According to these respondents, this act has contributed to present-day problems by giving precedence to endangered species over other values, and has resulted in the loss of jobs.

Migratory Bird Treaty Act – Some respondents state that the USDAFS & DOI should comply with the Migratory Bird Treaty Act to ensure the protection and survivability of migratory birds. Some respondents say that the USDAFS & DOI should comply with Executive Order 13186, which directs federal agencies to take specific actions to implement the act, by integrating bird conservation principles, measures, and practices into agency activities and avoiding adverse effects on migratory birds and their habitats. These respondents write that the USDAFS & DOI failed to disclose in the proposed fire management CEs their duties under the act and Executive Order 13186. They say further that the USDAFS & DOI should conduct full disclosure and NEPA analysis of the effects of the proposed fire management CEs on migratory birds.

National Forest Management Act – Some respondents state that the proposed fire management CEs should be consistent with NFMA. According to some respondents, consistency requires that the USDAFS & DOI conduct environmental monitoring as required by NFMA. They say that such monitoring is needed to test the assumptions upon which forest management decisions are based. Others write that adaptive management and learning are not possible without monitoring actual consequences.

Other respondents say that the USDAFS & DOI should follow tenets of NFMA to tie site-specific project level planning to forest plans for consistency. In addition, they say that NFMA requires site-specific projects to be subject to NEPA analysis for the forest plan. These respondents also comment that the USDAFS & DOI should not allow forest plan amendments without review and comment as such provisions will result in actions that are inconsistent with the management goals of the forest and that have not been subject to environmental review.

National Historic Preservation Act – Some state that the National Historic Preservation Act cannot be exempted through CEs.

Executive Orders – Some respondents state that Executive Order 11988 requires agencies to comply with floodplain management requirements, that Executive Order 11990 requires agencies to comply with protection of wetlands, and that these executive orders should be taken into consideration in developing the proposed fire management CEs.

Some comment that the USDAFS & DOI should comply with Executive Order 12866 by assessing the economic costs and benefits of the proposed fire management CEs. Respondents say that this assessment should include the non-market costs of the proposed fire management CEs to landowners, businesses, communities, water quality, recreation, scenery, non-traditional forest products, and game.

Tribal Rights and Interests

Respondents say that the federal government has a trust responsibility to protect American Indian tribal rights and reserved rights of access and use on federal lands pursuant to the tribes' respective treaties. They state further that obligations for maintaining the trust responsibility and government-to-government consultation cannot be revoked through agency rulemaking per Executive Order 13007. Some state that the USDAFS & DOI should comply with Executive Order 13175, which requires that agencies ensure meaningful and timely input by tribal officials. Respondents also state that the USDAFS & DOI should consult with tribes for any proposed projects, as required by NEPA and the National Historic Preservation Act. Specifically, respondents say that consultations should occur with local tribes to determine the presence of any traditional cultural properties or cultural values that may be affected.

Some respondents assert that agencies have used Executive Order 13175—particularly Section Six: Increasing Flexibility for Indian Tribal Waivers—and a declaration of no significant impacts to avoid consultation with tribes. Some respondents state that the regulations change the DM 516 procedures and would affect tribal procedures for responding to regulatory approval of fuel projects and required monitoring systems. Respondents state that such actions and the administrative rulemaking process are precluding tribes from having meaningful input into NEPA and the decisionmaking process.

Respondents state that the USDAFS & DOI should have consulted with tribes during the development of the 10-Year Comprehensive Strategy Implementation Plan. They assert that only one representative of one intertribal timber council was allowed to submit input on one occasion. These respondents state that such participation does not represent the varied interests and concerns of multiple tribes and the conflicting interests between timber management and fish and wildlife resources.

Respondents comment that the USDAFS & DOI should coordinate with tribes regarding the monitoring and evaluation of fuels reduction. Some state that the proposed fire management CEs has potentially dramatic effects on tribal trust resources located on forests such as native plants, wildlife and fisheries habitat, and cultural resources. Respondents state that every action proposed can affect trust resources. Finally, some tribal representatives that use forest and rangelands under the management of USDAFS & DOI state that resources continue to experience negative effects from previous management activities.

Cultural Resources

Some respondents suggest that the USDAFS & DOI should conduct an archeological/cultural inventory of each site prior to issuing a CE. They state that in many places, particularly in the West, any site more than a few acres in size is likely to have one or more archaeological sites, historical sites, or traditional cultural properties. They state that the only way to identify the existence of such sites is via a complete, professional inventory of the project area. Otherwise, they assert, archaeological resources will not receive appropriate consideration in the decisionmaking process.

Environmental Considerations

Environmental Considerations General

Respondents who address environmental considerations in regard to the proposed fire management CEs generally use these considerations as their rationale for more specific actions that they ask the USDAFS & DOI to implement or cease to pursue. Taken broadly, some respondents say that the proposed fire management CEs will enhance forest health, reduce catastrophic fire risk, and foster other associated environmental values. These respondents say that the proposed fire management CEs return the balance of public lands management to traditional multiple uses.

Some respondents say that the USDAFS & DOI should conduct timber harvests immediately to reduce the threat to global warming related to the simultaneous emission of carbon dioxide from numerous wildland fires. They say that having numerous large fires on a regular basis may escalate problems with global warming. Some comment further that the USDAFS & DOI should clarify that, under the proposed fire management CEs, short-term wildfire risk may increase but that such short-term effects are acceptable to reduce long-term risks.

Others state that the proposed fire management CEs will not contribute to forest health nor will they adequately address fire management needs on public lands, and assert that they will negatively affect a wide range of other environmental values and resources. These respondents encourage the agencies to consider alternative means to address forest health issues, focusing on maintenance and restoration of ecosystem integrity and natural processes. Some respondents state that the USDAFS & DOI should specify criteria for limiting environmental effects on water, soil, and wildlife to fulfill agency duties for protection (e.g., 16 U.S.C., Section 1604). Some respondents say that the USDAFS & DOI should protect any remaining virgin forests that have never been subject to timber harvest; they say that such protection is needed because forests of this type are rare and valuable. Some respondents also comment that the USDAFS & DOI should designate large, old trees as national landmarks.

Some also state that management actions should be limited to sustainable practices to serve as an example to the world. Other respondents say that the USDAFS & DOI should encourage the administration to rejoin the Kyoto Accord to fight global warming—the real cause of increased fires.

Fish and Wildlife

Respondents state that the USDAFS & DOI should work collaboratively with federal and state agencies in developing proposed projects and determining effects on wildlife resources prior to approval of specific projects. Respondents assert that the USDAFS & DOI should coordinate with state agencies on any actions that may affect wildlife management. Some respondents assert that the USDAFS & DOI should incorporate fish and wildlife research and resource needs into forest planning and management actions. Some respondents say that the USDAFS & DOI should follow the Fish and Wildlife Service's policies and guidance on consideration of management actions for long term-benefits to sensitive, threatened, and endangered species versus short-term effects. Additionally, some respondents state that the USDAFS & DOI should return the forests to their natural state to restore elk habitat and elk herds.

Some respondents comment that the USDAFS & DOI should conduct owl population monitoring as required by the 1996 biological opinion on region-wide southwest forest plan amendments and the Mexican Spotted Owl Recovery Plan. Some respondents state that the USDAFS & DOI should develop procedures to ensure that nuisance aquatic species are not introduced or spread.

Forest Transportation

Some respondents comment that roads are needed to maintain access for forest visitors, for general forest management, and for firefighting. Some ask that more roads be constructed in general; others ask that roads be constructed into old growth areas in order to provide access and reduce fire hazards. Some respondents comment that there should be no restriction on constructing new roads as such roads are often needed to conduct management activities.

Some respondents state that the USDAFS & DOI should not construct/reconstruct any roads, as the absence of roads indicates that the project is too far from a community. They write that if the proposed fire management CEs is directed at protecting communities, then no need exists to construct roads away from communities.

Respondents comment that agencies have been unable to maintain already existing roads; that the construction of temporary roads creates similar effects to those created by permanent roads; and that even decommissioning a road does not completely restore natural soil, plant, and hydrological conditions. Others ask the USDAFS & DOI to specify that temporary roads will be reclaimed/obliterated upon project completion. Some respondents say that when decommissioning roads, the USDAFS & DOI should recontour roadbeds to the natural gradients of the land and restore native vegetation, including trees. These respondents write that agencies typically only disc and seed the roadbeds with grasses, and the scars last a lifetime. Some say that roads which have revegetated—either naturally or through management actions—should not be reconstructed.

Some respondents state that agencies should construct temporary roads only in rare cases such as when human dwellings are endangered. Others suggest that not more than one mile of low standard road should be constructed for timber harvest activities. Some state further that road construction should only be carried out following an analysis. Others state that no new infrastructure should be built until it is determined that such structures are necessary for future management. Some respondents ask the USDAFS & DOI to explicitly state the number of road miles that will be created each year under the proposed fire management CEs.

Respondents say that roads increase usage, give access to poachers, increase roadkill, promote the use of motorized vehicles, and increase the potential for human caused fires. They also say that road construction and usage creates noise and pollution, causes erosion, leads to flooding, enables the spread of invasive alien plant and animal species, fragments habitat, impedes the viability and migration of black bears, affects water quality and fish populations, and increases the risk of fires. They assert that roadless areas are at reduced fire risk and sustain fewer effects than roaded areas and areas that have been subject to timber harvest.

Some respondents state that the USDAFS & DOI should conduct public involvement and NEPA for any proposed road construction/reconstruction and disclose effects. Some say that the USDAFS & DOI should analyze and document road densities for all roads including “ghost roads.” Some respondents state that the USDAFS & DOI should conduct NEPA analysis on road

densities to examine cumulative effects. According to some, the USDAFS & DOI should restrict the use of the proposed fire management CEs if road density exceeds two miles per 1,000 acres.

Some respondents say that the USDAFS & DOI should make the proposed fire management CEs consistent with the Forest Service Transportation System Management Policy (Roads Policy), and conduct full disclosure and NEPA analysis. They say that there is no evidence presented that the proposed fire management CEs considered the Roads Policy. They write that the Roads Policy requires identification of unneeded roads; establishment of road management objectives; development of an accurate inventory and atlas; and decisionmaking based on best available science, environmental effects, and current budget allocations.

Some respondents assert that the USDAFS & DOI should follow recommendations in the Grizzly Bear Recovery Plan and limit the type and extent of roads to minimize impacts on federally listed carnivores. Finally, some respondents state that the USDAFS & DOI should not replace or upsize culverts without a watershed analysis.

Recreation

Some respondents state that the USDAFS & DOI should allow multiple use of public lands with reasonable access. Some state that the USDAFS & DOI should manage forests for recreation as their primary concern. These respondents say that the economic value derived from recreation is greater than for other uses such as timber. Some comment that the USDAFS & DOI should manage forest lands for recreation and similar noncommercial resources that private lands do not offer. Others comment that greater use by people increases the likelihood of human caused fires.

Lands

Some respondents state that the USDAFS & DOI should acquire inholdings to prevent housing developments in remote, fire-prone areas. Others state that the USDFS & DOI should not exchange lands for development such as at the Grand Targhee Ski Resort in Wyoming due to the increase in urban-wildland interface areas and risks to public safety. These respondents state that agencies should not spend millions of dollars protecting private buildings and property, and that property rights should be reviewed and discussed in an open public forum. Some respondents state that the USDAFS & DOI should not sell or trade federal lands without a state or federal ballot initiative approving each transaction.

Special Designations

Roadless Areas – Some respondents state that the USDAFS & DOI should include roadless areas in the proposed fire management CEs. They state that if these areas are excluded, they will burn and there will be no way to conduct the needed rehabilitation or stabilization. According to some respondents, the USDAFS & DOI should not prohibit the use of all treatments in roadless areas because many valuable prescriptions exist that do not require roads. They comment further that such prescriptions could be used in roadless areas without jeopardizing roadless characteristics. Some respondents state that the USDAFS & DOI should be able to use existing roads located within roadless areas for fuels reduction. They assert that roadless areas contain many miles of roads that are suited for such purposes.

Others state that the USDAFS & DOI should not conduct any thinning or timber harvest in roadless areas as these sites are located away from communities and such actions will do little to reduce fire risks to communities. Some respondents state that timber harvest and firefighting activities in unroaded areas cause greater environmental effects than those caused by fires. They state that instead of allowing fuels reduction in roadless areas, such efforts should be strictly directed to urban-wildland interface areas near communities. Some respondents state that the USDAFS & DOI should manage roadless areas like wilderness areas and wilderness study areas where fuels reduction activities cannot be categorically excluded from NEPA analysis. Similarly, respondents state that the USDAFS & DOI should not have interim directives allowing CEs in such areas.

Natural Resource Management

Natural Resource Management General

According to some respondents, the USDAFS & DOI should implement active forest management and allow multiple uses of forest lands, including protection of soil, water, aquifers, flora, and fauna; and provision of commercial and recreation benefits to the public. Respondents state that renewable resources should be used to produce jobs and boost the economy while improving forest health, and that the proposed fire management CEs will provide significant benefits in these areas.

Others state that the agencies should change orientation from multiple-use to protection of forests in a wild state and restoration of roaded and previously managed areas. Some say that the agencies should manage forests with biodiversity as the cornerstone. They say that such a philosophy would define a healthy forest as one that is in a continual, natural state of flux. These respondents ask that the proposed fire management CEs be significantly modified or withdrawn on the grounds that it runs counter to these aims.

Timber Resource Management and Hazardous Fuels Reduction

Timber Resource Management and Hazardous Fuels Reduction General – Respondents offer a diversity of comments on the use of timber harvest and thinning both for fuels reduction purposes and for commercial or economic reasons. Some respondents comment that responsible timber harvest should be permitted generally, while some say the USDAFS & DOI should implement additional rule changes to increase timber harvest. Some respondents write that the USDAFS & DOI should change the wording for the proposed fuels reduction CE activities to include “tree removal,” and to specify that the activities are “not limited to” those specified. Some state that the USDAFS & DOI should allow the removal of merchantable timber from areas treated to remove hazardous fuels. They state that such removal would make treatments self-supporting by generating revenues from timber sales to offset expenses for planning and conducting treatment and rehabilitation work, and that timber sale receipts benefit local governments and schools. Some respondents say that their economy and schools are dependent upon agency decisions and actions, and that their communities have been hurt by a lack of timber to run mills while valuable standing timber is lost to fires. Some specifically ask that salvage harvest be allowed so that the economic value can be captured after fires or insect infestations. Respondents also state that the removal of merchantable timber would promote forest health and provide an excellent opportunity to use stewardship contracts. Additionally, some respondents

say that the USDAFS & DOI should return to “green slip” sales of small patches of isolated trees, post and pole sales, and commercial firewood sales to benefit small communities.

Some respondents say that the USDAFS & DOI should adopt an adaptive management approach to fuels reduction. They comment that the USDAFS & DOI should start with a few projects per region located within urban-wildland interface areas and category III fire areas adjacent to private lands, then evaluate the effectiveness of such efforts, involve the public in the evaluation, and adapt future activities based on the efficacy of the treatments and public acceptance.

Some suggest that, due to inadequate resources, the USDAFS & DOI should limit timber harvest activities to lands identified as Condition Class 3 (extreme fire risk) in the 10-Year Comprehensive Strategy Implementation Plan. Some respondents say that the USDAFS & DOI should use service contracts to reduce fuel loadings from Condition Class 3 to Condition Class 1, rather than sell stumpage. They say that this would remove incentives for overcutting and that wood fiber produced would be incidental to fuels treatments. They also comment that the wood byproducts could be sold.

Some respondents comment that the USDAFS & DOI should limit timber harvest and management activities to unhealthy, densely packed timber stands. Some suggest that the USDAFS & DOI should conduct timber harvest and other management actions in disease and insect infested areas to eliminate areas of ugly blight and to allow the few healthy trees to grow. Some respondents say that the USDAFS & DOI should limit fuel reduction to limbing large trees, increasing tree spacing, and removing smaller ladder fuels. Some also state that the USDAFS & DOI should specify the exact locations where timber harvest, fuel reduction, and rehabilitation efforts will occur. Others say that the USDAFS & DOI should institute a certification process that certifies that wood taken from a forest was removed strictly for fuel reduction purposes.

Some respondents state that fuels management should only be conducted by agency personnel, while others say it should be carried out by local residents or contract workers. Some respondents comment that the USDAFS & DOI should use workers displaced from the timber industry to conduct fuels reduction and rehabilitation projects in order to provide local employment and to support the local economy. Some state that the USDAFS & DOI’s claim of “extensive experience” in implementing fuels reduction and fire rehabilitation is in fact very limited with agency experience documented only back to 1998.

Some state that, according to a 1999 GAO report, the use of commercial timber harvest to reduce wildfire risk results in harvesting high value timber while leaving areas threatened by wildfire untouched because the timber in threatened areas is less valuable. Respondents comment that it is the public that pays for the infrastructure development and consequent restoration necessitated by timber sales, while industry receives the profits. Some state that commercial enterprises lead to agency bias as more money will be made available for staff and equipment which, in turn, motivates agencies to conduct more timber harvest. Respondents comment further that if commercial harvest is combined with fuels reduction or rehabilitation and stabilization efforts, the projects will no longer legally qualify for CEs.

Respondents write that timber harvest activities increase the risk of wildland fire, both in frequency and intensity. Some suggest that such activities should only be allowed on previously harvested sites that can support production in a sustainable fashion. Others say that old growth and large diameter trees are the least likely to burn and should not be removed. Respondents

write that even when these trees are diseased, dying, or dead, they serve important roles as snags for wildlife species and ecosystem functions. Respondents comment that mature and old growth trees should only be removed under specific circumstances when crown cover exceeds historical conditions. Respondents say that the USDAFS & DOI should only remove underbrush and younger trees and ensure the ground is shaded to discourage undergrowth. Some respondents state that the USDAFS & DOI should modify the language of “hazardous fuels” to exclude leaves and other ground litter. Respondents state that the USDAFS & DOI should identify and map areas with old-growth forests, and maintain ten percent across the forests as dictated in forest plan standards. Some respondents say that the USDAFS & DOI should exclude late seral areas as extraordinary circumstances and prohibit issuance of the proposed fire management CEs for such areas.

Some state that the USDAFS & DOI should not act to create monoculture stands, such as by converting native hardwoods to pine stands. According to some respondents, the USDAFS & DOI should only allow aerial removal of timber to reduce environmental effects. Others assert that no mechanical treatments should be allowed for fuels reduction inasmuch as they fail to mimic the numerous ecological effects of fire, including those associated with soil heating, nutrient cycling, and alteration of community structure.

Respondents say that the USDAFS & DOI should not implement fuels reduction projects that trade-off one ecological value for another. They say that many such projects negatively affect wildlife habitat, water quality, etc., and that such trade-offs are socially unacceptable to the public. Some respondents question an Interim Directive issued in December by the USDAFS & DOI which assumes that long-term benefits of fuels reduction activities outweigh short-term effects on endangered species; they state that short-term effects could lead to the extirpation of some species before any long-term benefits occur. These respondents say that the USDAFS & DOI should not conduct projects in locations that contain listed species such as salmon, steelhead, and bull trout, as fuel reduction projects will have adverse effects on listed species. Others comment that the presence of listed species should not restrict fuels reduction as many such projects will occur in areas that are inhabited by listed species. Some respondents cite evidence from fuels reduction in Arizona and New Mexico that the U.S. Fish and Wildlife Service estimates resulted in the taking of 465 Mexican Spotted Owls, or 22 percent of the owl’s population in the United States. Respondents state further that the USDAFS & DOI should not conduct road building or thinning due to effects on the northern goshawk. They cite studies that show that road building and timber harvest were associated with a 94 percent drop in nestling production and that other raptors replaced the goshawks (Crocker-Bedford & Cole, 1990).

Some respondents say that the USDAFS & DOI should not conduct fuels reduction as research suggests that such efforts have minimal effect on fire behavior. They cite studies which suggest that fire behavior is predominantly determined by regional weather conditions, and other studies which indicate that extreme fire behavior can occur in any stand under severe conditions. These respondents assert that weather conditions may be more important in western fires than fuels issues.

Some state that the USDAFS & DOI should limit project size to no more than 250 acres, while others suggest that the USDAFS & DOI should restrict removal for a specific project to 250,000 board feet. These respondents state that the Heartwood court decision capped timber sales for CEs at 250,000 board feet and salvage sales at 1,000,000 board feet. Some respondents state that the USDAFS & DOI should have implemented the recommendations offered by environmental

groups for limits of 25,000 board feet and one acre. Other respondents state that the USDAFS & DOI should not implement undue restrictions on the acreage, volume, diameter, species, time frames, or methods of fuels reduction. These respondents state that such restrictions will promote inefficiency and inhibit flexible management actions. Respondents also state that the USDAFS & DOI should not use average diameter to reflect size classes removed because the use of average sizes masks the removal of large trees; and that the USDAFS & DOI should specify maximum size limitations such as four inches in diameter or less. Some respondents say that the USDAFS & DOI should specify tree diameter limits by forest type and bio-region.

Some respondents say that the USDAFS & DOI should specify types of fuels that will be treated. Some say that for Colorado, the USDAFS & DOI should give priority to ponderosa pine and pinon-juniper as fire suppression has resulted in fuel loadings that are susceptible to hot and damaging fires. Others comment that the USDAFS & DOI should not treat lodgepole pine habitat in remote areas as its fire regime consists of infrequent, stand-replacing fires.

Some respondents comment that the USDAFS & DOI should prioritize areas based upon the fire return interval. Some say that for Colorado, high spruce fir forests have a fire return interval of 300 years or more, and that other vegetation such as high-elevation Engleman spruce subalpine fir rarely experience stand-replacing fires. These respondents say that areas such as these pose little fire risk and that the USDAFS & DOI will use the proposed fire management CEs to avoid environmental review.

Some respondents say that the USDAFS & DOI should cease use of the salvage sale fund, Knutsen-Vandenberg Fund, and stewardship contracting goods for services authority. They say that these incentives promote resource deterioration. They state further that such projects require subsequent restoration and increase the risk of severe wildland fire. Additionally, some suggest that mature timber should not be sold abroad unless the successful bidder partially processes the timber within the state of harvest before shipping.

Even-Aged Harvest – Some respondents say that the USDAFS & DOI should conduct even-aged regeneration harvests to create more early successional areas within forest lands. Some state that projects should not conduct even-aged regeneration harvests due to erosion and sedimentation of waterways. Some comment that even-aged harvesting promotes flooding and mudslides.

Some respondents state that the USDAFS & DOI should not allow clearcuts because it often takes hundreds of years to replace such stands. Others report that studies indicate clearcutting encourages annuals to grow providing dry tinder in the fall which becomes a fire hazard. Some respondents also state that the USDAFS & DOI should not implement related proposals that would allow up to 250 acres of clearcuts without conducting NEPA.

Uneven-Aged Harvest – Some respondents state that the USDAFS & DOI should only allow selective harvest under strict criteria. These respondents state that the criteria should prohibit removal of more than 25 percent of the canopy of any square acre based on one-third of the timber stand's natural life expectancy.

Intermediate Harvest – Some respondents state that thinning is necessary to reduce hazardous fuel buildup. These respondents say the USDAFS & DOI should implement the proposed fire management CEs as it will facilitate much needed thinning. Others suggest that thinning increases wildfire risk due to fuel accumulation, soil disturbance; the creation of more open, hotter, drier forests; and the generation of flammable slash in harvested areas. Other respondents

state that the USDAFS & DOI should conduct thinning on an experimental basis on previously managed stands to study the effects of such actions. Some assert that effects include damage to soil integrity, increased mortality of residual trees, sedimentation, reduced habitat quality, and increased fine fuels and fire hazard. Some respondents state that thinning promotes blowing and windthrow of tree species such as lodgepoles. Respondents also assert that thinning results in forests with less diverse ecological structure (horizontal and vertical). Some state that, according to the Environmental Protection Agency, the proposed thinning would not be effective in controlling bark beetle infestations.

Some respondents say that the USDAFS & DOI should not conduct thinning because it opens the forest canopy and thus exposes the forest floor to increased sun and wind which causes higher temperatures and decreased moisture. Some respondents say that in the event of fire, the increased winds and temperature elevate the resultant fire hazard. Respondents also say that agencies have no economic incentive to manage the invasive weeds that replace the original forest cover, and that such weeds are more flammable than the original cover.

Some respondents say that the USDAFS & DOI should not conduct thinning due to its documented hydrological effects. They cite studies which suggest that thinning increases peakflows, snowpack loss, soil compaction, soil loss, reduced water quality, reduced fish habitat, reduced reservoir capacity, and potential extinction of salmonids (e.g., Rhodes & Purser, 1998).

Some respondents say that the USDAFS & DOI should not conduct thinning due to adverse effects on the tassel-eared squirrel. They say that reductions in canopy closure, tree density, large overstory trees, and diversity are detrimental to the tassel-eared squirrel and other canopy dependent species.

Some respondents say that the USDAFS & DOI should differentiate policies among areas that are natural low intensity, high frequency regimes, and those that are naturally mixed and/or high severity fire regimes; they say that little data exists to suggest that thinning small diameter trees will restore low intensity, high frequency fire regimes.

Some respondents state that the USDAFS & DOI often rely on the work of Pollet and Omi (1999) as evidence to support mechanical thinning for fuels reduction. These respondents challenge the use of that study on the grounds that it involves only prescribed fire; that other treatments consist of precommercial thinning involving small trees of no commercial value that are felled and often not removed; and that the study has little relationship to the fuel reduction methods proposed in the proposed fire management CEs.

Some respondents state that the USDAFS & DOI should specify the spatial arrangements of thinning units, type of thinning treatments employed, effects on bulk crown density, and the diameter size class to be removed. Other respondents state that even for locations where the stand and canopy are overly dense, criteria should specify the removal of non-dominant trees. Finally, some suggest that the USDAFS & DOI should only conduct thinning by hand and with the use of horses in order to avoid the environmental effects produced by mechanized timber removal.

Some respondents say that the USDAFS & DOI should conduct salvage timber harvests while leaving healthy trees and practicing good management. Some comment that there is extensive gypsy moth mortality in Appalachian national forests, and that more salvage harvest is needed to remove dead and dying trees in order to create young forests resistant to gypsy moth defoliation.

Others state that the USDAFS & DOI should not conduct salvage timber harvests as reduced fire risks have not been scientifically substantiated. Respondents say that timber harvest on burned areas will further destabilize soils.

Domestic Livestock Management

Some respondents ask the USDAFS & DOI to clarify the role of grazing in the proposed fire management CEs, while others state that the proposed fire management CEs should be rewritten to facilitate rangeland management. Some respondents question how the use of grazing will fit into existing grazing permits. Some comment that grazing is an effective fuels reduction technique and controls noxious weeds. These respondents state that grazing generates long-term benefits and promotes preservation of open space and healthy rangelands. Respondents also state that grazing on public rangelands supports jobs and provides income, and ask the USDAFS & DOI to consider the effects of any changes in permitted uses on the livelihood of private farms and ranches that depend on the use of public lands. They state further that such consideration is of even greater importance in areas threatened with urban development. They say that restrictions on the use of public lands for grazing causes ranchers to seek other uses for their private base ranches. They assert that the withdrawal of grazing prompts landowners to convert their private lands to urban and/or commercial uses, and that this conversion decreases open space and compatible uses and values.

Some respondents say that the USDAFS & DOI should only use grazing as a limited one-time fuels reduction treatment. Others state that the USDAFS & DOI have failed to provide evidence that grazing reduces hazardous fuels and reduces fire risks. Some note that of the 3,000 projects studied, less than five percent examined “chemical and biological” methods.

Others suggest that the USDAFS & DOI should not allow grazing as a fuels reduction technique inasmuch as that will open the door to categorically excluding an activity with significant environmental consequences which directly contributes to the problem the proposed rule is aimed at avoiding. They comment that grazing removes fine fuels and leads to replacement by dense stands of woody plants, shrubs, and trees that create hotter, more intense fires. Respondents state that in addition to increasing fire risks, grazing promotes the spread of invasive species; creates soil damage, run-off, and soil erosion; and reduces water quality. Respondents also comment that grazing alters riparian habitats through the trampling of streambanks as well as the trampling of threatened and endangered species and their habitat; and by reducing riparian shade vegetation and increasing water temperatures.

Some respondents say that the USDAFS & DOI should not allow grazing in any areas containing microbiotic soils inasmuch as these soils are critical for reducing soil erosion, restoring vegetation communities, reducing fire risk, and preventing the spread of invasive noxious weeds.

Some respondents comment that the USDAFS & DOI should prohibit grazing in order to promote more open and park-like conditions. They say that prohibiting grazing allows understory grasses and sedges to develop which are capable of outcompeting conifer seedlings and dense stands. These respondents comment that ponderosa pine forests and piñon-juniper woodlands in the West were historically park-like, but that grazing shifted the composition of these areas to conditions that are at greater fire risk.

Finally, some respondents state that the USDAFS & DOI should reduce or prohibit grazing and restore native grasses to reduce wildfire risks. Some also state that the USDAFS & DOI should not allow fences and water sources to be built under a CE without environmental analysis.

Fire and Fuels Management

Role of Fire – Some respondents state that the USDAFS & DOI should not conduct fire suppression. Respondents cite statements made by forest hydrologists who report that fire suppression creates more damage to the environment than actual fires. Respondents write that fire suppression has led to fuels buildup and altered the succession, composition, and structure of forests, and resulted in increased disease and insect events. Some respondents state that researchers have attributed increases in bark beetle populations to the lack of fires in the Southwest. Respondents also comment that fuels reduction will need to be repeated approximately every three to ten years, thus continuing the problem and wasting public funds and agency efforts.

Some respondents ask the USDAFS & DOI to explain how fire harms ecological systems that have adapted to and depended on fires for millennia. Others comment that stand replacing fires are important in some forest areas. Respondents state that the USDAFS & DOI should follow the philosophy of “let burn” for forest fires that occur in locations other than urban-wildland interface areas. They state that the USDAFS & DOI should allow areas to return to natural fire cycles in backcountry areas to maintain forest health and to reduce the risk of catastrophic fires. Some comment that fires reduce litter, provide fertilizer, and allow conifers and certain other trees to disperse seeds.

Some respondents say that the Cohesive Strategy and Report to the President make it clear that the priority for fuels reduction would be targeted only to naturally short fire interval systems. These respondents state that low intensity, high frequency fire regimes are only a small portion of the total public lands (20 percent) and most of these regimes are located in the long-leaf pine forests of the southern United States.

Some respondents say that the USDAFS & DOI should limit fire projects to 1,500 acres, or no more than 20 percent of a watershed, whichever is less. These respondents say that fire poses risks to aquatic resources, fisheries, and drinking water, and could increase flooding in urban-wildland interface areas.

Some state that the USDAFS & DOI should use prescribed burns to reduce fuel levels, mimic natural fire cycles, and restore healthy forest habitat. Some comment that prescribed fire is more economical and effective than other fuels reduction techniques; according to some, every dollar spent on prescribed burning saves seven dollars that will not be needed for later firefighting efforts. Respondents state that the USDAFS & DOI should specify parameters for the use of prescribed fire to ensure non-significant environmental effects. Some respondents write that prescribed burns have resulted in unanticipated effects such as burns too cool/hot to meet objectives and increases in noxious weeds/nontarget grasses. Other respondents say that the USDAFS & DOI should prohibit the use of prescribed fires on a return interval that exceeds the return interval for natural fires within the ecosystem. These respondents say that more frequent fires are likely to sterilize the soils, reduce the infiltration potential of the humus layer, and significantly affect the ecosystem over time.

Some respondents comment that fire management should be determined by the type of forest under consideration and the best data available on how to manage their fire regimes. Some respondents note that satellite technology is useful in the early detection and management of forest fires; and some write that agencies should rely on GIS mapping in reducing uncharacteristic wildfire risk.

Firefighting – Some respondents offer comment regarding firefighting tactics and operations. Some say that the USDAFS & DOI should emphasize initial attack forces and timing when responding to fires, and then assess where resources are needed if the fire escapes the initial attack. Some respondents say that the USDAFS & DOI should reduce fuel loads ahead of fires by felling trees with chainsaws, flying whole trees with helicopters, and creating small clearcut firebreaks to reduce stands around firebreaks. They say that flight paths and communication are also important, as well as landing and haul road access. Some suggest only fighting fires at night inasmuch as agencies only chase fires during the day. Additionally, some respondents state that air tankers are often a waste of resources unless followed-up with significant ground forces.

Some respondents state that the USDAFS & DOI should use local fire management and fuels management officers from the ranger districts for decisionmaking. They say that these people know the problems and fuels better than dispatchers not familiar with the areas. They assert that the USDAFS & DOI should not use centralized dispatch organizations as it removes the most qualified individuals from participating in decisionmaking for the initial attack and subsequent efforts. Some suggest that the USDAFS & DOI should use formal boards of review on large fires. They say that suppression activities on small fires often cost millions of dollars in unnecessary expenditures. Some also state that the USDAFS & DOI should relinquish firefighting duties to the state and county near the fire and pay them for their efforts, while some respondents comment that the USDAFS & DOI should make better use of local residents to help fight fires during a bad season.

Additionally, some respondents state that the USDAFS & DOI should investigate the recent firefighter fatalities and the rationale for firefighters to carry large backpacks.

Methods – Some respondents suggest that the USDAFS & DOI should only use thinning in urban-wildland interface areas near homes and only for non-commercial fuels, and should allow backcountry areas to experience natural fire cycles. Some respondents report that they are residents of urban-wildland interface areas and say that they are aware of the risks but choose to live there anyway for the beauty of nature. These respondents state that they would not harvest these forests on the “chance” that doing so would stop a fire. Some comment that the USDAFS & DOI should direct all efforts toward clearing vegetation within 500 yards of homes and fireproofing buildings. Some suggest restricting treatment to areas within one-half mile of homes, and defining homes as substantial structures, not huts. Some comment further that additional fire fighting equipment is needed.

Some respondents comment that the USDAFS & DOI and communities should conduct prescribed burns within community protection zones not only to reduce fire hazards, but to rejuvenate the soil with detritus and nutrients and allow native vegetation to regenerate.

Some respondents state that the USDAFS & DOI should use an adaptive management approach and implement projects within one mile of urban-wildland interface areas. These respondents say that the USDAFS & DOI should select the highest priority projects within each region that are within one mile of structures, build a scientific evaluation procedure, conduct an evaluation of

the activities to verify that projects will not have significant effects, involve the public in evaluation development and use, and adapt future projects based on the efficacy of the treatments and public acceptance of the process.

Some respondents state that the USDAFS & DOI should provide funding and incentives to motivate residents and owners to take personal responsibility for fireproofing their homes. Some respondents state that such efforts should include reducing small fuels and ladder fuels within the community protection zone, using cement or metal rather than combustible materials in homes, fireproofing homes with metal roofs, burying structures, and using fire resistant landscaping. Others state that the USDAFS & DOI should provide low-cost fire insurance to property owners within urban-wildland interface areas who implement fuels reduction and home fireproofing measures. Some respondents suggest that the USDAFS & DOI should use Roslyn, Washington, as a good example of a collaborative, cost-effective way to reduce community fire risks.

Some respondents ask the USDAFS & DOI to implement actions based on research by Department of Agriculture scientist Jack Cohen (2000). These respondents cite Cohen's work as evidence that the agencies and homeowners should create "defensible space" within 60-200 feet of houses and structures within the area known as the home ignition zone. Respondents also say that communities can create a community protection zone so that firefighters can protect other flammable features. Respondents state that under maximal fire conditions, a buffer zone of one-fourth mile in width around structures is sufficient to provide protection, while in most circumstances the width can be substantially less than one-fourth mile wide. Some respondents say that the definition of structures to be included in such zones needs to be discussed; they say that an area should not be defined as an urban-wildland interface area merely because it contains fences, power lines, trails, and roads. These respondents state that the USDAFS & DOI should define urban-wildland interface areas as federal wildlands bordering private property which contain at least one inhabited structure per five acres. Further, they report that Cohen's work suggests that fuels reduction efforts conducted outside of urban-wildland interface areas are inefficient and ineffective because they do not provide reductions in fire risks to communities.

Some respondents state that the USDAFS & DOI should work with state and local governments to monitor and regulate fuels located on private lands. Respondents assert that there are no regulations or laws to regulate how much fuel can exist on private property, and that high accumulations of fuels poses risks to adjacent neighbors, the community, and public lands. Some state that the USDAFS & DOI should work with state and local governments to implement building codes for urban-wildland interface areas that specify the types of structures allowed and building materials that may be used.

Some suggest that the USDAFS & DOI should shift personnel from backcountry management efforts to districts near community protection zones, and have these staff conduct brush clearing and thinning. Others suggest that the USDAFS & DOI should hire local residents as laborers to carry out fuels reduction activities in interface areas; this, they say, will reduce fire risks while also providing employment in rural areas. Some state that the USDAFS & DOI should allow local residents to harvest small diameter timber for fuels reduction. They say that residents can use the products for firewood and construction or sell the products. Some respondents say that the USDAFS & DOI should encourage firewood cutters to remove as much dead wood (including dead standing timber) as possible. They say that these harvesters should not have to pay or buy a permit, and they should be allowed to take all of the dead wood they want. Respondents also comment that this would be a good public relations tool.

Education and Enforcement – Respondents suggest that the USDAFS & DOI should implement community education programs to increase the public’s knowledge and awareness of how to prevent human caused fires. Respondents also suggest that the USDAFS & DOI should work with communities and other groups to minimize the negative effects of fuels reduction activities. Others comment that the USDAFS & DOI should educate the public regarding the risks of living in densely wooded areas and encourage people to relocate. Some say that the USDAFS & DOI should educate and encourage citizens to recycle paper and wood products in order to reduce the need for timber harvest, and should provide funding for retraining and relocating timber workers with the funds from timber sales. Some respondents also suggest that, in addition to education, the USDAFS & DOI should increase enforcement of fire regulations and invoke steep penalties for violations. Finally, some comment that the USDAFS & DOI should investigate environmental groups who harm equipment and property.

Rehabilitation and Stabilization

Some comment that the USDAFS & DOI should conduct rehabilitation and stabilization activities to improve forest health. Some respondents say that the USDAFS & DOI should conduct restoration to protect watersheds and water quality. They say that increased runoff and sedimentation carry heavy metals, dioxin, and other toxic substances that exceed water quality standards and negatively affect domestic water, fisheries, and agriculture. Some state that all existing and new technologies should be used to support management actions to restore the integrity of areas. Some write that the USDAFS & DOI should ensure that reforestation occurs wherever timber is harvested. They say that the agencies should provide for site preparation and tree planting after trees are removed. Some additionally suggest that restoration work should include the repair of culverts and erosion control devices.

Some respondents say that the USDAFS & DOI should modify the proposed rehabilitation CE to state that rehabilitation and stabilization activities include, “but are not limited to;” and add “fire and safety hazard tree removal,” “natural or mechanical soil rehabilitation,” and “rehabilitation of recreation sites.”

According to some, rehabilitation work should only be carried out in areas already consumed by fires. Others say that such activities should not be carried out at all. These respondents assert that the use of heavy equipment generates noise, air and water pollution, soil compaction, vegetation and habitat changes, and ecosystem modifications greater than those which follow fires. Some also assert that such human intervention causes erosion, mudslides, the spread of invasive species, deterioration of watersheds, and other environmental effects that last for many years. Some respondents state that rehabilitation increases fire risks. Others cite research studies (e.g., Beschta, et al., 1995) that report that there is generally no ecological need to act, and that quick actions may create new problems. Some respondents state that, according to most studies, post-fire timber harvest creates substantial environmental effects. Some respondents state that post-fire projects particularly affect cavity nesting birds.

Some state that any restoration should be supervised by panels of non-agency, outside experts. Others state that the proposed rehabilitation CE is unnecessary as Burned Area Emergency Recovery teams already provide rehabilitation within existing legal frameworks.

Some respondents say that the USDAFS & DOI should prepare an EIS for any rehabilitation or stabilization work. They comment that the courts have determined that EISs are necessary for

such work in addition to fire suppression and post-fire salvage timber harvest (e.g., Sierra Club v. Bosworth, 2002). These respondents also state that fire rehabilitation is a “past action” according to NEPA and must be assessed concurrently with any post-fire salvage timber harvest, as such projects constitute a “reasonably foreseeable future action.” They say that such activities often involve fireline ripping, seeding, planting, tree removal, mulching, water bar installation, and other activities that often have significant effects on the environment, particularly for projects that may encompass hundreds or thousands of acres. Respondents state that an EIS is needed to evaluate vegetation, soil, transportation, public safety, wildlife, and water quality issues associated with rehabilitation efforts. They comment further that failure to conduct such analysis violates NEPA and runs counter to the holdings of several court cases.

Some respondents question the effectiveness of post-fire stabilization measures, particularly those involving seeding, and ask the USDAFS & DOI to address the current research on this topic. Some respondents comment that the USDAFS & DOI should only use native seed for reseeded efforts as part of rehabilitation and stabilization. Other respondents comment that stocks of native seed are at an all time low and often unavailable; they suggest that the USDAFS & DOI should at least use plants which have been proven to be non-invasive and to ensure that all other materials are weed free. Respondents say that the USDAFS & DOI should modify the proposed rehabilitation CE to specify that approved non-native seed may be used for rehabilitation. They write that such provisions are needed to allow quick rehabilitation efforts to establish cover, prevent erosion, and avoid colonization by invasive species. Further, they assert that the consequences of doing nothing are far greater than using non-native seed.

Pesticides and Herbicides

Some respondents say that the USDAFS & DOI should modify the proposed fire management CEs to allow use of herbicides and pesticides. They say that herbicides and pesticides are needed to treat invasive species that often follow treated or burned sites. They remark that these invasive species often create problems for forest health that require management action. These respondents say further that in some cases, the use of insecticides and pesticides may be the most effective mechanism to establish native species as part of rehabilitation and stabilization of sites. Respondents also say that the current restriction may negatively affect the implementation of fuels reduction and rehabilitation/stabilization projects. Others comment that restrictions on the use of pesticides and herbicides limit the ability to control insect outbreaks that often lead to excessive fuels buildup.

Some respondents state that herbicides and pesticides are needed in range management and for hazardous fuels reduction on rangelands. These respondents state that cheatgrass is a recurrent hazardous fuel, and cheatgrass is virtually impossible to control without the use of pre-emergent herbicides.

Other respondents state that the USDAFS & DOI should modify the proposed fire management CEs to specify that herbicides cannot be used in future projects resulting from the implementation of these CEs. These respondents say that there is no restriction on the use of these chemicals following a project and that they kill native plants and insect populations, and destroy habitat for birds, deer, bear, and numerous small animals. They also state that these chemicals contaminate springs, streams, and drinking water. Some respondents say that the use of these chemicals will adversely affect sites, water, plants, and animals used by American Indians.

Some respondents write that the USDAFS & DOI should conduct research on the use of herbicides and pesticides. Some say that, per rulings in CATs and *Epic v. California Department of Forestry and Fire Protection* and *CATs et al. v. USFS*, agencies have an obligation to evaluate and disclose the effects of such treatments under NEPA. According to these respondents, agencies cannot make decisions to implement vegetation projects that typically result in the use of herbicides following the project without also analyzing the environmental effects of that action, and connected and cumulative effects.

Alternative Resources

Some respondents say that the USDAFS & DOI should pursue development of alternative technologies to convert wood products into value-added products. These respondents say that wood residue and forest thinnings can be converted into a fuel called “pyrolysis oils” which can reduce the nation’s need for petroleum imports. They say that such technologies can make use of wood products not suitable for other uses.

Some respondents suggest that the USDAFS & DOI should promote alternative fiber sources such as hemp and kenaf, which grow faster in less space. Respondents say that hemp can be used for nearly any application for which wood can be used, and some applications for which wood cannot be used, including textiles and foods.

Some respondents say that the USDAFS & DOI should promote the development of solar power, wind power, and battery cars.

Social and Economic Values

Some respondents state that the USDAFS & DOI should conduct social effects assessments for communities at risk. Some state that the USDAFS & DOI should help rural communities. They state that traditional resource based public land uses have served as the foundation for their livelihoods for generations, and that such uses should be supported. Some respondents state that a reduction in traditional uses of forests have hurt local economies and made it necessary for residents to find new employment or relocate. Some respondents state that USDAFS & DOI actions have reduced their ability to maintain a sense of community and ties to traditional lifestyles and culture. Others state that declines in the timber industry have been associated with increases in depression, suicide, abuse, and poverty. Some respondents suggest that the USDAFS & DOI should pay property taxes like citizens to provide revenue to county governments and schools.

Some respondents state that the USDAFS & DOI should act to support and provide stability to the timber industry. These respondents state that few suitable milling operations still exist near the forests and that there will likely be no economically viable way to process and market wood products or small diameter trees from at-risk forests. Further, these respondents state that private industry will not support forest operations without certainty of economic viability.

Some state that the USDAFS & DOI should act to encourage the development of the small diameter timber products industry. Respondents state that not only should the USDAFS & DOI implement size restrictions for timber harvest (e.g., eight inches diameter breast height) but make it economical for timber harvesters to remove only that timber without removing larger timber.

Other respondents say that the USDAFS & DOI should not use the “historical traditions of the timber industry” as the basis for forest management. These respondents say that the USDAFS & DOI should not manage forests to perpetuate resource industries or local economies as changes in technology, the economy, education, career opportunities, lifestyles, and environmental attitudes have shifted priorities over the last 100 years and, in concert with those shifting priorities, agencies should protect and maintain forest lands. Some respondents say further that the USDAFS & DOI should not conduct timber harvest to support the timber industry because less than ten percent of the timber industry’s activities reside on public lands.

Some respondents state that workers in the timber industry should not be subsidized and are capable of learning new skills and performing different work. They state that people in other sectors have had to switch industries and have adapted successfully to changing circumstances. Some state that forest related jobs should only occur as a byproduct of good forest management, in which case they become an “acceptable use” of public lands. Other respondents say that the USDAFS & DOI should employ displaced timber industry workers to conduct forest rehabilitation. They suggest that these people could conduct tree planting and prescribed fires, decommission roads, rehabilitate fisheries, etc. Further, they write that such efforts will restore the environment, promote various forms of recreation and tourism, and generate economic opportunities.

Some respondents state that the USDAFS & DOI should not increase the supply of timber products into the marketplace. Respondents say that a glut of forest products already exists in the market and that increased volume will merely drive the economic value of timber down. Some suggest that such a flood of timber would put individual woodlot owners out of business and may dissolve the timber industry altogether.

Some respondents say that the USDAFS & DOI should encourage long-term investment and involvement by the private sector in fire hazard reduction and rehabilitation. Some suggest that the USDAFS & DOI should encourage local communities to implement zoning to restrict building in remote areas in order to minimize public safety hazards. Some assert that taxpayers should not have to subsidize individuals living in urban-wildland interface areas.

Additionally, some respondents state that the proposed fire management CEs fails to address how projects will be funded and how the revenues will be generated. Some question whether the proposed fire management CEs will allow “goods for services” contracts, and if so, to what extent large trees will be removed as “goods.” Respondents also state that the USDAFS & DOI should clarify that the plan will result in annual economic effects of \$100 million or more. Some respondents state that the FY 2003 budget for the USDAFS & DOI for hazardous fuels and reduction and stabilization exceeds \$440 million. Further, respondents say that the agencies fail to account for the costs of ongoing fuels reduction activities which will need to be repeated every three to ten years.

Proposed Fire Management Categorical Exclusions

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Chapter 1

Purpose and Need

Proposed Fire Management CEs

General Purpose and Need for Proposed Fire Management CEs

Public Concern: The USDAFS & DOI should consider that the proposed fuels reduction CE fails to meet the stated purpose and need.

BECAUSE IT GIVES UNJUSTIFIED ATTENTION TO BACKCOUNTRY TIMBER HARVEST, WHICH DOES NOT EFFECTIVELY PROTECT HUMAN LIFE AND PROPERTY

The hazardous fuels reduction CE does not meet the stated purpose and need of the CE.

The Departments' stated purpose of the hazardous fuels reduction categorical exclusion is to reduce the threat to human safety and property. The Departments have failed to demonstrate how the fuels reduction CE will meet this purpose and need.

This is well established through research by Jack Cohen and others that clearing ignitable materials such as brush and shrubs and thinning small diameter space and greatly reduces the risk of lives and property. The proposed CE, however, incorporates none of this science and provides no focus on the protection of communities and homes in the wildland-urban interface. Instead, the proposed CE gives an unjustified attention to backcountry logging, which is not an efficient or effective means of protecting human safety and property. (Preservation/Conservation Organization, Minneapolis, MN - #1772.2.64000.701)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs are not needed.

I am concerned that the proposed rule is unnecessary. (Individual, Santa Fe, NM - #1174.2.10000.000)

The federal agencies' own experiences confirm that there is no need to revise procedures. Their review of over 3,000 projects revealed that they prepared EISs in fewer than 15 percent of the projects, while the remainder were approved using EAs or CEs already in place. 67 Fed. Reg. 77041. The proposed action will only add complexity, incite controversy to the detriment of reducing the threat of wildfires and enhancing public safety. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.26.10000.001)

We strongly recommend that the proposed procedures be withdrawn.

Simply put, these procedures are unnecessary. Prioritizing areas most in need of treatment, designing and implementing treatments that best reduce fuels on particular sites, making efforts to minimize adverse environmental impacts, and encouraging diligent public involvement are the best means of ensuring that the Forest Service meets fuel reduction needs without violating laws, disenfranchising the public, or causing unnecessarily adverse impacts to the environment. (Preservation/Conservation Organization, Paonia, CO - #1732.20.10000.001)

BECAUSE ENVIRONMENTAL REVIEW IS NOT HAMPERING FUEL REDUCTION WORK

Earlier this year, a Government Accounting Office (GAO) review found that about one percent of fuel treatment projects have been appealed. Thus, there is no indication that environmental review is hampering fuel reduction work and therefore no need to relax public review by categorically excluding this work in California. (Resources Agency, State of California, Sacramento, CA - #1705.4.10000.102)

BECAUSE EXISTING REGULATIONS ALLOW FOR THE CATEGORICAL EXCLUSION OF FUEL REDUCTION AND REHABILITATION PROJECTS

The federal register notice for this proposal notes that of over 3,000 fuel reduction and rehabilitation projects reviewed about half were already categorically excluded. The Forest Service existing “Burned Area Emergency Rehabilitation” (BAER) process also accomplishes lots of post-fire rehabilitation and stabilization, much of it outside the NEPA process. As described on the Biscuit Fire website, the BAER team objectives are “to alleviate emergency conditions to help stabilize soil; control water, sediment and debris movement; prevent impairment of ecosystems; and mitigate significant threats to health, safety, life, property and downstream values at risk.” (<http://www.biscuitfire.com/rehab.htm>). Clearly, the agencies already have the authority it needs and in fact is already using this authority in many cases, so there is no need for this new and expanded categorical exclusion for fuel reduction and rehabilitation and stabilization.

The agencies’ analysis shows that the existing fuel reduction and rehab programs are working just fine and they do not need to be fixed. Some projects are categorically excluded, some are appropriately analyzed as EAs, and some are appropriately analyzed as EISs. That’s good. It gives the proper level of environmental analysis and public involvement to projects that have varying degrees of environmental effect. To suggest that all fuel reduction and rehabilitation/stabilization projects can be done under CEs without public involvement and without any environmental analysis runs counter to the evidence. (Preservation/Conservation Organization, Arcata, CA - #1352.4.14120.001)

The Forest Service has not demonstrated that there is a need for this categorical exclusion. It already has the statutory and regulatory authority to carry out land management activities that are intended to reduce fuel accumulations and protect at risk communities from wildfire. In particular, the Forest Service already has a CE for timber stand improvement, including thinning or brush control to reduce fire hazard and prescribed burning. The Forest Service is carrying out just such activities under those authorities. (Preservation/Conservation Organization, Boulder, CO - #1186.10.10000.001)

This new and expanded CE is unnecessary and redundant because the agencies are already using existing authorities to categorically exclude fuel reduction and rehab projects from NEPA.

Forest Service Handbook 1909.15.31.2 already categorically excludes “timber stand and/or wildlife habitat improvement activities.” Examples listed in the Forest Service Handbook include, but are not limited to: “thinning or brush control to improve growth or to reduce fire hazard” and “prescribed burning to reduce natural fuel build-up.” The stabilization/rehabilitation CE is not needed either because the FSH already allows “regeneration of an area to native tree species. Examples include but are not limited to: planting trees or mechanical seed dispersal of native tree species following a fire, flood, or landslide.” <http://www.fs.fed.us/im/directives/fsh/1909.15/1909.15.30.txt>.

The federal register notice for this proposal notes that of over 3,000 fuel reduction and rehabilitation projects reviewed about half were already categorically excluded. The agencies’ analysis shows that the existing fuel reduction and rehab programs are working just fine and they do not need to be fixed. (Preservation/Conservation Organization, Takoma Park, MD - #1591.2.10000.001)

The Forest Service existing “Burned Area Emergency Rehabilitation” (BAER) process accomplishes lots of post-fire rehabilitation and stabilization, much of it outside the NEPA process. As described on the Biscuit Fire website, the BAER team objectives are “to help stabilize soil; control water, sediment and debris movement; prevent impairment of ecosystems; and mitigate significant threats to health, safety, life, property and downstream values at risk.” Clearly, the agencies already have the authority it needs and in fact is already using this authority in many cases, so there is no need for this new and expanded categorical exclusion for fuel reduction and rehabilitation and stabilization. (Preservation/Conservation Organization, Eugene, OR - #846.4.10000.602)

Authorities exist to categorically exclude fuel reduction and rehabilitation projects from NEPA. Forest Service Handbook 1909.15.31.2 already categorically excludes “timber stand and/or wildlife habitat improvement activities.” Examples listed in the Forest Service Handbook include, but are not limited to: “thinning or brush control to improve growth or to reduce fire hazard” and “prescribed burning to reduce natural fuel build-up.” The stabilization/rehabilitation CE is not needed either because the FSH already allows “regeneration of an area to native species, Examples include but are not limited to: planting trees or mechanical seed dispersal of native tree species following a fire, flood, or landslide. (Preservation/Conservation Organization, Boise, ID - #1722.9.23200.101)

BECAUSE AGENCIES ALREADY HAVE SUFFICIENT KNOWLEDGE AND EXPERIENCE TO IMPLEMENT FIRE MANAGEMENT ACTIVITIES WITHOUT FURTHER REVIEW

I am not aware of even one proposed forest thinning or restoration project—or project under appeal or already in litigation—for which the Forest Service and the Bureau of Land Management does not already have sufficient knowledge and experience to proceed without further review. But as long as federal environmental rules place a higher priority on short-term risks than long-term benefits special interest politics and litigation will continue to trump good science and local on-the-ground experience. (Multiple Use or Land Rights Organization, Bigfork, MT - #571.2.14100.230)

Public Concern: The USDAFS & DOI should explain why existing rules are inadequate to allow effective fire management practices.

These proposed categorical exclusions are fundamentally flawed. They should be formally withdrawn by both of the agencies that have proposed them, for the following reason:

The Notice offers no explanation as to why the existing rules are inadequate to allow the agencies to carry out effective fire management practices.

No justification other than administrative convenience is given as to why the new Categorical Exclusions are necessary, or how adopting this rule would lead to a reduction in “catastrophic wildfires” on the public lands. Under NEPA, the existing administrative process is straightforward. Actions that may “significantly affect the quality of the human environment” require detailed environmental analysis and preparation of an Environmental Impact Statement (EIS), which must be circulated for prior review and comment. Actions listed by federal agencies in their procedures (after review and concurrence by the Council on Environmental Quality) as not having significant impacts are designated Categorical Exclusions and thereafter do not require any specific environmental analysis before implementing action is taken. Proposed actions of an intermediate nature, i.e., sometimes having significant environmental impacts, require a brief environmental review and the preparation of a relatively simple Environmental Assessment which provides an objective basis for determining whether significant impacts are likely, in which case an EIS is necessary or, if not, allowing the action to proceed with the filing of a Statement of No Significant Impact (FONSI). (Individual, Chevy Chase, MD - #1727.6.14120.109)

Public Concern: The USDAFS & DOI should recognize that the rationale given for the need for the proposed fire management CEs is inadequate.

There is little if any rationale as to why the proposed hazardous fuel exemption ought to be added to the existing CE list. Indeed the only description of why this proposal should be undertaken is that described on page 77040 in the left most column. The rationale stated is woefully inadequate and I strongly suggest that you include a section that describes the purpose and need for these two new exemption categories. (Business, Arcata, CA - #1764.1.10000.109)

The proposed rule fails on several accounts. It does not do what it claims or it would have been more specific and proscriptive on how and where it could be used. It fails to comply with NEPA as to the impacts the rule change would make. It fails to consider the cumulative impacts from this rule change and other proposed changes. It does not offer any substantive proof that these kinds of projects are benign. It does not offer proof that fuel reduction is even effective, especially on the broad scale under which it could be done under this proposal. It does not address the impacts from road building and what that may mean in terms of vehicle use and abuse in fragile watersheds or the spread of noxious weeds. (Preservation/Conservation Organization, Missoula, MT - #1752.11.10200.001)

The proposed rule promotes the perception that wildfire has become a nearly unprecedented problem across America's public lands. The Federal Register notice reads in part:

The 2000 fire season, for example, was one of the worst in 50 years. Approximately 123,000 fires burned more than 8.4 million acres. The total acreage burned was more than twice the 10-year national average.

What the Federal Register notice fails to mention is the fact the three decades leading up to the 1950s all saw average annual burn rates in excess of 20 million acres, and the 1950s saw an average of nearly 9.5 million acres burn each year. During the 30s the average burn nearly reached 40 million acres. The fact 8.4 million acres burned in 2000 during the height of a drought is a testament to the success of decades of fire suppression and prevention efforts, not its failure. Taking the historical perspective demonstrates just how much politics and the misguided Smokey the Bear "fire is bad" mentality, instead of sound science and reason, is driving this and other proposed rule changes. (Preservation/Conservation Organization, Montgomery, AL - #1409.8.12100.602)

Public Concern: The USDAFS & DOI should recognize that delays caused by appeals cannot be used as a rationale for implementing the initiative.

On August 31, 2001 the US General Accounting Office (GAO) released a report entitled Appeals and Litigation of Fuel Reduction Projects that examined 1,671 hazardous fuels reduction treatments reported by the US Forest Service and found just 1% of these projects were appealed and none were litigated. The Forest Service responded on July 9, 2002 with its own "study" that examined a smaller subset of projects, 326 mechanical treatments, and found 48% had been appealed. The Forest Service "study" was called into serious question as the information on which it was based was gathered in a matter of hours and there were serious flaws in its methodology.

The appeals covered in these studies did not all necessarily involve NEPA claims. Thus, the percentage of appeals of projects, even if considered high, does not by itself justify removing NEPA claims via use of the CE process. Removing NEPA claims will not necessarily mean less administrative appeals.

If delay from administrative appeals generally is the purported problem to be rectified by this proposed CE, then we must take issue with that, as the total administrative appeal process is only 90 days from the date the Forest Service publishes notice of its decision to the final notification of appellants of the agency's decision on their appeal. 36 C.F.R. [section] 215.

In short, the Forest Service has not identified any fuel reduction project that was the subject of an administrative appeal and which burned as a result of the appeal before the Forest Service could commence the project. Nor has the Forest Service identified a fire it would have prevented but for having to perform a NEPA analysis on the project.

There has also been no showing by the Forest Service as to how many (if any) of the 48% of projects that were administratively appealed were in fact the subject of lawsuits or whether injunctions were entered on any of them, much less whether any of those injunctions were later lifted or found not to have been unjustly granted. Nor has the Forest Service determined how many of those injunctions were based on NEPA, as distinct from other grounds the projects may have been stopped on.

Notwithstanding the questionable information and sampling biases in the Forest Service study, the results of both the GAO and the Forest Service reviews clearly demonstrate that the federal government has the statutory and regulatory authority to carry out scientifically certain fuels reduction projects, regularly does so, and meets little resistance in doing so. Closer inspection shows that the Forest Service report uses a completely different, and much more limited data set than the GAO report; that the two

reports are quite consistent; and that taken together, they demonstrate that environmentalists consistently oppose logging of old growth forests, roadless areas, and endangered species habitat, and consistently support the burning and thinning of small trees near communities at risk from forest fire.

Both the Hayman (CO) and Rodeo-Chediski (AZ) fires of the 2002 season provide illustrations of the public support for non-controversial fuels treatments on Forest Service lands. In the case of the Hayman fire, the burned area had been subject to various management projects including prescribed fire, mechanical thinning, and timber sales. In the case of the Rodeo-Chediski fire, the burned area had been heavily timbered in the last decade prior to the fire and although conservation interests contested two of these ten timber sales, both resulted in compromises that allowed some thinning for fuel reduction.

In the case of the Baca timber sale, the environmental group agreed to release 1,300 acres of small tree thinning in the vicinity of a rural community and consequently the fire did not cross the thinned area. (Preservation/Conservation Organization, Santa Fe, NM - #1186.11-13.14120.109)

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Public Concern: The USDAFS & DOI should consider that, if 190 million acres are at risk of catastrophic fire, it is not clear that “massive fuels buildup” is the cause.

American Lands questions the assumption that due to a century of fire suppression, a massive fuels build up exists on federal lands, and the Departments have failed to proffer data to support this conclusion. In fact, the most cited documentation of this apparent phenomenon is an April 1999 GAO report that makes this conclusion. Since the publishing of the 1999 GAO report, the Forest Service and BLM have used this report alone to substantiate this claim. However, the GAO has not provided the baseline data used to generate the report, and nor has it consulted with ecologists familiar with wildfire and forest fuels.

The relevant literature suggests that past logging, road building, mining, and grazing practices, coupled with fire suppression, have caused the alterations of ecosystems and hence altered fire regimes. In addition, the October 13, 2000 Cohesive Strategy, and the initial Report to the President, Managing the Impact of Wildfires on Communities and the Environment, identify drought as the major causative factor in contributing to severe fires since 1994. Clearly there are several factors that have contributed to the alteration of forest ecosystems and fire regimes, and it is still an open question whether the 190 million acres “at risk” of catastrophic fire cited by the Departments have resulted from a “massive fuels buildup,” and not other factors. (Preservation/Conservation Organization, Bloomington, IN - #1343.18.10000.739)

Public Concern: The USDAFS & DOI should recognize that project implementation delays result from internal agency problems, not from analysis/documentation requirements.

The so-called “Process predicament” is a myth.

“Every time that wildfires threaten people and their property throughout the West, we are tempted to blame someone, but blaming is misguided. Many people feel that the land management agencies are in a planning gridlock because of NEPA, ESA, and other regulatory acts. According to the GAO, environmental challenges have not slowed 98% of fuel management actions. Most of the inability to effectively get the plans done, decided and implemented is due to internal agency problems. In particular, 1) poor decision making and planning project management by agency line and staff officers (i.e. lack of good team coaching), 2) lack of training/education in the regulatory act planning process; and 3) lack of training/education in recent science of social and ecological systems, and associated restoration. These challenges must be addressed, but not by limiting public involvement and environmental regulations.”

Penelope Morgan, Professor, College of Natural Resources, University of Idaho, Testimony Before the Subcommittee on Forests and Forest Health, Committee on Resources, U.S. House of Representatives. July 11, 2002. (see <http://resourcescommittee.house.gov/107/cong/forests/2002jul11/morgan.htm>)

Later reports by the Forest Service that appear to contradict the GAO study referred to by Dr. Morgan have been soundly refuted by Forest Trusts, The Wilderness Society, and Hanna Cortner, et al., at Northern Arizona University. See:

-A Comparison of Two Government Reports on Factors Affecting Timely Fuel Treatment Decisions September 3, 2002. By Jeffery Morton and Laura McCarthy, The Forest Trust; <http://www.theforestrust.org/Analysis%20of%20the%20USFS%20Report.pdf>,

-The Wilderness Society, Forest Service continues to blow smoke - Why the USFS Report on Appeals is Wrong. <http://www.wilderness.org/newsroom/pdf/blowingsmoke.pdf>, and

-Hanna Cortner, et al., at Northern Arizona University built a database that includes all known appeals of Forest Service decisions from 1997 to 2002 and discovered a declining trend in citizen appeals over the last several years, rather than the “exponential increase” asserted by some parties.

The real problem that inhibits some fuel reduction projects is the agencies' insistence on mixing commercial logging and more credible hazard reduction efforts. There is virtually no point in addressing symptoms by mechanically reducing tree density unless the agencies also deal with other underlying causes of overstocking (e.g., fire suppression, commercial logging, and livestock grazing). (Preservation/Conservation Organization, Saint Paul, MN - #1156.32-33.64000.102)

"Gridlock," "red tape," or "analysis paralysis" does not exist and I'm sick of hearing from the USFS that it does. The purported reason for proposing this unwise expansion of the CE categories is to reduce and/or eliminate "gridlock," "red tape," and "analysis paralysis." My immediate question would be "gridlock", "red tape", and "analysis paralysis" for whom? I can understand extractive industries claiming this about the USFS, but I cannot understand why the USFS is in agreement with them and claim the same thing!

On a very frequent basis, I see the USFS lamenting in the newspapers the fact that they cannot "do anything on the ground." If I were sure of the following things, I would agree:

- 1) that the projects about to be implemented were really needed to maintain and/or enhance ecosystem conditions;
- 2) that the projects about to be implemented had gone through a site-specific environmental effects analysis that was really used in project design; and
- 3) that the rigor, cost, and time spent doing these environmental effects analyses were proportional to the potential risk that the projects might have on a natural resource.

Much of the current fuels problem (where it exists) stems from "active management" (a.k.a. logging) decisions made 30 to 50 years ago. These same decisions are being pursued again by attempting schemes that would increase "on the ground work." Trying to blame "analysis paralysis" obfuscates the issue. (Individual, Grangeville, ID - #10.5.10000.001)

Agency "gridlock" is primarily the result of two things: (1) well-founded public opposition to controversial projects in sensitive areas such as old growth, roadless areas, drinking watersheds, and important habitat areas, and (2) the agencies' own bureaucratic incompetence. The federal courts have found the Forest Service to be in violation of environmental laws on numerous occasions.

The solution to gridlock, according to conservationists, is to continue to uphold the core principles of informed decision-making and accountability and expect federal forest managers to decide not to log mature and old-growth forests and instead begin helping rural communities restore public forests and watersheds. Good decisions that restore the forest will be approved quickly without controversy and lawsuits, while bad decisions that destroy old-growth, should be stopped and held accountable. (Preservation/Conservation Organization, Montgomery, AL - #1409.33.10000.108)

Dale Bosworth uses the term "analysis paralysis" to describe the situation in the Forest Service. The truth is that the Forest Service and Bureau of Land Management are paralyzed by fear. These agencies are so paralyzed, in fact, that they cannot even answer their mail.

In January 2001, over 70 protests to the Interior Columbia Basin Ecosystem Management Project were addressed to the Director, BLM and Chief, Forest Service. To my knowledge, these have never been answered, at least mine hasn't. Judge Edward Lodge, in Idaho, ruled that the Clinton administration broke the law in developing the Roadless Area Conservation Rule. The USDA Forest Service lacked the courage and consideration to either agree or disagree with him.

Please, Mr. President, let us clean up this mess before we attack Iraq. (Individual, Roy, UT - #9.1.10000.104)

Public Concern: The USDAFS & DOI should address the timeliness of implementation instead of the timeliness of decisionmaking.

Rather than focus on the “timeliness of decisions,” the Forest Service should be looking at the timeliness of implementation. It is hard to take the Administration seriously in this regard, when aside from the funding issue, they want to remove the already short time for responsible analysis, but have suggested nothing in the way of modifying the five years (with possible extensions) that the logging industry is given to implement the project. (Place-Based Group, Blairsden-Graeagle, CA - #1736.4.10000.102)

Public Concern: The USDAFS & DOI should justify the assumption that two to four years experience in implementing fire management projects is sufficient to justify the proposed fire management CEs.

The proposed rule is based on a selective and limited review of nearly 3,500 hazardous fuels and fire rehabilitation projects. We have several significant concerns about the proposed guidance, including:

We are concerned that the Departments have not had the benefit of significant adaptive management in reaching their conclusion that the proposed CEs are warranted. The Departments claim that the Departments’ agencies have had “extensive experience” in implementing fuels reduction and fire rehabilitation projects. 67 Fed. Reg. 77,041. However, the background information indicates that the Forest Service was only able to provide information from October 2000 to the present, and the Bureau of Land Management (BLM) and related agencies only provided information back to 1998. Summary tables on results of Department of Interior and Forest Service data call on NEPA records for fuel-treatment projects, 1 (Data Call Analysis Summary). The Departments have not provided information to support the contention that between two and four years of experience in implementing fuels reduction and fire rehabilitation projects has provided enough information to call for the proposed guidance. (Preservation/Conservation Organization, Davis, CA - #1767.4.14000.109)

Implementation of Proposed Fire Management CEs

Implementation – General Considerations

Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.

I support the healthy forests initiative. (Individual, Wasilla, AK - #1028.1.10100.000)

The National Association of Counties (NACo) heartily supports the establishment of categorical exclusions under NEPA for hazardous fuels reduction activities and post-fire rehabilitation and stabilization activities. (Government Employee/Union, Washington, DC - #1402.1.10100.000)

I am writing to express my support for the proposals published in the Federal Register by the U.S. Forest Service and the Bureau of Land Management which will allow them to more effectively and actively manage the public’s forests.

I believe these policy and procedural changes are necessary to protect forests, wildlife habitat, watersheds, air quality, water quality, homes, communities, human lives, and private forests and rangelands. The proposals will enable the land management agencies to make environmentally sound, scientifically-based decisions on projects that seek to reduce the threats from catastrophic wildfire, insect infestations and disease, by giving them the tools they need to implement the goals laid out in the National Fire Plan and Healthy Forests Initiative.

The specific proposals are:

NEPA Documentation Needed for Fire Management Activities; Categorical Exclusions -- 67 Fed. Reg. 77038(December 16, 2002). (Individual, No Address - #16.1.10100.001)

TO BRING ACCOUNTABILITY TO THE FOREST SERVICE

During . . . 7 years of employment [with the Forest Service], I found that the districts put up timber sales, designed and built roads, and fought fire while doing an adequate job of road and trail maintenance along with all the other duties of forest management. And this was done with 10 to 15 permanent personnel per district.

Since 1992, I have worked in the timber industry primarily in logging, thinning, and chipping. All of us who have spent our lives in the forests know that proper logging and thinning not only prevent catastrophic wildfires but are essential for overall forest health.

Those of us that have tried to work with the U.S. Forest Service know that the agency has grown into an overgrown, completely inefficient manager of our timberlands.

When 10 to 15 people once managed our districts, we now have 50 to 60 permanent people. We no longer build roads, harvest timber, and cannot effectively fight fire.

It is not only time to implement the Healthy Forest Plan, but it is time to clean up our government agencies and bring back some accountability for their size, actions, and achievements. (Individual, Klamath Falls, OR - #1233.8.10100.001)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

I object to the proposed expansion of the activities allowed to proceed without an environmental assessment (EA) or an environmental impact statement (EIS) under categorical exclusions (CEs). (Individual, Fair Haven, NJ - #1266.1.17120.000)

BECAUSE THEY WILL RESULT IN REDUCED AGENCY ACCOUNTABILITY

The proposed regulation would result in more waste of taxpayers money because their would be less accountability of Forest Service spending. Since TSPIRS has been discontinued the Forest Service has no way of monitoring its spending. This new regulation would make matters worse not better. (Individual, Helena, MT - #1747.1.10100.740)

BECAUSE THEY WILL NOT SERVE THEIR PURPORTED PURPOSE

Absent the availability of a quick fix to the problem, the proposed procedures' efforts to do away with environmental review simply will not serve the purported purpose. Thus, fuel reduction projects do not need exemption from thorough NEPA review and public disclosure of potential impacts. (Preservation/Conservation Organization, Crested Butte, CO - #1804.10.10000.230)

In the Federal Register Notice there appear to be no restrictions regarding where the fuels reduction CE may be used. Nonetheless, the stated intent of this categorical exclusion is to reduce the threat to human safety and of property loss. The Departments have failed to demonstrate how the fuels reduction CE will meet this purpose and need. (Preservation/Conservation Organization, Hyrum, UT - #1647.10.10000.703)

A little extra time may be required to devise the best way to improve the situation for the future. Eliminating environmental review and coupling fire policies with commercial logging will not produce effective fire suppression, restore ecosystem health or protect the public from the threat of wildfires. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.28.10200.001)

The Department has failed to demonstrate a need and to rationally explain their conclusions for proposing the fuel reduction and rehabilitation categorical exclusions. The Notice indicates that the categorical exclusions are needed to reduce the threat to human safety and property loss. However, the proposed CEs do not restrict the locality where fuel reduction activities may occur. A Department of Agriculture scientist, Jack Cohen, has demonstrated that the best way to protect homes and lives is clear small fuels from within 200 feet of property, creating a defensible space. (Cohen, 2000). The proposed CEs, however, allow fuel reduction activities in places far away from property or urban development

without providing any rational support for doing so. The Departments have not supported the need for CEs in these more remote areas. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.8.10000.100)

Implementation – Planning Considerations

Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.

BECAUSE THEY WILL ALLEVIATE BURDENSOME ANALYSIS/DOCUMENTATION REQUIREMENTS

As members of Congress, the Administration, the SAF [Society of American Foresters], and individual forest managers have pointed out, the Forest Service and the Bureau of Land Management have been impeded from accomplishing much needed work because of several factors including what many have called “process gridlock” or “analysis paralysis.” Applying the proposed categorical exclusions, based on current data and complete analysis of the site specific conditions of over 3,000 hazardous fuels reduction projects, will allow the Agencies to begin to address the additional 73 million acres at risk and relieve the process problems. After 7.1 million acres burned in 2002, the Agencies and the entire nation cannot afford to neglect these problems. These authorities are needed to protect watersheds, communities, wildlife habitat, and entire ecosystems, restore our forest to healthy conditions, and minimize destruction or damage from intense wildfires similar to those we have witnessed over the past several years. The SAF believes these categorical exclusions are an excellent step towards protecting valuable forest resources while using existing authorities and maintaining consistency with environmental laws and land management plans. (Timber or Wood Products Industry, Bethesda, MD - #814.2.10000.001)

The ability to document in a Decision Memo the rationale for applying a categorical exclusion without preparing an environmental assessment or environmental impact statement should significantly shorten the interval required to meet NEPA requirements before a project can be implemented. Completing fire rehabilitation in a timely manner may make a significant difference in probable environmental consequences. (Wyoming Office of State Lands and Investments, Cheyenne, WY - #803.2.17500.301)

We believe this proposal on Healthy Forests offers a more common sense approach to the “analysis paralysis” that has hampered realistic implementation of management decisions on our nation’s forests. Illinois Farm Bureau feels that the Forest Service and the Bureau of Land Management (BLM) have been hampered in their management of federal lands by the increasing paperwork burdens that are not only overwhelming but do little to provide wise forest management procedures.

This “analysis paralysis” is caused by the increasing demand for National Environmental Policy act (NEPA) paperwork. The Forest Service staff therefore spends more time and money on NEPA analyses than is intended by the statute. Even when NEPA decisions are made, they are often delayed for long periods of time. The original intent of NEPA to inform decision-makers of the environmental impacts of a proposed decision is no longer clear. Federal projects that could have even greater environmental benefits than taking no action are never implemented due to the bureaucratic process in place. We feel the current process the Forest Service is using to manage federal forest lands is costly, confusing, ineffective, and seemingly endless.

We saw how lack of proper management of our forests could lead to disastrous conclusions the past couple of years with the forest fires that ravaged western parts of the country. Projects that might have minimized the possibility of wildfire, insect damage or invasive species impacts have been delayed or not done at all because of NEPA and the “paralysis” of federal agencies.

Current procedures now used result in studies that paralyze the agency in actually accomplishing needed on-the-ground work or managing the forest to protect not only the forest but human life and property. Projects in the Shawnee that should be considered routine maintenance must go through a series of costly, unnecessary hoops and have eventually have a negative impact on the forest or the safety of

people and families living near the forest. (Agriculture Industry, Bloomington, IL - #1618.1-2.10000.001)

Both the Forest Service and the Bureau of Land Management (BLM) have been hampered in their management of federal lands by the increasing paperwork burdens that are overwhelming their resources. A recent Forest Service report estimated that more than 40 percent of its personnel time is spent on compliance with procedural requirements. A significant part of this “analysis paralysis” is caused by the increasing demand for NEPA paperwork. Litigation and the threat of litigation have caused agency personnel to spend more time and money on NEPA analyses than is intended by the statute. Even when NEPA documents are completed and decisions made, they are often delayed for long periods of time due to appeals and lawsuits. The original purpose of NEPA, a process to inform decision-makers of the environmental impacts of a proposed decision, has been lost. NEPA is now a mechanism that deters federal projects that could have even greater environmental benefits than taking no action, thus subverting the very purpose for which NEPA was enacted.

Nowhere is this more evident than in the forest health context. Projects that might decrease the possibility of wildfire, insect damage or invasive species impacts are instead being delayed or not done at all because of NEPA. Some of the impacts of the wildfires of 2000 and 2002 could have been minimized had some fuel reduction projects proposed in burned areas not been delayed by appeals or lawsuits. The very statute that was designed to consider environmental impacts is now an impediment to projects that promote environmental benefits. (Agriculture Industry, Gainesville, FL - #1811.3.10000.001)

The proposed additional categories of exclusion are an overdue addition to the list of activities which forest managers must take with such regularity and dispatch to improve forest health that the environment is not well served by exhaustive NEPA processes once presumed to protect it.

It is reasonable, as embodied in this proposal, to constrain such activity in accordance with long term planning which defines the various characteristics in varying regions and landscapes of lands which require fuels reductions and recommends various stabilization and recovery techniques for lands affected by fire or other natural catastrophe. (Individual, Exeter, RI - #1386.1.10000.102)

BECAUSE THEY WILL ALLOW THOSE WITH THE MOST KNOWLEDGE AND EXPERIENCE TO IMPLEMENT PROJECTS

The only way to sever the Gordian knot that is choking western forests and communities to death is to put the decision-making responsibility back into the hands of the professionals Sally Fairfax wrote about 23 years ago: “the folks who have lived with the land and their mistakes long enough to have developed wisdom and capacity for judgment.” Amending the categorical exclusion as the President has proposed will give Forest Supervisors, District Rangers, forest specialists and their community-based collaborative partners the opportunity to put their collective experience and knowledge to work as a first step in the long process of pulling the West’s federal forests and communities back from the brink of ecological and cultural collapse. (Multiple Use or Land Rights Organization, Bigfork, MT - #571.7.17110.001)

Our members support the two proposed categorical exclusion rules because federal land managers have the on-the-ground past experience and scientific knowledge necessary to determine which restoration [thinning] and hazardous fuels reduction [reseeding and planting] projects qualify and which ones require more site specific analysis. In most cases, the short-term environmental risks associated with restoration and fuels management are outweighed by the long-term benefits. (Place-Based Group, Libby, MT - #1622.3.17110.104)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE CURRENT ENVIRONMENTAL REVIEW PROCESSES ARE SUCCESSFUL

National Environmental Policy Act analysis of all activities on the forests has begun to yield fruit, not only on the ground but also in the minds and habits of forest users. Many of us would like to see things move faster. However, people and their habits take time to change, as well as the fact that none of us want to see economic hardship imposed upon people and families who need time to adjust to changes on the forests leading to sustainable use.

What a horror it would be to discard years of patient and well-reasoned advances in forest management, at the hands of NEPA and just plain good Forest Service management, often compromised by political agendas. Science shows us: the old ways of management and use were not working and, as use intensified, the old ways were leading us to catastrophe. Categorical Exclusions are bound to become Catastrophic Exclusions and you men and women of science and love for the forests must know this in your hearts. (Individual, Gunnison, CO - #1072.2.17100.001)

BECAUSE THEY WILL NOT RESULT IN SUBSTANTIVE IMPROVEMENT IN MANAGEMENT

These proposed categorical exclusions are fundamentally flawed. They should be formally withdrawn by both of the agencies that have proposed them, for the following reason:

No substantive Improvements in fire management or in reduction of wildfires on public lands are projected to result from adoption of these proposed rules.

If the current well-established planning process and NEPA procedures for evaluating proposed fire management projects is in need of change, then any proposed changes should be carefully designed to generate improvements in the efficiency and effectiveness of such projects and should include specific objectives and evaluation criteria. Such objectives should include national and regional reductions in the huge sums now spent annually for fire control. The Notice, however, makes no mention of the likelihood of such improvements resulting from these rules; nor does it offer any criteria for evaluating whether the proposed rules will produce any substantive improvements. (Individual, Chevy Chase, MD - #1727.10.64100.109)

BECAUSE THE PROPOSED CE'S DO NOT MEET THE INTENDED PURPOSE OF A CE

It is obvious from reading the list of existing categories in the DOI 516 DM Appendix 2 and the USFS Handbook, that the two new categories in the proposed rule are not within the scope of actions currently listed. The current DOI list represents actions of an administrative nature involving non-surface disturbing actions i.e., personnel actions; organizational changes; financial, law enforcement, and legal transactions; inspections; non-destructive data collection; supervision; budget; legislative proposals; policies; and educational activities. The USFS Handbook lists categories of actions such as "mowing the lawn at a District office," "painting a building," "repaving a parking lot," and "girding trees to create snags." The proposed new categories do not reflect the character of the existing list of categories [which] are of an immeasurably minor intensity. Adding surface disturbing activities, such as the proposed categories, to these lists is beyond the scope and far more vast in magnitude than the existing lists. The CEQ regulations allow agencies to establish procedures to list categories excluded from analysis in EAs or EISs, but the logic must be shown so that the result is not reached arbitrarily. These proposed categories, given their intended goal, do not meet the definition of categorical exclusions. (Individual, Meridian, ID - #1432.8.17120.230)

The Council on Environmental Quality's NEPA implementing regulations define three levels of NEPA analysis: Environmental Impact Statements (EISs), Environmental Assessments (EAs), and Categorical Exclusions. According to the CEQ, categorical exclusions are clearly defined categories of actions that do not produce significant environmental effects. 40 C.F.R. 1500.4, 1508.4. As illustrated by the Forest Service's own categorical exclusion provisions, codified at Forest Service Handbook (FSH) 1909.15, Chapter 30, the CE provisions were designed to allow routine administrative and maintenance needs to be met with minimal NEPA documentation. Examples of Forest Service projects which can be categorically excluded under Chapter 30 include: an emergency road closure to protect bighorn sheep

during lambing season, forest closures during periods of extreme fire danger, mowing lawns at a District office, painting a building, replacing a roof or storage shed, grading or resurfacing a road or culvert, pruning vegetation, accepting a donation of land, constructing or reconstructing a foot trail to a scenic overlook, reconstructing a gabion, cleaning a fish ladder, or adding brush to fish lake beds. The environmental effects of these actions, which are valid uses of the CE provisions, are degrees of magnitude smaller than the current, blatantly illegal, proposed rule.

As noted by one commentator, “the CEQ intended categorical exclusion to function as a structured procedure for avoiding NEPA documentation of no practical value while insuring that adequate analysis occurs whenever a proposed action or surrounding circumstance may produce environmental impacts.” Myron L. Scott, *Defining NEPA Out of Existence: Reflections on the Forest Service’s Experiment with ‘Case-by Case’ Categorical Exclusion*, 21 *Environmental Law* 807, 813 (1991), citing CEQ Guidance at 48 Fed. Reg. 34,264-65 (1983). Categorical exclusions are thus intended to reduce NEPA inflexibility in carefully considered and limited categories of possible actions. The proposed “fuel hazard reduction” CE, which will undoubtedly produce enormous environmental effects and which authorizes an incredibly broad range of possible activities, clearly does not meet the intended purposes of CEQ’s CE regulations, and thus must be rescinded. (Preservation/Conservation Organization, Tucson, AZ - #1434.3-4.17120.230)

BECAUSE POTENTIALLY SIGNIFICANT EFFECTS CANNOT BE DETERMINED THROUGH A CE

What is relevant here is that an EA was necessary to determine whether significant impacts existed. The likelihood or actual presence of potentially significant impacts cannot legally be determined through a categorical exclusion when it can be demonstrated extraordinary circumstances are present or an irreversible/irretrievable impact is likely to occur. If the agency could make such a determination through a categorical exclusion, it would not have prepared an EA in the first place in more than half the cases examined. Simply adding two categories to the list of actions that “may” be categorically excluded does not alter the fact extraordinary circumstances and potentially significant impacts to the human environment exist triggering the need for an EA or EIS. Therefore, the Forest Service and BLM cannot argue this rule change would legally “solve” the “problem” of unnecessary environmental assessments or impact statements. (Preservation/Conservation Organization, Montgomery, AL - #1409.11.10000.739)

The Need for Effects Analysis in Hazardous Fuels Reduction Planning

NEPA requires that the Forest Service conduct analyses weighing the costs and benefits of different forest management scenarios. These analyses are central to ensuring that forest management, including hazardous fuels reduction, occurs in a way that avoids, mitigates or discloses adverse impacts to the environment.

By excluding projects from detailed NEPA analysis, we’re concerned that the new authority would allow projects to proceed without needed effects analysis. It is incorrect to assume, as the proposed authorities implicitly do, that hazardous fuels reductions projects do not pose a risk of direct, indirect, or cumulative adverse impacts. Factors needing to be systematically considered at the landscape scale include the effect treatment locations may have on landscape-scale fire hazard, habitat suitability for management indicator species, community protection, old growth, and other values.

Categorically excluding individual projects eliminates cumulative effects analyses that, in theory, would account for these values in project planning.

Tassel-eared squirrels provide one example of the need for cumulative effects analysis. Researchers have shown that short-term reductions in canopy closure, tree density, large overstory trees, diversity, and patchiness—all of which can result from forest thinning—are detrimental to tassel-eared squirrels (Pederson et al. 1987; Patton 1984; Patton 1985; Arizona Game and Fish Department 1993; Dodd 1998). Researchers have also shown that squirrel population demographics are affected by the ratio of optimal to marginal habitat in a given area of forest, which can also be affected by forest thinning (Dodd 2002).

Squirrel researchers have cautioned against the type of thinning that could easily result from the proposed categorical exclusion authorities:

“Forest management practices that focus on intensive, widespread thinning will adversely impacts tasseleared squirrel” (Dodd et.al. 1998).

Careful project planning can arrange treatment and project locations and intensities to mitigate these impacts, or even benefit canopy dependent species, while also reducing hazardous fuels. A level of analysis that (1) weighs the relative risks of action, inaction, and various treatment scenarios, and (2) assesses the effects created by multiple projects across the landscape is central to ecologically responsible planning. Under the proposed CEs, this level of analysis would not be required.

Thus, we are concerned that projects conducted under the new authorities could cumulatively affect the amount, quality, and distribution of habitat for canopy dependent species including tassel-eared squirrels. The amount, quality and distribution of habitat may in turn affect the degree of risk to viability of tasseleared squirrel populations and other canopy dependent species. (Preservation/Conservation Organization, Flagstaff, AZ - #1738.6-7.17120.300)

BECAUSE THEY ARE NOT SUPPORTED BY SCIENCE

There is no scientific justification for these back-door logging tactics and you know it. (Individual, Logan, UT - #1130.6.10200.739)

Bush's fire control plan seems directed toward sharply limiting environmental protection requirements in order to allow increased logging of national forests. Scientists have shown, however, the threat of forest fires is actually greatest in areas where logging occurs. The proposed new thinning procedures ignore this science in order to provide increased opportunities for the timber industry to log our national forests. This plan would also increase the number of roads in our forests. Numerous studies indicate that roadless forests are at reduced risk of fire and sustain much less damage than do roaded and logged areas. (Individual, Copake, NY - #378.2.10200.739)

WWF does not support these categorical exclusions because: the proposal fails to fully evaluate the effects of mechanical treatments based on scientific literature. (Preservation/Conservation Organization, Ashland, OR - #501.3.17120.738)

I disagree strongly with the approach and rule changes contained in the Healthy Forests Initiative for the following reasons:

As it is written, the Healthy Forests Initiative would allow great leeway in thinning not only these areas but also backcountry areas to an extent that is not warranted by science. For an excellent discussion of an emerging scientific consensus, read the article by Craig Allen and many other academic and agency fire ecologists in the most recent Ecological Applications. They argue convincingly for a flexible approach in the backcountry that generally would not include thinning of larger trees. The initiative, as written, would not necessarily be based on such scientific approaches, but would be highly subject to non-scientific influences and a temptation to cut more large trees than are warranted under a truly effective plan. (Individual, Farmington, ME - #1676.3.10200.739)

Implementation – Legal Considerations

Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.

BECAUSE THEY WILL REDUCE DELAYS CAUSED BY LITIGATION

As a professional forester with over 20 years of experience, I have numerous opportunities for hazardous fuels reduction squandered by delay. The delay comes from the time involved in the agency's preparation of environmental documents and from appeals of those documents by the environmental lobby. With over a third of our National Forest acreage at risk to catastrophic wildfire, we cannot afford to continue to miss opportunities to reduce this risk. Therefore, I strongly support the addition of two new categories for exclusion from documentation in either environmental assessments or environmental impact statements for use by both the Department of Agriculture and the Department of the Interior. (Individual, Fruitdale, SD - #1742.1.64000.102)

I have complete confidence in the Forest Service to manage these areas using the laws already in place. The right of every environmental group to appeal logging projects that the Forest Service classifies as hazardous fuel reduction projects is wrong and is costing tax payers money that could and should be used in other places.

I urge the Forest Service to continue with this proposal. (Individual, Logan, UT - #556.2.10100.001)

Two years ago a fire almost reached the towns of Superior. It was fifty feet from a hotel over 100 years old.

I watched this fire from my porch a half a mile away feeling safe from the river between us, but feeling frightened for the people and businesses on the other side.

The fires that devastated Montana that year could have been prevented if every move the Forest Service made was not obstructed by environmentalists.

My father-in-law is a logger and I work at a timber mill. I know first hand the effects of work stoppage by the laws currently in place.

I fully support President Bush in his efforts to make for safer and more productive forests.

All the people whose livelihoods depend on it greatly appreciate it. (Individual, Superior, MT - #1230.8.10100.107)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE THEY WILL RESULT IN ADDITIONAL LEGAL CHALLENGES

While the existing CE procedure has not been shown by the Forest Service to be unworkable or to be the cause of fires, expanding the scope of the Forest Service CE to cover all “fuel reduction” projects, and do away with the EA/FONSI/EIS procedure that has historically applied to the larger of such projects will likely instigate additional legal challenges as well as public controversy. The current proposal to do away with the longstanding NEPA procedure followed for such projects is based not on any scientific or administrative justification and should not be instituted. (Preservation/Conservation Organization, Boulder, CO - #1186.10.10000.001)

There are plausible scenarios in which the new CE authority would increase time consuming litigation rather than expediting project implementation.

Members of the [Northern Arizona University Ecological Restoration Institute] research team also examined eight dismissed appeals from the Apache Sitgreaves National Forest from 1999-2002 (Cortner and Switzer, 2003). Of these, four were dismissed because the appellants withdrew their appeals after negotiating a mutual agreement with the agency during the appeals process. This evidence suggests that by removing the administrative appeals process, the new CE authorities may cause lengthy litigation where agreement could have been reached.

It's plausible that, under the new CEs, legitimate requests for relief will be shifted to the courts, causing increased frequency and success rate of litigation, and further delaying rather than expediting implementation of projects.

This would be a result antithetical to “enabling priority forest thinning projects to proceed quickly” as the new authority is intended to do. This evidence points to the need for the Forest Service to undertake a more in-depth, more objective, and more transparent analysis of the impacts and outcomes of administrative appeals to date. The facts revealed in this analysis should inform a similarly rigorous analysis of the potential impacts and outcomes of the proposed regulatory changes.

The evidence preliminarily but strongly suggests that the appeals process may not be “the problem” causing delays, and until the consistency and defensibility of agency decisions is improved, delays will be unavoidable. Therefore, we think resources should be dedicated to improving the quality of NEPA decisions under existing authorities rather than trying to change the process. (Preservation/Conservation Organization, Flagstaff, AZ - #1738.4-5.10000.102)

The proposed rule will not lead to a decrease in paperwork, but rather an increase. Because categorically excluded projects provide no opportunity for appeal, and only one opportunity for comment (scoping), those with questions or concerns will have no alternative but litigation if they wish to see their concerns addressed. More litigation will hardly accelerate the fuel reduction and restoration efforts the rule claims to advance. (Preservation/Conservation Organization, Salt Lake City, UT - #396.16.17100.102)

The Revised Procedures Will Add to the Complexity—and the Controversy—that Already Surrounds Fire Suppression and Restoration Planning.

President Bush’s “Healthy Forests Initiative” identifies “red tape and litigation” as obstacles to reducing the risk of catastrophic fires and restoring forest health. Healthy Forests Initiative, at 13. Apparently, preparing environmental documents is the type of delay that the Healthy Forest Initiative seeks to eliminate. *Id.* But sweeping all fuel suppression and restoration projects into the category of activities eligible for a CE may actually increase so-called “red tape and litigation,” because these activities are not appropriate for a CE. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.21.10000.102)

BECAUSE THEY VIOLATE THE NATIONAL ENVIRONMENTAL POLICY ACT AND THE NATIONAL FOREST MANAGEMENT ACT

We believe that the proposal is not needed, and that when viewed in combination with actions to weaken the National Forest Management Act, limitations on public appeal rights, and increased timber harvest under an additional three CEs, may represent a prejudicial abuse of discretion which violates the mandates of the NFMA [National Forest Management Act] and the NEPA. We recommend that the proposal be reviewed for consistency with the NFMA and NEPA by the Council on Environmental Quality (Preservation/Conservation Organization, Point Arena, CA - #1737.5.10200.109)

CBD [Center for Biological Diversity] believes the proposed rule is illegal under the National Environmental Policy Act (NEPA) and its implementing regulations as promulgated by the Council of Environmental Quality (CEQ), as well as judicial interpretations of both. Moreover, the proposed rule continues a long and unfortunate history of Forest Service abuse of Categorical Exclusion provisions under NEPA. The proposed rule, as with nearly all other facets of the Bush administration’s so-called Healthy Forests Initiative, focuses largely on the dismantlement of existing laws and regulations that provide avenues for public involvement in federal land management decisions. (Preservation/Conservation Organization, Tucson, AZ - #1434.1.10200.230)

Under the “twin aims” of NEPA, government agencies must not only (1) “consider every significant aspect of the environmental impact” of proposed actions, but also must inform the public of the potential environmental impacts of proposed actions and explain how their decisions address those impacts. See, e.g., *Baltimore Gas & Elec. Co. v. Natural Resources Defense Council*, 462 U.S. 87, 97, 103 S. Ct. 2246, 76 L.Ed.2d 437 (1983). To satisfy these aims, NEPA requires federal agencies to prepare detailed environmental impact statements (EISs) and circulate them for public review and comment before implementing any major federal action that may even potentially have a significant effect on the environment. See 42 U.S.C. 4332(2)(C); 40 C.F.R. 1502.5, 1508.3; FSH 1090.15, Ch. 20.6(4). The proposed CEs promise to violate both of these aims.

Importantly, these proposed implementing procedures also promise to violate the congressional intent behind NEPA’s enactment. Congress believed that requiring agencies to prepare such EAs and EISs would help “prevent or eliminate damage to the environment and biosphere by focusing Government and public attention on the environmental effects of proposed agency action.” *Marsh v. Oregon Natural Res. Council*, 490 U.S. 360, 371 & n.14, 109 S. Ct. 1851, 1858 & n.14 (1989); see also *Robertson v. Methow Valley Citizen’s Council*, 490 U.S. 332, 349, 109 S. Ct. 1835, 1844, 104 L.Ed.2d 351 (1989). Congress included the requirement for agencies to prepare EISs and EAs to ensure that federal agencies elevated the consideration of the environmental effects of its proposed actions to the same level as other, more traditional, factors. See *Foundation for North American Wild Sheep v. U.S. Dept. of Agriculture*, 681 F.2d 1172, 1177 (9th Cir. 1982).

Federal courts' interpretation of what NEPA requires in the way of documentation of proposed projects also may be violated by the proposed implementing procedures. Agencies are required to take a hard look at the potential impacts of projects. See *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n.21, 96 S.Ct. 2718, 2730 n.21 (1976). Reviewing courts look to EAs and EISs to determine whether agencies have satisfied this "hard look" requirement and considered all relevant factors. Intelligent decisionmaking can only derive from high quality, scientifically accurate information, which implementing regulations describe as being "essential to implementing NEPA." 40 C.F.R. 1500.1(b). NEPA further requires review documents to analyze not only the direct and indirect environmental impacts of proposed actions, but also the cumulative impacts of "past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." 40 C.F.R. ? 1508.7; see also 40 C.F.R. ? 1508.8; 40 C.F.R. ? 1508.25(c); 40 C.F.R. ? 1508.25(a)(2).

In stark contrast to the reasoned decisionmaking encouraged by EAs and EISs, Categorical Exclusions (CEs) are intended to apply to projects that do neither "individually or cumulatively have a significant effect on the human environment." 40 C.F.R. 1508.4. As projects documented in categorical exclusions, by definition, do not have a significant effect on the quality of the human environment, "neither an environmental assessment nor an environmental impact statement is required" for categorically excluded projects. *Id.* Therefore, only the most minimal documentation is required for categorically excluded projects—oftentimes, nothing more than a one or two page letter. These proposed regulatory changes would permit post-fire management and fuel-reduction projects to be categorically excluded, without regard to whether these projects have the potential to cause individual or cumulatively significant effects on the environment. Thus, these proposed implementing procedures would not only violate NEPA's statutory directive, but also violate the letter and spirit of the "twin aims" of NEPA. (Preservation/Conservation Organization, Paonia, CO - #1732.2-4.17120.230)

BECAUSE THEY ARE ARBITRARY AND CAPRICIOUS

Because it is unclear whether or not the vast majority of the projects that provide the basis for the Departments' proposed CEs have in fact resulted in no significant environmental effects, the proposed guidance is arbitrary and capricious. The Administrative Procedure Act prohibits arbitrary and capricious decision-making. 5 U.S.C. 706(2)(A). Under the APA, courts must "set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *Id.* Failing to substantiate government decision-making with information is arbitrary and capricious. *Sierra Club v. Bosworth*, 199 F. Supp. 2d 971 (D. Or. 2002).

In this case, the Departments have failed to demonstrate that their review of some 3,400 fuels reduction and fire rehabilitation projects will not have significant environmental effects requiring the preparation of either an EA or EIS. Consequently, the proposed CEs are unlawful and must be withdrawn immediately. (Preservation/Conservation Organization, Davis, CA - #1767.6.17120.230)

Implementation – Trust and Integrity Considerations

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE THEY ARE POLITICALLY MOTIVATED

This is a total sham and anyone facilitating the exploitation of public lands is selling our future up the river. I cannot believe the greed that allows people to justify killing the most fire resistant trees in the forest under the guise of the fires prevention. Every day I see the Bush administration sabotaging our natural heritage and future, while it claims to be making us safer. Please don't give in to this politically wrangled sell out. (Individual, Marlinton, WV - #790.6.11200.103)

BECAUSE THEY ARE AN ATTEMPT TO FAVOR TIMBER INTERESTS UNDER THE PRETEXT OF FIRE PROTECTION

I am totally against the plan to eliminate public involvement and remove environmental oversight from the planning process for the 155 national forests. This is an attempt to sidestep some of the more important protections currently in place in the guise of expediting planning and fighting forest fires. Environmental Impact Statements need to remain and the public should continue to have the right to appeal forest plans. Eliminating the EIS assessments of effects on sensitive species and the environment is outrageous.

This is a bald faced attempt to cater to the timber industry and to cut the public out of the planning process. Interim Amendments are not the way to go. (Individual, Saint Paul, MN - #995.1.10200.001)

I object to [the initiative] on the grounds that the proposed changes seem to be calculated to appear to support the logging industry rather than genuinely protecting homes and communities in forested areas. (Individual, Albuquerque, NM - #48.1.10200.001)

The healthy forest initiative is not for healthy forests nor does it support the interest of the American public to whom the National Forests belong. This only represents timber corporations. Please do not allow this to pass. (Individual, Wadsworth, OH - #1026.1.10200.106)

I oppose the Bush administration's approach to managing the nation's forests to protect them from fire approach [because it] does not put protection of the forest and the people ahead of logging interests. (Individual, Lima, OH - #56.9.10200.001)

Under the guise of reducing danger from forest fires, your "hazardous fuel reduction" plan will allow logging almost anywhere in the national forests—not just in areas near people's homes and communities. Large timber sales in old-growth and mature forests will be hidden from public view and shielded from public comment under this extreme proposal, which of course is your intent. (Individual, Albuquerque, NM - #482.1.10200.103)

Implementation – Public Involvement/Support Considerations**Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.****BECAUSE THEY WILL NOT RESTRICT PUBLIC INVOLVEMENT IN DECISIONMAKING**

Utah Farm Bureau asserts that the proposal will not, as some critics will no doubt claim, shut out the public from participating in the decision-making process. The collaboration requirements in the proposal ensure that all segments of the affected local communities will be heavily involved in developing these projects. It is only appropriate that the people most affected by a project will be primarily responsible for input into the scope and content of the project plan. (Agriculture Industry, Sandy, UT - #1347.2.17110.108)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.**BECAUSE THEY WILL RESTRICT PUBLIC INVOLVEMENT IN DECISIONMAKING**

I do not feel that the NEPA should be circumvented by proposed rules which would limit or eliminate the right of the public to participate in decisions to cut timber from federal lands. (Individual, Springfield, MO - #661.1.10200.108)

Public participation in public lands management decisions should not be diminished. For those of us who live in fire country, in the interface, the fate of the public lands is directly connected with our own property. If anything, the government should be seeking ways to expand the ability of the affected public to participate in planning fuels reduction project in our communities, not locking us out of the process. By expanding what projects can be categorically excluded from public input, the Forest Service and BLM become less accountable to the public, and the public will feel much more disenfranchised from the process. We need more collaboration in the interface, not more exclusion. (Preservation/Conservation Organization, Williams, OR - #918.3.17120.108)

Under the proposed changes, projects that are documented with a CE would be exempt from legal notice and an opportunity to comment, and from appeal regulations.

We believe that public involvement and notification, especially on the local level, where people are most affected by these changes, is critical. It is also consistent with what the current administration claims it wants to see. The public should have the opportunity to propose alternatives to various plans that would make more sense. (Individual, Saratoga, CA - #811.7.17100.108)

Your discussion on page 77040 generally states that the reason for the exemptions is to “provide the departments with identical management tools that will improve consistency and cooperation among Federal agencies. . . .” Further on you state an additional reason for the exemptions is that “improved cooperation will, in turn, foster more effective collaboration among Federal, State, tribal and local governments and interest stakeholders consistent with the 10-Year Comprehensive Strategy Implementation Plan.” However no where do you state why improved consistency and cooperation will foster more effective collaboration, particularly with stakeholders and local governments. Indeed, using the CE process almost certainly will lead to less collaboration between the agencies and the public since the public scrutiny associated with the EA process will be eliminated. In fact, a cynic reviewing these regulations would agree with your statement that improved collaboration will result since the one party that might not cooperate is generally being shut out of the review process. In the EA process at least there is an opportunity to review the environmental consequence analysis associated with the project unlike the CE process where scoping occurs but there is no review of the analysis prior to decision making. (Business, Arcata, CA - #1764.2.17100.108)

BECAUSE THE PROBLEM OF FUEL LOADING NECESSITATES COMMUNITY SUPPORT

I am opposed to categorical exclusions (CEs) for hazardous fuels reduction and rehabilitation.

There is no fuel or fire emergency that requires rapid action necessitating CEs. The only “emergency” is that people are building houses on private property in inappropriate, fire-prone locations. This problem cannot be solved on federal lands alone, and most important, it requires community capacity-building and community support. These community activities are needed to create local mechanisms to encourage private property owners to build in safe locations and to use “firewise” principles. CEs discourage community action by allowing fuels reduction to occur without local input—exactly the opposite of what is needed. (Individual, Laramie, WY - #1524.1.10000.710)

Implementation – Resource Management Considerations

Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.

BECAUSE THEY WILL ALLOW MULTIPLE USE OF FOREST RESOURCES

With proposals for policy change, such as the Healthy Forests Initiative, President Bush is beginning the long road back to creating understanding of what true environmentalism encompasses. People are not a blight upon the Universe, and they should, and can, enjoy the many resources of our National Forest System, from timber harvested for homes, to minerals mined for society's modern uses, to cattle grazed to provide food, to a vast array of developed and undeveloped recreation. (Multiple Use or Land Rights Organization, Yreka, CA - #1520.9.10100.322)

BECAUSE THEY WILL REDUCE CURRENT DELAYS IN CONDUCTING COMMERCIAL TIMBER HARVESTS

I am President of a small lumber manufacturing firm that has operated in northern Idaho for over three decades. Idaho has a very high percentage of federal ownership, two-thirds of the state's land and three-quarters of the state's forest. And it has a history of timber sales that has greatly diminished over the past decade, the direct result of an increased amount of federal red tape. This rapid decline in available federal timber has made it difficult to remain in the timber business in general, several mills have recently closed in this area, and specifically for me, I was once a large purchaser. I support efforts to reduce red tape and make federal timber available once again. (Timber or Wood Products Industry, Princeton, ID - #1465.1.10000.001)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE THEY WILL ADVERSELY AFFECT MULTIPLE USE VALUES

If implemented as currently outlined, an expansion of activities under categorical exclusions would allow for (and encourage) accelerated degradation and increased consumption of public resources from public lands to the detriment of other and/or higher multiple use values, including but not limited to: fisheries values, native plant community values, wildlife and wildlife habitat values, recreational and scenic values, wilderness and solitude values, cultural values, and research or educational values. (Preservation/Conservation Organization, Twin Falls, ID - #817.1.17120.001)

So much good groundwork has been done in the National Forests over the last 30-35 years. Creating truly healthy forests which can sustain multiple use is an idea that is within reach, but only if you, the Forest Service, do not yield to knee-jerk responses to one of the driest summers on record so that a few, a very few people profit from unregulated and unannounced timber harvests. (Individual, Gunnison, CO - #1072.1.60100.106)

Implementation – Environmental Considerations

Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.

BECAUSE CURRENT POLICIES HAVE FAILED TO PROTECT THE ENVIRONMENT

We must stop this destructive system that does nothing for the environment, and truthfully causes environmental damage. No action is actually an action, and it is what is devastating our National Forest System. I saw incredible things when I toured the Mussolini fire area in August. Some parts were still smoldering. There were huge holes in the ground where the fire had burned so hot that it burned the stump right out. Our foresters were saddened to find a Mountain Lion who had tried hard to escape the fire, and then just lay down and died because the terrible burns on his pads would not allow him to run

anymore. It was also very instructive to stand on the ridge and see the obvious difference in the health of the private forests as opposed to the public forests. All the rhetoric in the world can not dispel this eyewitness observation of how the failed policies of the previous Administration have lead to an environmental disaster in our public forests. (Multiple Use or Land Rights Organization, Yreka, CA - #1520.2.10000.300)

Current policies prohibit use of management tools to enable forest custodians to promote forest health and provide food and fiber for the American people on a sustainable basis. (Aubyn Curtise, United States Senator, State of Montana, Helena, MT - #1609.8.10000.001)

BECAUSE THE BENEFITS OUTWEIGH ANY RISKS TO THE ENVIRONMENT

The benefits of expanding categorical exclusions to include fire reduction and rehabilitation projects are immense. Risks to the environment from inaction produce far greater negative impacts to forest resources than do projects that are allowed through categorical exclusions. (Agriculture Industry, Sandy, UT - #1347.9.17110.300)

We believe the decision to pursue categorical exclusions for hazardous fuel reduction and rehabilitation projects is reasonable based on the Forest Service and Department of Interior review of 3,000 hazardous fuel reduction and rehabilitation projects. Further, our own experiences have taught us that the short-term land disturbances that occur with such activities can be worthwhile in comparison to the benefits gained from reduced wildfire threat and restored landscapes. (Multiple Use or Land Rights Organization, No Address - #1729.1.17100.302)

BECAUSE THE PROJECTS REVIEW CONFIRMS THAT THESE TYPES OF PROJECTS DO NOT RESULT IN SIGNIFICANT EFFECTS

The Council on Environmental quality (CEQ) implementing regulations for the National Environmental Policy Act (NEPA) define categorical exclusions as “a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (section 1507.3) and for which therefore, neither an environmental assessment nor an environmental impact statement is required.” The federal agencies evaluated 3,478 projects categorized as fuels reduction projects. Nearly half (1660) projects were categorically excluded under existing rules and would be unchanged by this proposal. The analysis confirms that no significant effects occur from these types of projects and the categorical exclusions are the appropriate documents. (Sacramento Regional Council of Rural Counties, Sacramento, CA - #1161.3.14120.322)

BECAUSE THE RESTRICTIONS ASSOCIATED WITH CE'S ARE SUFFICIENT TO PROTECT THE ENVIRONMENT

We strongly support the addition of two new categories for exclusion from documentation in either environmental assessments or environmental impact statements for use by both the Department of Agriculture and the Department of Interior. The nation is experiencing a forest health crisis on public lands that must be addressed and this policy will allow for those projects that are determined under the approved 1-Year Comprehensive Strategy Implementation Plan collaborative process to proceed. The primary focus of these projects will be for hazardous fuels reduction and for post-fire rehabilitation and stabilization. We are confident that the constraints to the use of the categorical exclusions will protect important and sensitive environmental conditions, such as wilderness areas and threatened and endangered species or designated critical habitat. (Individual, Spearfish, SD - #1525.1.10100.322)

We note the numerous restrictions on use of a CE for the proposed categories, such as a project cannot be conducted in a wilderness, proposed wilderness or inventoried roadless area; cannot use herbicides or pesticides; cannot involve construction of new roads; must be consistent with agency and Department procedures, including consultation on threatened and endangered species; and must meet all applicable Federal, State and tribal laws. Given all of these restrictions there is little likelihood categorically excluded projects will harm the environment. (Multiple Use or Land Rights Organization, Saint Anthony, ID - #13.6.17100.300)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE OF LIKELY SIGNIFICANT LARGE-SCALE CUMULATIVE EFFECTS

The cumulative effects of 190 million acres of potential fuel reduction makes this CE improper. The federal register asserts that a massive and unprecedented effort to treat fuels on 190,000,000 acres of public land will not cumulatively cause a significant environmental impact. This conclusion is contrary to the evidence in that it is overbroad, insufficiently detailed, and thus inaccurate. To conclude that such a huge program will not cause significant environmental effects is arbitrary and capricious. (Preservation/Conservation Organization, Saint Paul, MN - #1156.23.17730.300)

Many of the activities that currently are authorized under the Forest Service's CE policy do in fact create environmental impacts. Perhaps individually the impacts are not significant, but the cumulative effects are unknown because no environmental analysis is required. The high potential for significant impacts, particularly cumulative impacts, is of particular concern to Californians for Alternatives to Toxics. (Preservation/Conservation Organization, Eureka, CA - #1248.4.17730.322)

Heartwood opposes the creation of this category because we think it is so broadly worded and leaves so much open to agency interpretation that it is impossible for the agency to determine that there will be no individual or cumulative impact. When this is combined with the agency's recently promulgated rule that even if extraordinary circumstances are present the agency can still use a CE, then it is highly likely that most everything the agency does can be fit into this category, and if combined with the new proposal to CE many so-called "small timber sales," it is a virtual certainty that there will be cumulative impacts. When this is combined with the proposal to categorically exclude forest plan revisions, where are the required cumulative impact analysis and the public scrutiny necessary to insure that the analysis proper is going to take place? There will be cumulative impacts from all of this. (Preservation/Conservation Organization, Bloomington, IN - #1371.1.17730.322)

There are several factors that lead us to conclusion that the agencies' fuel reduction program will have individually and cumulatively significant effects: The potential counter-productive effects of fuel treatments involve many poorly known or unknown factors that are also contributing to NEPA significance. (Preservation/Conservation Organization, Bellingham, WA - #1410.22.17730.322)

Even if every single project approved and implemented under the proposed new procedure had little to no impact on the environment (and thus could be legally documented in CEs), the combination of projects could have a significant impact. Indeed, a large number of fuel reduction projects is likely to be proposed in the next few years because of the large acreage of land in the West that has high fuel loading. Similarly, many post-fire rehabilitation projects will likely be proposed because of the large acreage burned in fires in the last few years. It is reasonable to assume that these projects collectively could cause a cumulative impact on soils, water quality, wildlife and habitat, etc.

However, under the proposed new procedure, there would be no analysis of these possible cumulative impacts, since each project would be documented in a CE. Forest Plans would likely not disclose cumulative impacts from fuel reduction and post-fire projects because large numbers of such projects had not been proposed when the plans were approved. Also, under proposed changes to the Planning Regulations, EISs would no longer have to be prepared for the Forest Plans. See proposed section 36 CFR 219.6(b), 67 Fed.Reg 72797. Thus the new procedure would violate NEPA's requirements for disclosing cumulative impacts. (Preservation/Conservation Organization, Denver, CO - #1403.10.17730.322)

BECAUSE IT HAS NOT BEEN DEMONSTRATED THAT THE PROPOSED FIRE MANAGEMENT CE'S WILL NOT HAVE SIGNIFICANT EFFECTS

The Administration Procedure Act (APA) prohibits arbitrary and capricious decision making by federal agencies in a rule making. 5 USC [SECTION] 706(2) (A), Under the APA, courts must “set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” We feel that the agency has not made the case that these decisions/projects will not have a significant environmental effect and will require NEPA. Therefore the proposed CEs are unlawful and should be withdrawn. (Recreational/Conservation Organization, Coarsegold, CA - #1358.8.23240.300)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.**BECAUSE THEY WILL ADVERSELY AFFECT WATERSHEDS**

Larger, old growth trees surround the watershed where I get my water: the Green River Watershed of Tacoma Water (City of Tacoma, WA), which provides nearly all of Tacoma for at least 9 months of the year and several surrounding communities with water with minimal treatment. Much of the watershed is surrounded by the Mt. Baker-Snoqualmie National Forest. The proposed “Categorical Exclusions” jeopardize my water supply because increased runoff of sediment from clear-cutting means more treatment of water, higher water prices. Also, the Cedar River Watershed of the City of Seattle is just north of the Green River Watershed so the potential of these “exclusions” literally will affect close to one million people and their primary water supply. We, the people of Washington State, have the right to protect our watersheds from any disturbances: logging, ATVs and other off-road use, even restrictions on transportation through these watersheds and what travels through them, as train travel and its hazardous materials are restricted in the Green River Watershed (Burlington Northern-Santa Fe line). (Individual, Puyallup, WA - #766.5.17120.301)

BECAUSE THESE ACTIVITIES WILL CAUSE SOIL EROSION AND COMPACTION

We believe that high intensity forest manipulation allowed to be classified as CEs under this CE rulemaking will not lend towards restoring functional ecosystems and may damage them if proper precautions and an analysis is not applied. Rather, logging activities will lead to accelerated erosion and soil compaction and will disrupt the natural post fire regeneration. Fire is a natural and essential component of forest ecosystems. Hence, the presence of fire indicates high degrees of ecosystem function. Beschta et al., 1995 state, “Land managers should be managing for the naturally evolving ecosystems, rather than perpetuating artificial ones we have attempted to create.” We are concerned that logging could significantly accelerate soil erosion and degrade soil productivity in some areas. (Preservation/Conservation Organization, Missoula, MT - #952.6.60000.606)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.**BECAUSE THEY WILL ADVERSELY AFFECT ROADLESS AREAS**

The potential impact of this rule on inventoried roadless areas is of particular concern. This rule would permit unlimited temporary road-building and “thinning” in inventoried roadless areas. 67 F.R. 77038 (2002). According to a recent directive from the Forest Service, the “mere presence” of an inventoried roadless area “does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determine whether extraordinary circumstances exist.” Interim Directive No. 1909.15-2002-2. So long as the Forest Service decides the area will not be affected beyond some unspecified degree, temporary roads may be built in inventoried roadless areas under this proposed rule. Such a proposal is arbitrary and capricious. (Preservation/Conservation Organization, Copper Hill, VA - #816.5.17120.530)

We urge the agencies to withdraw this proposal and continue to use the existing fuel reduction and rehabilitation “categorical exclusions” (CEs) to conduct prescribed fire and other appropriate non-commercial fuel reduction and rehabilitation activities.

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While there is little justification for fuels reduction in roadless areas, the effects of thinning and temporary road-building are significant. Road-building, whether temporary or permanent, often causes significant adverse effects, including soil erosion and stream sedimentation. Building even a temporary road in a roadless area forever alters the character of the area. Under CEQ regulations, the context in which an action takes place is a factor in determining whether the effects are significant. 40 C.F.R. [section] 1508.27(a). Logging and temporary road-building in roadless areas will significantly impact these areas. (Preservation/Conservation Organization, Saint Paul, MN - #1156.42.17700.530)

Categorical Exclusions disregard protection of roadless areas by using thinning and reclaiming that CEs do not “adversely affect protected areas (roadless).” Claiming that the long-term results outweigh short-term effects is bad judgment and I would like to see the scientific evidence that favors logging in these instances. (Individual, Stillwater, MN - #921.3.17120.530)

Implementation – Forest Health Considerations

Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.

TO ALLOW THE IMPLEMENTATION OF FOREST HEALTH ACTIVITIES IN A TIMELY MANNER

With regard to the proposed action to reduce the environmental documentation after wildfires, I support this proposal. It is imperative that there is a way for the Forest Service to act quickly, within 30 days or less after a fire to begin the rehabilitation work. They also must have the ability to do thinning of overstocked stands. (Business, Columbia Falls, MT - #1617.1.10100.602)

We recognize that forests must be managed in an environmentally sound manner. For this reason, we support the Bush Administration’s Healthy Forest Initiative. Our 2003 policy states, “We are concerned about the health of our national forests and rangelands. We support legislation that will reduce the threat of wildfires by using sound science and management techniques such as prescribed burns and selective logging to decrease high fuel loads.”

We believe the proposed categorical exclusions to NEPA procedures will allow federal agencies to take a proactive approach in addressing forest health issues by including actions to reduce hazardous fuels and activities to rehabilitate lands and infrastructure impacted by wildfires or fire suppression. While all forest projects will not qualify for the categorical exclusion because of provisions outlined in the proposal, critical forest health projects will be expedited. (Agriculture Industry, Jefferson City, MO - #1739.4.10100.102)

BECAUSE THEY ARE AN APPROPRIATE WAY OF ADDRESSING FIRE RISKS WHILE PROTECTING THE ENVIRONMENT

Application of these categorical exclusions, based on complete analysis of the site-specific conditions of over 3,000 hazardous fuel reduction projects, will allow the agencies to begin to address the risks to over 73 million acres from catastrophic fires. The protection of watersheds, wildlife habitat, communities and entire ecosystems, as well as the restoration of healthy forests, require adoption of these authorities. NorCal SAF believes that these categorical exclusions are an excellent and appropriate start to dealing with the risks of wildfire and protecting the environment, while using existing authorities and remaining consistent with environmental laws and land management plans. (Timber or Wood Products Industry, Redding, CA - #1703.4.14120.001)

SO THAT FUNDING MAY BE SPENT ON FOREST HEALTH ACTIVITIES RATHER THAN ON PLANNING, APPEALS, AND FIRE SUPPRESSION

Not only has the cost of fire suppression gone off the “charts” as a result of the delays imposed on the government by “special interest” groups, it has been estimated that the planning, assessment, and challenges to these projects (as well as any other forest activity) is costing the American tax payer more than \$250 million per year. This is money that would well be spent on productive projects that will improve the health of our forests. Not only are millions of acres destroyed by fire, and millions of dollars spent to get these projects on the ground, but millions of dollars of timber are left to rot as a result of long delays because of unrealistic planning and assessment requirements.

Please do everything possible to assure that steps are taken to allow the agencies responsible for the implementation of this proposal to move ahead as quickly as possible. (Oil, Natural Gas, or Coal Industry, No Address - #1296.2.10100.001)

17.5 million acres of National Forests have burned since 1999. Fighting these fires has taken money from other worthwhile and necessary forest management activities. It reduces the amount that can be spent upon management activities that will prevent future catastrophic fires. Using the opinion that fires are natural as a reason to not be proactive in fire prevention merely is an attempt to divert attention from the disastrous results of major fires. Not just trees burn. Animals and their habitat are lost, critical watersheds are impacted and a valuable resource belonging to the American people is destroyed. (Multiple Use or Land Rights Organization, Yreka, CA - #1520.3.10000.001)

All the money was spent fighting fire instead of being in front of the problem! Further degradation of resources will be the result as the dead timber falls over and becomes dry fuel for the next fire. We have been doing this non-management on federal lands now for long enough that many examples exist on the ground to view and the results are not favorable for the future of the forests or the people who depend on and enjoy them. Many excellent examples of good forest rehabilitation projects also exist from when we used to manage our federal forests. These tell the story for those who care to go see the truth. (Business, Portland, OR - #1503.2.10000.001)

TO ADDRESS HAZARDOUS FUEL ACCUMULATIONS AND SUBSEQUENTLY PREVENT WILDFIRE

As evidenced from the catastrophic fires which plagued much of the west in 2002, there is a real need to address the accumulation of fuels (both dead and green) on our public lands. I further submit there is a direct correlation between these fuel accumulations and the subsequent fires, and a NEPA process which has been abused by the environmental movement to such a degree that “analysis paralysis” has put the Forest Service in a “reactive management” capacity rather than a pro-active one. A case in point is the fires of 2000 on the Kootenai National Forest in northwest Montana. Two major projects, Pinkham and Fold-Boulder-Sullivan, had been identified by our local Ranger District as areas in need of fuels reduction activities in areas either overstocked with green trees or laden with a jack-strawed mess of dead timber which has accumulated from years of fire suppression and from an increase in disease and mortality as a result of their overstocked condition.

After two plus years of analysis and public meetings, the Pinkham project was finally implemented, and one of the several planned timber sales was advertised and sold in June of 2000. In August of 2000, both the Pinkham and Gold-Boulder-Sullivan project areas were on fire. A hazardous fuels categorical

exclusion as proposed by President Bush's Forest Health Initiative could have been instrumental in implementing these two projects in a more timely manner.

And subsequently, two and a half years later fire salvage and restoration work is still underway due to the same analysis paralysis which contributed to these same events which we're now trying to restore. Meanwhile, much of the burned areas, which local Forest officials hoped to salvage and restore, is fast becoming uneconomical to harvest, and ultimately will be subject to a reburn in the future. A categorical exclusion for rehabilitation, as outlined in the President's Plan, would have allowed timely salvage of this burnt material, ultimately allowing harvest of a higher value material which would return more funds to the ground for additional restoration work. This also benefits local economies and our local school districts and county road funds through the 25% Fund. (Individual, Rexford, MT - #812.1-2.10000.001)

The GAO report of April 1999, "Western National Forests: A Cohesive Strategy is Needed to Address Catastrophic Wildfire Threats," clearly identified the single biggest threat to the environment of Communities for Great Northwest members: huge, stand destroying, wildlife destroying, life threatening, property destroying wildfires. The Administration's proposal will help the managing agency address this problem by improving the ability to remove dead and dying trees, remove insect infested or diseased trees to prevent larger infestations and expedite small acreage green tree harvests. (Place-Based Group, Libby, MT - #1622.2.10000.602)

TO HELP PREVENT FUTURE INSECT INFESTATIONS

I cite the current infestation of Douglas Fir Bark beetle. Two years ago we had a negligible infestation that could have been stopped with minimal timber removal and no roads or other access challenges. Two years later, we have another insect that is out of hand with no hope of recovery. The saddest part of this situation is the loss of old growth DF that is dead and fallen. Now the insects are moving into smaller diameter DF after having taken out anything of any size. The change in the rule will not help this situation but may ward off further incursions into otherwise healthy stands. (Individual, Superior, MT - #1247.2.17110.317)

TO PROTECT FORESTS FROM BLISTER RUST

I would like to encourage the approval of the President's healthy forest initiative. Having lived next to the Clearwater National Forest for all of my 50 years I can say that the best chance to sustain a forest as we know it is the approval of the initiative. The forest in its natural state has fallen victim to a man made disease (blister rust) since the early days of the last century. This disease has nearly wiped out the White Pine. The removal of that species of tree changed to composition of the forest from one of predominately pine and larch to one that is now mainly fir and cedar. Where there once were hundreds of trees per acre of forestland there are now thousands of trees per acre. This new forest composition is now itself suffering the effects of disease and root problems. These problems are brought on by overcrowding of the newer trees. The professional managers desperately need the tools to restore the forest to a healthier state. Over the years a blister rust resistant white pine has been developed which will enable the managers to return the forest to a more natural forest but they have to be given the opportunity to do so. A side benefit of returning the forest to a more natural state will be a restoration of the region's elk herds as the more open forest will provide more food for the animals. (Individual, Orofino, ID - #1581.1.10200.322)

TO ALLOW SALVAGE TIMBER HARVEST

On behalf of over 450 area business leaders represented by the Spearfish Area Chamber of Commerce, we are writing this letter to convey our deepest concerns regarding the overall health of the Black Hills National Forest (BHNF) and to request your support of the "Healthy Forest Initiative," containing provisions which allow the Forest Service and Bureau of Land Management the use of "Categorical Exclusions" when controlling insect infestation, cleaning up damage as a result of severe weather, salvaging burned timber and cleaning up hazardous fuel loads. (Business, Spearfish, SD - #1733.1.10100.001)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE THEY IGNORE THE BENEFICIAL ROLE OF FIRE

I oppose President Bush's "Healthy Forest Initiative." This initiative ignores the important role that fire plays in long-term forest health. Wildfires are a natural element of ecosystems, playing an important role in clearing forests of underbrush and reducing the fuels that, if built up over generations, cause the extremely dangerous fires that we have witnessed in recent years. (Individual, No Address - #1317.1.17120.606)

I am a citizen of the United States who thoroughly enjoys recreating on our nation's public lands, especially in The National Forests. Over the past three years our forests have experienced severe fires due to decades of fire suppression and understory overabundance. In fact, just this past summer my home town of Prescott, AZ experienced a forest fire just a few miles outside of the city. Although I admit that revisiting these areas is not aesthetically pleasing, I am aware of the ecologic benefits forest fires bring to the ecosystem. I am writing this letter to inform you that I strongly and adamantly oppose the Bush Administration's proposed "categorical exclusions" rules proposed on December 13, 2002. (Individual, Prescott, AZ - #1781.1.17120.606)

BECAUSE THEY WILL INCREASE THE RISK OF FIRE

If the rule had some factual and scientific basis, the American people would have supported it when it was first brought to Congress. The offered justification for this proposal is that it will contain fire risks. I don't know what the justification is for making such a critical decision in an administrative fashion rather than through the elected representatives of the people. On a factual basis, any first year student in environmental studies is aware that it is the underbrush and younger trees that start and feed forest fires. The old growth trees are least likely to burn, and shade the ground to discourage undergrowth. This proposed rule would encourage undergrowth, grasses and brush to grow and do nothing to reduce fire risk. In fact, it would increase the risk. (Individual, Cortland, NY - #26.3.10000.739)

I object to the forest thinning changes that are being proposed as part of President Bush's forest fire control plan. The thinning changes would lead to increased logging, which would further fragment the habitat of wide-ranging animals and might even increase the risk of fire. Scientists have shown that the threat of forest fires is greatest in areas where logging occurs. The proposed thinning ignores science in order to provide opportunities to log our national forests. (Individual, Alachua, FL - #118.1.10200.001)

I am strongly opposed to the Bush administrations proposed "Categorical Exclusions" rules on December 13, 2002.

The proposed "Categorical Exclusions" would not necessarily reduce the risk of fires in our forests. They may actually increase the risk of fires by increasing the amount of commercial logging. Logging can intensify wildfires in a few ways. First off, it removes the least flammable portion of trees—their trunks—while leaving the most flammable parts, the needles and limbs, directly on the ground. Second, it opens up the forest canopy which exposes the forest floor to increased sun and wind causing higher temperatures and decreased levels of moisture. Finally, once the commercially valuable timber has been removed, federal agencies have no economic incentives to manage the invasive weeds that are much more flammable than the original forest cover and that colonize sites disturbed by logging operations. (Individual, Prescott, AZ - #1783.2.17120.602)

BECAUSE AGENCIES ARE ALREADY ADEQUATELY ADDRESSING HAZARDOUS FUEL BUILDUP

I do not support the proposed expansion of the activities allowed to proceed without an environmental assessment (EA) or an environmental impact statement (EIS) under categorical exclusions (CEs). In my estimation, the USFS has been on the right path to addressing hazardous fuels buildup—controlled burns of selected areas, targeted thinning around residential and other developments, and public outreach/education on the dangers of building in unprotected areas. I certainly do not support suspension of current rules regarding EAs and EISs. (Individual, Mount Sterling, KY - #1381.1.17120.001)

BECAUSE THE PROBLEM OF HIGH FUEL LOADING NECESSITATES A LONG-TERM SOLUTION

Belief in a quick fix [for the state of forest health] ignores the fact that the problem of unnaturally high fuel loading did not appear overnight. Instead, the current condition of the forests is the direct result of many decades of fire suppression in vegetation types that otherwise would have been subject to frequent fires. As it took a century of mistaken forest management to create the current problem, it is entirely unreasonable to expect that even implementing procedures such as these that would eliminate environmental review could reverse this situation in a short period of time. It will surely take at least a few decades to restore a more natural and less combustive fuel regime to the millions of acres at risk from catastrophic fire. (Preservation/Conservation Organization, Paonia, CO - #1732.7.10000.602)

The connection between the proposed categorical exclusions and the stated need to expedite projects to reduce the threat to human safety and property loss is unclear. There is ample documentation that this goal could be accomplished through projects in a “community protection zone” which in extreme cases is not beyond 3/4 mile from structures. Yet there is nothing to tie the proposed categorical exclusions to the wildland-urban interface where action is most urgently needed. The categorical exclusions could occur anywhere, thus draining limited funds away from the focus fuel reduction efforts need. Longer restoration efforts need to go beyond a short term fix that ignores associated environmental impacts to resources other than fuel. The agencies should commit to a long term effort of restoration that accounts for all environmental effects. (Place-Based Group, Asheville, NC - #1418.8.10000.710)

*Implementation – Recreational Considerations***Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.****BECAUSE THEY WILL ADVERSELY AFFECT RECREATIONAL OPPORTUNITIES**

Hiking trails afford the public low-impact access to backcountry areas for recreation and nature observation. These backcountry areas are critical for ecosystem protection, including water quality, wildlife, and vegetation—all valued pieces of the hiking experience. The proposed fire management plan could severely damage many pristine areas. We urge the Forest Service to withdraw the proposed rule changes and use careful environmental review in deciding the best fire management. (Non-Motorized Recreation Organization, Silver Spring, MD - #1416.5.17120.322)

*Implementation – Social Considerations***Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.****TO PROTECT ADJACENT PRIVATE LAND, HOMES, AND COMMUNITIES**

Let us begin by conveying our overwhelming support for the addition of these new categories under which the USDA and DOI may exclude applicable projects from lengthy EA or EIS documentation. As you’re well aware, 190 million acres of public lands across our Nation, are experiencing a forest health crisis. This proposal would represent one of the few tools available to our Federal land management agencies that allow for the expeditious crafting and implementation of urgently needed projects. Especially is this evident when one considers the irrelevance of property boundaries in the nature of wildfire events. The USDA and DOI have an obligation to be “good neighbors” to their adjoining communities and private landowners, and not put them in the path of imminent danger by failing to manage forest fuels conditions in a timely manner. In the same breath, we remain confident that the criteria established for the use of the categorical exclusions will successfully protect important and sensitive environmental components, such as threatened and endangered species or designated critical habitat. (Timber or Wood Products Industry, Rapid City, SD - #1770.1.17110.001)

Because wildfires don't respect property boundaries, we believe that providing this policy for both the Department of Agriculture and the Department of the Interior is integral to accomplishing successful fuel hazard reductions on public lands and therefore reducing risks to adjacent communities and state and private forestlands. We are very concerned that the federal agencies recognize the significant threats of federal non-action to reduce the risks of wildfire to private forestlands and implement projects adjacent to these lands as well as in the wildland urban interface.

We support the use of categorical exclusions as a means to more promptly reduce fire hazards in federal forests and to rehabilitate areas following a wildfire. (Business, Hayden Lake, ID - #1623.2.64000.602)

Because wildfires don't respect property boundaries, LFA believes that providing this policy of categorical exclusions for both the Forest Service and Department of Interior is integral to accomplishing successful fuel hazard reductions on public lands and therefore reduce risks to adjacent private forestlands. LFA is very concerned that Federal agencies have responsibility and accountability, not only for public lands they manage, but also to adjacent, non-federal ownerships that may be impacted by fire and forest health issues. (Timber or Wood Products Industry, Alexandria, LA - #1862.2.17110.501)

I watched the wildfires of 2000 come over the ridge to my home. That experience caused me to take steps to protect my home and family through thinning and brush removal. However, the aforementioned DF Beetle and the already out-of-hand Mountain Pine beetle has turned the public lands immediately behind my home into a picture of what not to have on the ground in a drought year like we are having. For us is not a question of if it will burn it, but rather "When." Living in fear of a catastrophic wildfire is not necessary. The area I am referring to could be handled by thinning a 50 acre strip with no roads or other incursion. This could only be done if the current rules change.

For these and many other reasons. I adamantly support the change in the current Categorical Exclusion Rules. (Individual, Superior, MT - #1247.5.17110.710)

The potential for catastrophic fires mounts each year as more and more dead and dying wood is added to the fuel load. Last year, Utah lost over 115,000 acres of forest and range resources to wildlife due to forest decadence and impasse over resource management. Fire reduction projects allowed through expanded categorical exclusions could help minimize this threat. Rural communities are at great risk from catastrophic fires. Large catastrophic wildfires can result in unstable watersheds, increased flood potential, weed invasion, lost timber resources, and in some cases, long-term loss of biodiversity. The proposed categorical exclusions would allow better, science-based management decisions to reduce the potential for damaging catastrophic wildfires. (Agriculture Industry, Sandy, UT - #1347.6.17110.001)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE FORESTS SHOULD BE PROTECTED FOR FUTURE GENERATIONS

I beg you, for our sake and for the sake of future generations, please uphold our fundamental environmental laws and our rights as Americans. Don't leave our children a barren, sterile wasteland in which natural beauty is but a distant memory. Please withdraw the proposed rule immediately. (Individual, Bronx, NY - #286.2.10200.705)

Please stop rolling back the protection of our national forest and abide by the bipartisan regulatory framework that has been developed over the last 30 years. I want the federal government to assure that my children will be able to enjoy their national heritage and be able to care for it and pass it on in the future to their children. (Individual, Lake Bluff, IL - #354.5.10200.705)

I urge you to abandon the "Categorical Exclusions" rules so that future generations may enjoy our public lands and national forests. (Individual, East Berne, NY - #380.3.17120.705)

BECAUSE FORESTS SHOULD BE PROTECTED FOR SPIRITUAL VALUES

Trees are rooted Sentient Beings that transmit the Wisdom of their Years to a chosen few, we “Medicine People”, who are meant to commune with them and pass on the knowledge. Do not destroy our sacred temples!

Again, I urge you to uphold our fundamental environmental laws and our rights as Americans and Nature Worshipers. We respectfully request that you withdraw the proposed rule immediately!

Thank you for Listening to the Wind, to the Birds, to the leaves rustling, to the Dance of Life made possible by protecting our treasured Forests. Thank you for thinking of generations to come. (Individual, No Address - #217.1.10200.704)

God is watching. She does not approve of flagrant and wanton acts that destroy Her creation. She knows the hearts of those who will cheat, lie, and steal to profit from the unregulated sales of timber. Put a stop to it now! (Individual, Carrollton, GA - #769.2.10200.709)

Implementation – Economic Considerations**Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.****TO SUSTAIN BOTH LOCAL RESOURCE-BASED AND TOURIST ECONOMIES**

The reduction of hazardous fuels and post fire stabilization on public land would help reduce the effects and risks of catastrophic wildfire that will impact our local timber/forestry and tourism industries. Natural resource policies that impact the environment will directly or indirectly impact the business community that is dependent on retail sales of services and products to the annual tourist count received each year in the county. Our county is considered a vacation destination of Oregon. Total spending in travel impacts to Wallowa County for the year 2000 was 20.4 million dollars. In addition, 500 jobs were generated by travel spending in the same year.

Natural resource management and its policies is our number one critical factor in protecting the economy of Wallowa County. Long range planning must include what will make a healthier economy. Preventing catastrophic wildfires would be an obvious benefit to the timber industry, as well as assuring that visitor counts are not negatively impacted in Wallowa County. (Business, Enterprise, OR - #1408.1.60000.730)

Missouri’s forests are an important resource and contribute a great deal to our economy. According to the Missouri Department of Conservation (MDC), harvesting and processing trees provides thousands of jobs for Missourians and contributes \$3 billion to the state’s economy. Tourism, which is one of our top three revenue producing industries, is centered around the forested regions of Missouri. A severe wildfire or insect invasion would have devastating effects on our state.

The wildfires that have ravaged western states in recent years signify the importance of maintaining the health of our nation’s forests and rangelands. According to Forest Service statistics, more than 72 million acres of the National Forest System are at high risk for wildfire and more than 26 million acres are at high risk for insect infestation and disease. In Missouri, diseases and pests such as oak decline and red oak borer threaten the health of our forests and increase the risk of wildlife. (Agriculture Industry, Jefferson City, MO - #1739.2.74000.602)

I worked in the forest products industry for thirty-three years. I owned a small sawmill in Seeley Lake, Montana and just recently sold my interest in that business.

I have come to the conclusion that a large part of the reason that we have seen the average wage of Montana’s citizens deteriorate over the past fifteen years is because in western Montana the Federal Government owns such a large percentage of the land and yet the Federal Government has for all practical purposes withdrawn from participation in the local economy. In the district that I represent, fully sixty-five percent of the land is managed by the U.S. Forest Service. Yet environmental laws

passed in the 1970s have gradually made it impossible for the Forest Service to participate in the local economy by putting up timber sales as it traditionally had.

That being the case, local schools are seeing declining enrollments. Local businesses struggle for survival. Men and women who for years had depended upon the logging activity for their livelihoods are moving into other fields or moving out of the area.

I have further come to the conclusion that the only way that we will reverse the deterioration of our resource economy is for the Federal Government to exempt certain activity from onerous environmental laws. Laws that are purely procedural and that seem to be designed to stop anything from occurring should either be changed to preclude the abuse of their intent, or we should exclude certain activities from their review. The categorical exclusions that are being suggested would do that. I support them wholeheartedly. (Doug Mood, Speaker of the House, Montana State Legislature, Seeley Lake, MT - #1148.8.17110.730)

Rural communities surrounded by blackened forest lose social and economic function. Working landscapes are lost for years. The scenic tranquility many visitors seek is lost for generations. The atmosphere that envelops a community is changed. A major tourist attraction for many of our rural communities is the community charm nestled in a beautiful forested setting. Take away the beautiful forest setting through wildfire and the charm may attract fewer tourists. Until the setting is restored, tourists will likely visit other areas where the charm and setting is still picturesque. Without an expedited process for fuels reduction and the rehabilitation and stabilization of lands impacted by wildfire, significant effects to communities could result. (Sacramento Regional Council of Rural Counties, Sacramento, CA - #1161.9.10100.731)

Over the past several years, the BHNF has become the battleground for supremacy among several special interest groups. Many people throughout the region have strived to develop a reasonable compromise with these special interest groups. Unfortunately, litigation and the threat of litigation have prevented common sense from prevailing.

As a result of these delays, many areas of the BHNF have become extremely susceptible to catastrophic fires due to the over accumulation of dead timber caused by the mountain pine beetle and severe weather conditions. These areas pose imminent threat to human life, property, and the overall health of the forest. Several fire management experts have stated that due to the excessively high fuel loads contained in these areas, a forest fire, when it occurs, will be next to impossible to contain.

Our region's economy is heavily dependent upon tourism and the timber industry. A forest fire of the magnitude predicted will have a crippling effect on commerce and will greatly diminish the quality of life area residents have grown to cherish. It is imperative that action be taken at once if we are to prevent further destruction of National Forest System Land and, in particular, the Black Hills National Forest. We ask that you support the Healthy Forest Initiative. (Business, Spearfish, SD - #1733.4.10100.602)

BECAUSE THE REVENUE FROM HARVESTED TIMBER WILL COVER THE EXPENSE OF TREATMENT AND REHABILITATION PROJECTS

By allowing a more timely removal of merchantable material from the treated areas, the CEs could be viewed as self supportive in that there would be revenues generated for the agencies from the sale of forest products from the areas to be treated that could offset the expenses to the agencies for planning and executing both treatment and rehabilitation work. This not only takes some of the burden off of the taxpayers for these activities, but would promote forest health as well. This looks like an excellent opportunity for the Stewardship Contracts that the USFS has been trying to promote. (Timber or Wood Products Industry, Cleveland, TX - #843.4.17110.001)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.

BECAUSE THEY WILL GLUT THE TIMBER MARKETS AND FURTHER DEPRESS THE TIMBER INDUSTRY

In addition to my work with Kettle Range Conservation Group, I work for a stewardship logging firm in North Central Washington. Quite frankly, your proposal will be harmful to the western timber economy, which is suffering from glut of timber and depressed markets, combined with cost-cutting from foreign markets. The administration needs to support stewardship forestry, and economic stability. (Preservation/Conservation Organization, Winthrop, WA - #1184.1.74300.000)

The current proposal would put the individual woodlot owner out of business by dumping huge quantities of large-diameter wood on the market. (Preservation/Conservation Organization, Winthrop, WA - #1184.3.74400.600)

BECAUSE TIMBER SALES ARE NOT ECONOMICALLY ADVANTAGEOUS

The public loses money on timber sales in national forests. These forests are more valuable standing than cut, both ecologically and economically.

Given these facts, I oppose the so-called "Hazardous fuels reductions" and "Rehabilitation and stabilization projects." (Individual, Eggleston, VA - #1088.2.17120.001)

Alternatives to Proposed Fire Management CEs

Public Concern: The USDA & DOI should establish a regional National Environmental Policy Act team to coordinate consistent and scientifically defensible analyses under existing authorities.

INSTEAD OF IMPLEMENTING THE PROPOSED FIRE MANAGEMENT CE'S

We agree with the Forest Service that the pace and scale of hazardous fuels reduction in southwest ponderosa forests needs to increase. However, establishing new categorical exclusions will discourage ecologically defensible planning and in many cases is likely to further delay rather than expedite project implementation. We believe the appropriate course of action is to dedicate the resources necessary to improving the quality of NEPA analyses under existing authorities.

The Forest Service needs to establish a regional NEPA team whose sole purpose is to ensure timely, scientifically rigorous, legally defensible, and regionally coordinated NEPA analyses. The personnel on these teams should not be available for fire assignments or other details, and should reflect a cross section of the professional expertise (landscape ecology, conservation biology, and law) necessary to produce high quality analyses and decisions. (Preservation/Conservation Organization, Flagstaff, AZ - #1738.1.17300.001)

Public Concern: The USDA & DOI should work collaboratively with affected states to develop a scientifically-based adaptive management approach to fire management.

INSTEAD OF IMPLEMENTING THE PROPOSED FIRE MANAGEMENT CE'S

Any new fuel treatment policy/program should be established consistent with this specific guideline:

Treatments designed to improve forest health and reduce risk both to forest ecosystems and to communities should be based on specific data that describes forest structure, fuel conditions, probability of fire, and assets likely damaged by fire. The state already has cooperated with federal scientists and managers to create such an analytical framework, where data drive the selection of areas in most need of treatment, and inform at least at the regional scale and appropriate treatment policies. . . .

For planning purposes, the State and the USFS have already cooperated on designing fire risk assessment methods that outline both opportunities for risk reduction and constraints on implementing treatments. These methods allow for delineating areas in most need of treatment and those areas that cannot be treated, and lead into a more detailed assessment of actual treatment activities, where the best management practice is employed. These planning methods should be further refined through collaborative processes to culminate in an assessment of the entire landscape, private lands included. . . .

A significant amount of uncertainty regarding the effectiveness of treatments on reduced risk and habitat use remain. We propose that the only realistic approach to dealing with this uncertainty is to engage the interagency planning process, design and implement a series of fuel treatments at the landscape scale and undertake a detailed and focused monitoring and review strategy to assess both fire and wildlife impacts. . . .

[As an alternative to the proposed CEs] we recommend that the Forest Service move forward with California (and other affected states) to craft a collaborative planning, monitoring, and adaptive management process that is flexible enough to account for state and regional differences and is based on the extensive work already accomplished in California. (Resources Agency, State of California, Sacramento, CA - #1705.14,15,17.17300.100)

Public Concern: The USDAFS & DOI should reconsider the proposed fire management CEs on a smaller scale with an ecoregion-specific plan.

We do not agree with the assumptions based on the data from 3000 projects. The assumption that all fuel reduction and rehabilitation projects will have no environmental impacts and can be categorically excluded from analysis is an extremely risky one. Did these projects represent all ecoregions currently represented in government owned land? If not, how can you be sure that there will be no effect? The purpose in doing an EA is to determine possible effects on a site-specific basis. Assuming that any treatment could be broadcast over virtually infinite situations and always result with the same “no impact” claim is a wild guess and totally irresponsible. We feel that site-specific analysis is absolutely essential for both fuel reduction and rehabilitation projects. Without site-specific analysis, there is a very real possibility that the environmental consequences could be extreme. We urge you to reconsider this proposal on a smaller scale with an ecoregion specific plan. (Preservation/Conservation Organization, Johnson City, TN - #384.6.14120.303)

Public Concern: The USDA & DOI should form an interagency technical task force to review the results of the proposed CEs after two years and make any necessary modifications.

IF THE PROPOSED FIRE MANAGEMENT CE'S ARE IMPLEMENTED

Should the federal government move forward with this initiative, California would like to propose an additional procedural mechanism at the end of the process. This action would improve effectiveness of the fuel work, insure environmental integrity and build public trust.

Specifically, we propose the formation of a state and federal Technical Task Force to review a set of projects implemented over an initial two-year period and to formulate lessons that will improve the process for all concerned. Such an approach would allow for the completion of a landscape laboratory where a suite of best management practices can be evaluated, not only for their performance in reducing risk from fire, but also their effects on wildlife habitat and other environmental factors.

Building on the strong, technical state/federal cooperation already established in California, this Task Force would be very beneficial in the planning phase, helping to design projects informed by the extensive analytic work completed to date. . . . any new fuel treatment policy/program should be established consistent with this specific guideline:

A collaborative technical task force, comprised of a small number of state and federal fire scientists, ecologists and wildlife biologists, should systematically monitor, review and suggest adaptive changes to the planning process to refine fuel treatment prescriptions. (Resources Agency, State of California, Sacramento, CA - #1705.14.17300.102)

Chapter 2

Process, Planning, Policies, and Laws

Role of Government

Role of the Federal Government

Public Concern: The USDAFS & DOI should follow congressional mandates.

The Forest Service and the Bureau of Land Management will not be allowed to alter or violate congressional mandates. Congress is the body which represents all citizens. The agencies cannot serve a thousand bosses. The present environmental activities attitude is that they are supreme and the rest of the citizens have no right or privilege.

The United States Constitution and Bill of Rights will not be disregarded or violated. Our elected officials have sworn to uphold the Constitution and Bill of Rights and it is time to remind them of their oath. (Individual, Hamilton, MT - #1167.3.11000.102)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs cannot be implemented without an act of Congress.

Regulations implementing NEPA has been in place for decades and can not be changed legally at the whim of the Bush administration. The changes the Forest Service proposes to implement would require an act of Congress were they to be legitimately instituted. The Supreme Court selected Bush to be President; they did not make him dictator nor did they abolish our traditional form of government. (Individual, Portsmouth, VA - #728.5.11140.100)

Role of States

Public Concern: The USDAFS & DOI should cooperate with state agencies.**ESPECIALLY FOR LARGE HAZARDOUS FUEL REDUCTION PROJECTS**

The Arizona Game and Fish Department is concerned that these categorical exclusions could result in the implementation of major large-scale timber removal projects without evaluation of the impacts from such removal. The document indicates that the "fuels reduction activities proposed for categorical exclusion would not include activities such as timber sales that do not have hazardous fuels reduction as their primary purpose." It is our belief that very few proposed "timber sales" actually occur anymore in Arizona. Projects being proposed now are termed "ecosystem management analyses" or "wildland-urban interface" or "forest restoration." All of these projects involve the harvest of considerable commercial timber, but the objective is almost always related to the reduction of tree density to reduce hazardous fuels or restore forests. In the case of the Baca Ecosystem Management Area in Arizona, as cited in the Healthy Forests Initiative (Office of the President 2002), the USFS proposed a timber sale to reduce fuel loading on over 7,000 acres. However, the proposed project involved cutting of large-diameter, fire-resistant ponderosa pine trees that are commercially viable (those in excess of 16 inches diameter breast height (dbh)) (USDA Forest Service 1999). While the Department eventually supported the preferred alternative in this case, it was only through a collaborative multi-agency effort that enabled the development of agreeable conditions under which the project would be implemented. With the proposed categorical exclusions as written, projects such as this would have no inter-agency evaluation as to the tree-class and size requirements of timber to be removed, the acreage of removal, the method of removal, and any mitigation that may be beneficial to wildlife resources. Mechanical timber removal on a 100,000-acre area would be categorically excluded in the same manner as that of a one-acre low-

thinning treatment, with likely no inter-agency consultation or involvement. (AGFD 1999). (Arizona Game and Fish Department, Phoenix, AZ - #799.5.11160.100)

TO ADDRESS WILDLAND FIRE ISSUES

The state and Federal governments have a long history of fruitful technical and operational cooperation with respect to wildland fire in California. The fire and fuels planning that have been conducted to date (summarized in maps on <http://frap.cdf.ca.gov/>) illustrate the breadth of the fuels problem in California, and it should be noted, it is not isolated to forests. Where risks to forest ecosystems and to the private property and personal safety of California's citizens co-occur, all levels of government need to engage in a public policy response that produces results, and avoids renewing conflict and gridlock. Unfortunately, the proposal does not meet that test. (Resources Agency, State of California, Sacramento, CA - #1705.1.11000.102)

TO MINIMIZE ADVERSE EFFECTS TO WILDLIFE

The document states that “[a]ctivities categorically excluded from documentation in an environmental assessment or an environmental impact assessment must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.” The Arizona Game and Fish Department would like to add “and State Fish and Wildlife Agencies” to this sentence. Effects to non-listed wildlife under the jurisdiction of the states need to be assessed before a project may be categorically excluded. Proper consultation between state and Federal agencies early in the project development process would allow for inter-agency cooperation to develop products that meet the needs of fuels reduction or rehabilitation/stabilization goals while minimizing adverse effects to wildlife and wildlife habitat. (Arizona Game and Fish Department, Phoenix, AZ - #799.13.11160.313)

The proposal notes that the hazardous fuels category will only apply to projects identified in a manner consistent with the collaborative framework. It should be mandatory that state fish and game agencies be a member in any collaborative project that is done under these CEs due to the potential for wildlife and fisheries impacts from such projects if they are not done correctly. (Individual, No Address - #1754.2.11160.322)

Public Concern: The USDAFS & DOI should gain approval from state foresters prior to implementing any changes to the public input and scientific review process.

Any change in the NEPA process that curtails public input and scientific review should only take effect upon approval by the State Forester of the effected state. (Resources Agency, State of California, Sacramento, CA - #1705.17.17300.100)

Role of Local Governments

Public Concern: The USDAFS & DOI should involve local governments in identifying projects consistent with the 10-Year Comprehensive Strategy and Implementation Plan.

As you may be aware, the National Association of Counties (NACo) was actively involved in the development of the 10-year Comprehensive Strategy Plan for the National Fire Plan from the onset. Local involvement is crucial and we appreciate the administration's acknowledgement of that fact. The county elected officials of this state are proud to live in Idaho, where Governor Kempthorne had the foresight to direct the Idaho Department of Lands to develop a Statewide Implementation Plan, the first of its type in the Mitigation Plans to determine and note the at-risk areas in their counties to better use fire monies flowing into our state. The process is in place and we are eager to share these plans with the Departments of Agriculture and Interior to identify projects consistent with the 10-year plan under the hazardous fuels reduction categorical exclusion. (Idaho Association of Counties, Boise, ID - #831.2.15110.100)

Public Concern: The USDAFS & DOI should cooperate with local Fire Safe Councils.

Since hazardous fuel reduction categorical exclusions will only apply to projects “identified in a manner consistent with the collaborative framework” under the Western Governors 10-Year Cohesive Strategy, it is imperative that agency professionals participate in the design and implementation of County Fire Plans that are developed by local Fire Safe Councils. We have over 100 local Fire Safe Councils in California who are actively engaged in the development and implementation of fuel reduction and fire protection projects and the agencies’ active leadership, support and involvement are urgently needed throughout the state. (Quincy Library Group, Chico, CA - #1373.7.15110.112)

Trust and Integrity

Public Concern: The USDAFS & DOI should recognize that there is public distrust of the federal government.

BECAUSE OF THE ADMINISTRATION’S CLOSE TIES TO INDUSTRY

Here we go again, the Bush administration is paying off its political allies and thwarting the will of the American people by weakening key environmental laws. Using fear and political manipulation, the administration is using the issue of fuel reduction to open the National Forests to Mr Rey’s friends in the timber industry. (Individual, Arcata, CA - #547.5.11230.108)

The American people deserve, and have tried to put into office responsible representatives that will truly represent their wishes. The current administration has in the past and still continues to demonstrate that they have no intention of representing anyone except big industries, and in this case the timber industry seems to have a very frightening strangle-hold on far too many people in positions to make life and death decisions. The forests and wild places in the U.S. belong to ALL of us, and the majority of us DO NOT want to see them exploited and trashed just to line a few bank accounts. (Individual, Tulare, CA - #352.1.11230.300)

This latest attack by the Bush administration on our National Forests just underscores its alliance with the logging industry. There is nothing in this proposal that will help our forests, wildlife, or even citizens at risk of wildfires! The only beneficiaries of this proposal are the logging companies. There are so few old growth forests left in America; the few left should be left alone. I am especially outraged that some of the endangered Sequoias in California have been targeted in this proposal by the logging industry—I thought the Sequoias were protected by law! (Individual, Silver City, NM - #337.1.11230.322)

Having failed to scapegoat environmentalists for this past summer’s fires, the Bush administration has decided to take on environmental laws themselves, and give a gift to the timber industry at the same time. This is unhealthy for forests and for communities at risk of wild fire. (Individual, Anchorage, AK - #420.4.11230.602)

When you have time please consider reading “Paybacks - How the Bush administration is Giving Away our Environment to its Corporate Contributors”, September 2002. This 25 page essay reflects the feelings of tens of millions of American citizens. This is much more than a document critical of the President. It includes many post-project photos of environmental damage. It also exposes the truth behind these environmental damaging initiatives, that are so obviously sugar-coated to deceive the public. It is available on the WEB at: http://www.earthjustice.org/policy/pdf/payback_report_final.pdf

I just read today that the Bush administration has released a list of 267 federal regulations identified as needing revision or elimination, including a number of environmental rules.

More than half of the nominations to be included on the list would modify existing rules by increasing flexibility. Corporations dominated the nominating process. The federal agency with the largest number

of rules targeted for review is the U.S. Environmental Protection Agency with 65. It is my firm belief that this proposal is one of those 202 that are left.

Tell President Bush and Senator Craig that the US Forest Service won't stand by silently, while they get their way for their corporate buddies. (Individual, Grangeville, ID - #10.39.11230.10)

Public Concern: The USDAFS & DOI should recognize that there is public distrust of federal agencies.

The public, especially the environmentalists have a deep mistrust of the FS and BLM. Using CXs to thin timber types (not junipers) will be contentious. It will be awfully easy for the unscrupulous to use these CX provisions to circumvent NEPA in order to line their pockets. FS and BLM will have to be exceedingly vigilant that misuse of CXs for forest thinning is not abused!

The Idaho State Journal, Pocatello's daily newspaper, recently editorialized against the 'Healthy Forest Initiative' taking the tack that the CXs will permit more extensive wildland/urban development. While I don't think this will be the case or is even a problem, it further emphasizes the general mistrust of the FS, BLM and our present administration natural resources policies. (Individual, Pocatello, ID - #1313.3.13000.106)

BECAUSE THEY HAVE NOT ALWAYS GIVEN OUT ACCURATE INFORMATION

In my years of monitoring timber projects on Lassen National Forest, I have learned that the Forest Service (at least at the district level) cannot always be trusted to provide accurate maps of wildlife habitat, of changes to that habitat from wildfire, or to clearly reveal the cumulative impacts its many projects are likely to cause. I assume the agency acts that way because of the enormous political pressure it gets from timber industry supporters; but I think the failure to finally focus on ecological sustainability is incredibly short-sighted. (Preservation/Conservation Organization, Paradise, CA - #1414.11.13000.104)

Our experience is that the Forest Service deceives the people in order to get thinning projects past us. They cannot be trusted to do the right thing. A vigilant public armed with all legal tools is critical to stopping them from harming the public forests. The FS does not propose cleaning up the Wildland-Urban Interface, instead, they are off in the wild forests with thinning projects that provide commercial timber sales. In fact, we had to show the FS video on protecting homes from wildfire made by the FS Research station in Montana because the FS did not want people to know about it. The ranger said it would interface with their thinning projects. We tried to get a grant to teach people how to save their homes from wildfire, but the ranger stopped it.

If the FS was proposing doing the right thing, they would not get hung up in appeals and lawsuits. They constantly violate the law, leaving themselves open to appeals and lawsuits. Instead of changing the rules to make it easier for the FS, you should just tell them to follow the law and tell the truth and their projects might make it past the public scrutiny. (Preservation/Conservation Organization, Peshastin, WA - #6.2.10200.104)

BECAUSE OF TIMBER INDUSTRY INFLUENCE

I would like to know how I am supposed to trust that the pro-logging National Forest Service will not simply declare EVERY project to be for hazardous fuels reduction, and thus cut NEPA requirements completely out of the process. This is particularly worrisome given that the Undersecretary over the Forest Service is a former and longtime timber industry lobbyist. (Individual, Minneapolis, MN - #838.2.13000.106)

The concern is Mark Rey as Undersecretary within the Forest Service. For anyone who actually reads these cries for help, you must realize there is a conflict of interest since Rey was the lobbyist for the timber industry for nearly two decades.

Is there any one in Congress with the guts to sponsor a bill on the above subject? Those who refuse to look and use history are condemned to repeating it. Haven't we all learned this with Iraq? (Individual, Havre De Grace, MD - #362.5.13000.106)

Public Concern: The USDAFS & DOI should resist political pressure.

Please do not bow to political pressure from the Bush administration to allow the destruction of our forests in the name of “saving” them. (Individual, Austin, TX - #228.3.11110.602)

The name of this initiative, “Healthy Forests,” is a joke to anyone who understands what destructive this rule will cause. You need to stand up to the administration’s attack on our forests, and defend the pristine lands that you, in your position, are supposed to protect. (Individual, Belmont, NH - #1508.3.11120.104)

AND ACT IN THE INTEREST OF THE PUBLIC

The Forest Service is supposed to act as a tool in the service of this country’s citizens to ensure that responsible use of National Forests resources occurs, not as a tool for wood product companies. Are we to understand that no public input into the process is the answer? Of course not—it’s a cover for a pro-timber interest Forest Service. This organization has done a fine job of striking a balance the past 10 years, but clearly the current powers in Washington D.C. wish to undo good sense (and absolutely necessary) environmental legislation and safeguards as quickly and as quietly as possible. Disgraceful. (Individual, San Diego, CA - #1338.6.11120.106)

As a local elected official, I am tired of hearing about everything wrong we do as part of government. I try every day to stand up for what is right and in the best interest of the public. I challenge you to do the same here. Stop creating more corporate welfare. This is public land for public enjoyment. It is not intended for a select few to turn a profit at the expense of others profits, i.e. tourism. (Juliann Murphy, Commissioner, Clare County Board of Commissioners, Harrison, MI - #1695.9.13000.108)

While managing national forests is not a matter of taking polls, the Forest Service must not convey an imperious attitude, intended or otherwise, that it is an elite priesthood free to disregard the views of “uninformed” citizens who employ them and pay their salaries. If citizens feel that the Forest Service does not care what they think, your agency will have that much more difficult a time regaining the public trust that you must have in order to carry out your duty to manage the national forests in the public interest. (Preservation/Conservation Organization, Kent, WA - #1756.11.11300.104)

AND ACT IN THE INTEREST OF FUTURE GENERATIONS

I urge the Forest Service to not sell out to the Bush administration. We need to think of our children’s future, and work to restore forest health rather than placate the timber industry. (Individual, San Francisco, CA - #1053.2.11120.705)

AND ACT IN THE INTEREST OF BIODIVERSITY AND OLD GROWTH FORESTS

I’ve met some members of the Forest Service, and I believe that they have a desire to keep forests healthy for future generations. However, I don’t believe that George Bush has that same desire. I support efforts of ecology-minded Forest Service officials to resist political pressure, and act in the interest of biodiversity and sustaining old growth forests. (Individual, Phoenix, AZ - #515.4.11120.103)

Public Concern: The USDAFS & DOI should indicate the true intent of the proposed fire management CEs.

The egregious mistruths and spin riddling of this proposal will do nothing but reduce the administration and the agency’s credibility with the American public to new lows. These rule changes were slipped out for comment amidst the steady drumbeat of war and between the winter holidays, along with numerous other radical rule changes to existing environmental law and protections. The agency continually blames environmental groups for the woes of its own making and seems unable to come to grips with the fundamental fact that the public at large is far more sophisticated and interested in environmental policy than ever. (Individual, No Address - #18.3.13000.103)

Its bogus claims of forest fire prevention should be exposed as falsities. By taking advantage of people's ignorance about forest ecology, the White House is acting irresponsibly. My deep concern about this issue will prompt me to stay on top of this initiative's progress. Hopefully, I will see that you too have concerns over the inadequate information provided as a rationale for the proposed guidance. (Individual, Bellingham, WA - #1810.2.12100.109)

The pretense that the proposed logging will prevent forest fires is nothing but more trickery. The Forest Service's own scientists have found that logging, including "thinning" can actually increase the number and intensity of forest fires. So this proposal is not about fire at all. (Individual, Columbia, MO - #150.2.12100.103)

It seems to me that using the false premise that extensive logging would be a method of preventing forest fires is just a smokescreen in itself. Funny how the forests flourished on this continent for many thousands of years, despite natural caused forest fires, without extensive logging. (Individual, Oneonta, NY - #1158.2.11230.108)

WHICH IS TO REWARD SPECIAL INTERESTS

It seems to me that the administration is using last year's fires as a flimsy excuse to push this bad policy forward, again, to line the pockets of its supporters. I am not alone in feeling this way! It makes me sad to think that the administration won't even hear our side. (Individual, Bend, OR - #139.2.13000.106)

President Bush's fire plan is a thinly veiled attempt to benefit logging companies in the guise of reducing residential fires. As World Wildlife Fund scientists and others have shown, however, the threat of forest fires is actually greatest in areas where logging occurs. The proposed new thinning procedures ignore this science in order to provide increased opportunities for the timber industry to log our national forests. (Individual, Copake, NY - #259.9.11230.106)

This initiative is a smokescreen to allow timber industry interests to reap profits at the expense of the public. It is completely unacceptable. Protect our forests, don't destroy them. (Individual, Pacific Grove, CA - #675.2.11230.108)

This is clearly a smokescreen to allow timber industry interests to flourish (making a handful of folks rich in the next few years-leaving future generations to foot the steep environmental price) and is completely unacceptable, as no reasonable, educated forester would have developed such a travesty of a plan. (Individual, Arlington, VA - #598.3.11230.705)

Once again the US Forest Service employs language in a fundamentally dishonest way to further the agenda of moneyed interests. Your "Healthy Forests Initiative" is nothing of the kind. Rather, it is yet another greed-based initiative advanced by the Bush administration for the benefit of lumber corporations. (Individual, Providence, RI - #1663.10.12100.001)

WHICH IS TO INCREASE TIMBER HARVEST

Please be aware of the true intent behind Bush's proposal—to use fire as an excuse to thin healthy forests by unnecessary logging is dangerous to wild places that deserve protection. Thank you for your time! (Individual, Ketchum, ID - #376.3.12100.103)

WHICH IS TO DISMANTLE ENVIRONMENTAL REGULATIONS

Underneath all the rhetoric, H.F.I is not about fire at all. It's just a way for the Bush administration to dismantle environmental rules, to clear the way for timber companies to log millions of acres of protected land. Amazingly, the Forest Service is even planning to cut scarce trees in California's Giant Sequoia National Monument, where commercial logging is currently prohibited.

Those in the know understand that cutting anything larger than small trees and brush can have serious environmental consequences, including increased fire risks, and should be subject to careful

environmental review. Yet it is this type of review that Bush proposes to dismantle. Under his rules, the Forest Service could approve logging projects in old-growth forest with absolutely no environmental analysis and no public involvement at all. (Individual, Austin, TX - #182.2.13000.106)

The Bush Administration has relaxed accountability for the Clean Water Act, the Clean Air Act, it has rejected Kyoto Protocol and continues to allow clear cutting on our wooded areas. Please listen to your people: We need green spaces. People need them, animals need them, our planet needs them. The environment knows no party. We all depend on the health of our country's forests to sustain our air, our clean water and our fauna. (Individual, Birmingham, AL - #1886.3.30000.702)

Public Concern: The USDAFS & DOI should ensure that the Federal Register notice is not misleading.

REGARDING TIMBER HARVEST

The Federal Register notice is misleading concerning timber sales. The beginning of the Federal Register notice says that the proposed CE would not cover "timber sales that do not have hazardous fuel reduction as their primary purpose" but then several pages later the notice says that the "products generated by use of mechanical methods [e.g. merchantable logs] . . . would be sold . . ." The casual reader might have been reassured by the first statement and only the careful reader would notice that this CE could lead to lots of timber sales. The Federal Register notice must be clarified and republished so that the public knows the potential consequences of the proposal. The notice should also be clarified so that the public can be assured that appetite for timber sales (rather than protection of at-risk communities) will not be the true driver of where and when the USFS decides to conduct fuels reduction projects. (Preservation/Conservation Organization, Saint Paul, MN - #1156.28.12100.104)

Why has the most frequently used activity (both before and after a fire) which will take advantage of this CE loophole (if it is approved) not been listed?

I feel that public deception by omission is being clearly applied here. You know as well as I do that so-called fuels reduction (aka logging) before a fire, is the primary project type that will use CE category #1. If a fire occurs, then post-fire salvage logging will be the activity that will use CE category #2 the most. Why isn't this mentioned in the text of the proposal?

Few members of the public will object to prescribed fire, crushing, piling, thinning of very small trees, pruning, cutting, chipping, mulching, grazing, mowing, reseeding, planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails. These are "happy talk" projects.

These activities might occur sometimes, but the major one that surely will take advantage of these two new CE categories is logging, yet it's not mentioned. (Individual, Grangeville, ID - #10.7.12100.104)

REGARDING BRUSH REMOVAL

The need to remove very small combustibles is poorly displayed and won't happen under this proposal.

The Federal Register talks about thinning overstocked stands and brush. What corporation is going to thin brush? They won't of course. I think that for you to mention brush removal in the Federal Register was a conscious attempt to deceive the public. (Individual, Grangeville, ID - #10.21.12100.104)

Public Concern: The USDAFS & DOI should not use euphemisms to mislead the public.

Why must the Forest Service use so many euphemisms in their communication with the public?

On page 770041 of the Federal Register it states that "products generated by use of mechanical methods under the proposed hazardous fuel reduction categorical exclusion would be sold or otherwise utilized or disposed of."

This just confuses the public. I have compiled a list of nine euphemisms the USFS uses to avoid saying "logging." Why is it so difficult to say 'logs generated by post-fire salvage logging will be offered for

sale'? Why are you so afraid of using the term "logging" when that's what the administration really wants to do (and increase) with this proposal? (Individual, Grangeville, ID - #10.34.12100.104)

No one is fooled by euphemistic names "Healthy Forest Initiative." The only thing this initiative is healthy for is lining people's pockets. Please stand up for the natural treasures of our country and flight against these bogus actions. (Individual, Ann Arbor, MI - #1094.1.13000.106)

Thinning is just another name for logging

Sometimes the trees are smaller in a thinning, sometimes they aren't. I have seen "thinnings" with trees marked to cut that were in the 25" to 35" range. The term "thinning" is a public relations code term designed to deflect meaningful public debate over public policy. How many times have you heard someone say: "after all, it is only a thinning." (Individual, Grangeville, ID - #10.24.12100.104)

Public Concern: The USDAFS & DOI should not take advantage of the public's anxiety over forest fires.

TO IMPLEMENT THE PROPOSED FIRE MANAGEMENT CE'S

Proponents of plans such as these continue to talk about the threat of fire, to use fire to establish fear in the general public so that their plans will be accepted. (Individual, Columbia, SC - #157.2.12100.103)

It is my understanding that the Bush administration is continuing its opportunistic and cynical usage of the natural catastrophes this summer—which in turn were a consequence of the willful and callous neglect of the Bush administration and the Republican Congress—to attempt to do even more damage to our nation's natural forest ecosystems. (Individual, No Address - #869.2.12100.104)

TO RESTRICT PUBLIC INVOLVEMENT IN PUBLIC LAND MANAGEMENT

The Bush administration thinks it can use fear to get the American people to allow the administration to take away the American people's right to have input and control over the destiny of their own land and country. In the case of war, the administration has made a calculated use of fear of terrorism to justify refusing to explain or provide information about pre-9/11 activities including the energy task force and intelligence, and post 9/11 activities including secret detention of individuals including American citizens.

In a similar way, you are using the fear of forest fires to cut off the American people's access to the processes of protecting the forests of America from exploitation by commercial (logging) interests and friends of the administration. (Individual, Stockton, CA - #1133.6.13000.108)

Role of Interest Groups

Environmental Groups

Public Concern: The USDAFS & DOI should cooperate with environmental groups.

Listen to these people who do nothing but watch out for the environment. They have nothing to gain financially unlike those who would like to log every tree they could and when there weren't anymore they go someplace else and start all over again. I dare you the government to listen and produce change for the better in politics. (Individual, Vacaville, CA - #1513.1.11210.103)

Public Concern: The USDAFS & DOI should not hold environmental groups responsible for the current fire situation.

The Forest Service released a report on July 10, 2002 claiming conservation groups have obstructed forest thinning projects that would have protected forests from wildfires. An August 31, 2001 report from the General Accounting Office indicated that only 1% of the fuel reduction projects proposed by the Forest Service in fiscal year 2001 were appealed and none were litigated. The large portion of forest thinning projects objected to by conservation groups, and contained in the Forest Service report, were not designed to reduce fire risk. The Forest Service is trying to shift blame for this year's large wildfires to conservation groups in order to cover up its lack of foresight in conducting more thinning specifically designed to reduce fire risk. (Individual, King George, VA - #499.4.10000.107)

Public Concern: The USDAFS & DOI should not cater to environmental groups.

Please take back control from the environmentalist groups on the forests.

Do what ever it takes to stop or at least make it more costly to file the incessant lawsuits and stoppage orders on logging and road building. (Individual, Missoula, MT - #964.8.11210.100)

When does the Forest Service finally turn its attention to its own declining public credibility? Polling data makes very clear the fact that most Americans—and certainly most who live in the West—are strong supporters of thinning and forest restoration. Clean air, clean water, abundant wildlife and verdant forests are uppermost in their minds. Yet, inexplicably, many in the Forest Service are still preoccupied with the wants of radical environmental groups that clearly have so much political capital tied up in the decades-old “zero cut” campaign that they can’t possibly support thinning and restoration, even if they wanted to (Multiple Use or Land Rights Organization, Bigfork, MT - #571.6.12000.107)

Please help President Bush—he is truly trying to do a fine job. Quit listening to the Nature Conservancy, the Audubon Society, and all those radical “environmental” groups who want to convert the whole country into an unmanaged game preserve which may be used only by “members” of those elitist groups. (Individual, Sierra Vista, AZ - #911.2.11210.107)

We need to stop organizations like the Sierra Club, who have as one of their four agenda items “to stop all logging on the national forests.” (Individual, Kalispell, MT - #1527.9.11210.603)

BECAUSE ENVIRONMENTAL GROUPS CAUSE DELAYS IN PROJECT IMPLEMENTATION

In order for the Forest Service to be most effective and to manage its responsibility for the health of the lands under its jurisdiction, we must stop the analysis paralysis that has created a forest system in a severe health crisis. Management objectives can more readily be achieved when local foresters have a definitive role to play. Unfortunately, because of frivolous lawsuits and appeals, neither the Washington based administration nor the local forest rangers have had an opportunity to do what is right for the forest. We are tied in knots trying to achieve the political agenda of the so-called environmental organizations, or Green Giant, as I prefer to identify them. They are less interested in environmental protection and health than they are in creating crises that they can “cure” if only the public sends them money. Unless we can untie the nightmare of delays caused by frivolous lawsuits and appeals, the future will be bleak for the forests in our National Forest System. (Multiple Use or Land Rights Organization, Yreka, CA - #1520.4.11200.602)

BECAUSE ENVIRONMENTAL GROUPS DO NOT SUPPORT PRODUCTIVE USE OF THE LAND

We in the east have grave concerns about the protection of the assets that belong to the people of the United States of America and about the environmental destruction that has resulted from mismanagement allowing the buildup of extreme fuel levels.

When I study reports of the hazardous conditions and the catastrophic fire events, I marvel that the situation has been allowed to reach this situation of extreme neglect and wrongheaded management, spurred on by people who are ironically named “environmentalists,” but who are really consumed by

hate for human activities all across rural America and have no particular regard for environmental protection. In fact, they will gladly sell out preservation of wildlife for any victory against productive human interaction with the land. (Multiple Use or Land Rights Organization, Stony Creek, NY - #1707.2.11210.730)

Unless a change is made in the management of our forest this whole area will go up in smoke one day. The environmental groups are after one thing—to remove all people from the forests, lakes, and land that have been farmed, logged, mined, and ranched. Having a family business here has paid the way to raise our children, pay our way with taxes local and Federal without seeking a hand out from anyone. Now our kids and grandkids live somewhere they can make a living while this area is being turned into a giant national park that will cost the rest of the people in the US to pay for. Please keep up the fight for rural Americans. (Individual, Troy, MT - #965.8.11210.730)

BECAUSE THE ENVIRONMENTALIST AGENDA CAUSES THE LOSS OF PRIVATE PROPERTY AND HUMAN LIFE

This is not just about trees and animals and watersheds. The fact that people died during the terrible fires of the summer of 2002 is often forgotten. When we allow the green political agenda to destroy our forests it is terrible. However, it is more than terrible that we allow this political agenda to take precious human lives. In addition, the hopes and dreams for the future of many people who lived adjacent to National Forests were dashed and destroyed when they helplessly watched their homes and property burn to the ground. It is made doubly sad when the cause is human made, and they watch as their sons and daughters, husbands, and other loved ones give their lives on the alter of environmental zealism. It is not just important for the physical health of our forests that we unlock the process and make progress. It is morally imperative that we cease actions, or lack thereof, that cause the loss of life and of private property. (Multiple Use or Land Rights Organization, Yreka, CA - #1520.7.10000.001)

BECAUSE THE ENVIRONMENTALIST AGENDA WILL ADVERSELY AFFECT TOURIST ECONOMIES

As a realtor who has talked with people from New Mexico and Colorado whose areas burned, our economy of tourism and real estate will be killed by huge fires. We must not allow the uninformed and misguided Greenies from other areas to dictate our lives and resources. The environment will be greatly damaged by erosion, wildlife killed, economies wrecked, and people infuriated if this isn't handled sensibly. (Individual, Eureka, MT - #879.1.11210.300)

Industry/Business Groups

Public Concern: The USDAFS & DOI should not cater to industry/business interests.

This is typical of regulations from the Forest Service. Do what is good for industry and special interests and what is harmful to the forests. I believe the taxpayers of this country are constantly paying for the Forest Service's regulation that costs us money but benefit special interests. (Individual, Walkersville, MD - #1327.4.11200.001)

The Forest Service is such a wonderful agency and does so many cool things to educate the public about the natural world, but sometimes it seems it may be putting the interests of commercial logging companies ahead of public safety and support of the wild lands and wildlife which is ultimately the F.S.'s primary responsibility!

We live out here. Our lives depend on your decisions. Please listen to us! (Individual, No Address - #1039.4.11230.001)

These changes just seem wrong to me. In no way do they benefit the public. Actually they harm the public. Any rational person can see that the changes that are being purposed only benefit industry. This outrages to me. As a citizen of the US I have the right to have a clean environment and the opportunity to visit my public lands. We (US of American) need leadership on this issue and with these purposed

amendments to the NEPA, you will not be leading but following what industry wants you to do. Thanks for your time. (Individual, La Marque, TX - #1107.3.11230.001)

It frustrates me that the industry who stands to profit from the use of public forest lands has drafted or influenced this rule for its own private gain. Your agency must stand against the administration's efforts to give the exploitative industries undue influence over the management of our federal lands. I urge you to uphold the fundamental environmental laws for the good of the many, and respect the diffuse but larger public interest of American citizens as a whole. (Individual, Louisville, CO - #1269.2.11230.103)

The fact that the "Healthy Forest Initiative" is a cheap smokescreen designed to allow excessive logging. The fact the President Bush is trying to pass this on an executive order—sidestepping congress—with little public as possible makes it only more clear what is going on here—big industry greed and gluttony trampling on scientific and public dissent. It is truly an affront to every sensible American.

Do not kow-tow to the major industries and the elitists—please protect the People's Forest and Wildlands. (Individual, Durham, NC - #557.2.11230.103)

WITH THE USE OF STEWARDSHIP CONTRACTS

I notice text in the legislation that refers to "stewardship contracts" between timber companies and the Federal Government to "manage" our ailing forests. Does it really make sense to let the fox watch the henhouse? And the public review process should be bolstered, not weakened. Why are our forests so unhealthy and prone to fire in the first place? Irresponsible logging by the timber industry. (Individual, Portland, OR - #41.3.11230.106)

Public Concern: The USDAFS & DOI should not allow the timber industry to participate in development of the proposed fire management CEs.

If this is truly a plan to bring the forests to a healthier state, the plan should be administered by the Forest Service, not the private sector. There is little to no economic benefit to timber companies to thin small diameter trees on our public lands. The participation of the timber industry in this plan will lend to distrust of the public to the true reasoning behind this initiative. The presence of the timber industry could lead to timber cutting for profit and not for the health of the forests. Unfettered participation by the timber industry often leads to over cutting and excessive road building which cannot be a side effect of this plan. Please do not consider privatizing this effort as a possible alternative. (Individual, Boulder, CO - #687.4.11230.103)

The economic value of our federal land is mostly in its ability to give us clean water and air, and in recreational use—not in timber. The timber industry shouldn't even be involved in making decisions about how to manage our forests, much less try and run them. (Individual, Bellevue, WA - #1003.5.11230.300)

Public Concern: The USDAFS & DOI should not subsidize industry interests.

With another drought year upon us in Utah, I don't want federal dollars worsening the situation under the guise of spin-mongered feel-good sounding policies (who, after all, could be opposed to health??) designed as hidden handouts to political donors from industry. I understand that in the last two national elections, 80% of the timber industry donations went to Republicans, and the few million dollars they spent to buy access is corporate chump change compared to the hundreds of millions in direct and indirect subsidies they stand to gain from their boys in the White House, Congress, and the administration (lists of recent appointees are littered with industry insiders in every regulatory agency). Why invest in plant, equipment, and jobs when your return on investing in "access" to Congress/the administration is so great? (of course, wink wink, nudge, nudge, there is no quid pro quo, nor any stench of untoward influence or corruption.) (Individual, Sandy, UT - #688.4.11230.103)

Public Involvement

Public Involvement General

Public Concern: The USDAFS & DOI should ensure adequate public involvement.

Our country has a rich history in environmental protection and land stewardship. It saddens me that the Bush administration and the timber industry are trying to eliminate this American tradition. If in fact the timber industry is doing its logging legitimately and safely, then they should not mind such reviews as are in place now. In my opinion, as citizens of this country, we should have the right to have a voice and a role in the management of our public lands. (Individual, Mount Horeb, WI - #827.2.12000.600)

The public should not be shut out of the decisionmaking process. This exclusion of the public dramatically reverses the past 30 years of slow but steady effort towards environmentally sensitive policy. It is patently wrong to exclude the voices of caution in this important debate on the future health of the forests that belong to all Americans. Please make the reasonable safe and just decision to not exploit a true danger to the public and our lands for the sake of pulling more timber out of our forests. (Individual, Davis, CA - #373.6.11300.001)

I feel it is an important democratic principle that the public has the right to be involved in all significant decisionmaking on our public lands.

Given the anti-environmental actions of the current Bush administration, I fear that the stated purpose of “hazardous fuels reduction” under CE rules will be used to overly accelerate harvest of our national forest.

There are many highly informed citizens in our area whose knowledge and insights deserve to be heard and included in decisions about our forests. This is not the time to disenfranchise the public. Public involvement is badly needed to prevent further harm to a stressed ecosystem. (Individual, No Address - #972.1.11300.103)

These proposed changes have not been publicly debated in any significant manner and the reason for that is clear—if the American people knew how their right to effectively manage their own lands was being stripped away from them by these backdoor machinations they would never stand for it.

This is supposed to be government by the “people” not the select few who happen to be in power at any given time. To attempt to exclude the American people from having full access to the decisionmaking process that affects our lands—not your lands—but ours, is an outrage. The polls clearly indicate that Americans strongly favor the protection of “their” wild lands—not their exploitation for commercial gain. Is the will of the people so hard to understand or are you just blinded by your own arrogance? (Individual, Reedsport, OR - #765.5.11300.103)

IN COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

The proposed new rules simply poke loopholes in the National Environmental Policy Act (NEPA). This stalwart of environmental laws has assured the American public that they can participate in decisions on our public lands and that environmental impacts of proposals will be disclosed and analyzed. Please do not remove our right to participate in decisions that effect our environment. (Individual, - #1536.3.23210.108)

BECAUSE THE ENVIRONMENTAL REVIEW PROCESS PROVIDES AN OPEN AND ACCURATE VIEW OF FOREST PROJECTS

I have reviewed forest projects that have appear to have vastly different definitions for “hazard” and “hazardous.” It appears that these terms are very subjective, depending on the education training and personal and professional biases of the forest administrators and timber sale staff and socio-political influences. This creates significant management differences between National Forests, National Forest districts, and forest projects. The complete environmental review process provides an open and more accurate view of the forest projects and its possible significant effects and the mitigation that is necessary to mitigate for these effects. Due to open and public review, arbitrary and capricious differences between projects may eliminated and these projects often include additional measures to assure that the forest administers its lands openly for the public in general instead of for a few powerful special interests who work behind the scenes. (Individual, Oakhurst, CA - #810.5.17100.111)

BECAUSE PUBLIC INPUT ATTEMPTS TO REACH COMMON GROUND ON PUBLIC LAND DECISIONS

I feel it is of extreme importance to keep the public comment portion of forest planning intact for future forest management decisions. Without public comment one-sided agendas can be implemented that do not achieve a common interest among stakeholders in public lands decisionmaking. Public input attempts to reach common ground on difficult public land decisions. Without this attempt stakeholders are disenfranchised from the decision process and extensive litigation often follows. The deconstruction of the NEPA and NFMA process would be a tragic blow to a young and growing decisionmaking system that shows efforts to include citizens effected by public lands decisions. Please keep the public comment periods in tact for forest planning. (Individual, Boulder, CO - #687.1.12000.108)

BECAUSE PUBLIC INVOLVEMENT CAN PREVENT AGENCY OFFICIALS FROM CREATING LOOPHOLES

Barring the public from the decisionmaking process will allow the Forest Service policy makers to create loopholes for salvage logging, commercial logging, and other practices that do not reduce fire risk. (Individual, No Address - #895.3.12000.602)

BECAUSE PUBLIC INVOLVEMENT CAN HELP PREVENT CORPORATE AND GOVERNMENTAL ABUSE

The proposal seems designed to foment abuse by drastically curtailing public participation. Public participation both in the planning process and in enforcement are the only real safety nets we have to prevent corporate and governmental abuse. One might be a little more inclined to trust the motives behind such a proposal, if it were not for past abuse, as in the “Salvage Rider,” which allowed a corporate feeding frenzy to destroy some of our most beautiful and ecologically important forests in the absence of environmental law. (Individual, Hatboro, PA - #562.3.12000.104)

By eliminating critical safeguards of our public lands, the US Forest Service would once again make it easier for the timber industry to trash healthy forests. It is the public’s right to participate in the decisionmaking of national forests lands, do not ignore your duty as a public institution. (Individual, Moose, WY - #568.3.12000.104)

Unfortunately, as our company has seen too often, fast-tracked or other forms of project plans that skip, eliminate, or are attempting to avoid the public process are doing so in order for private gains—i.e. profitable logging removal (older growth, large diameter) rather than legitimate thinning of brush or saplings for fuels reduction; are often carried out to obtain extra livestock forage for “free” for permittees (juniper or other forest removal followed by seeding of crested wheat or other non-natives) and similar abuses of the planning and management processes. (Preservation/Conservation Organization, Twin Falls, ID - #817.6.11230.108)

BECAUSE PUBLIC INPUT IS CRITICAL TO PROVIDE BALANCE BETWEEN PUBLIC AND CORPORATE INTERESTS

I have been a forest activist for ten years. I have been living in a forest bordered by Sierra Pacific Industries for 30 years. I am alarmed by the Bush administration plan to severely limit public participation in the management of OUR National Forests. The National Environmental Policy Act (NEPA) and the National Forest Management Act (NFMA) are the foundation for citizen participation in planning for all actions in our National Forests. These essential laws are working to provide a balance between interests that would commercialize and commodify our public lands and those that attempt to govern our forests to truly sustain our national resources.

The Bush administration plan to limit public input on any environmental projects is far reaching, as he is planning multiple proposals, which will have a cumulative effect upon our National Forests. Citizen input is critical to preserve equality between corporate interests and public interests. (Individual, Cohasset, CA - #1428.1.10000.001)

BECAUSE THE PUBLIC ACTS AS A WATCHDOG TO PROTECT FOREST HEALTH

The public deserves the right to be involved in all significant decisionmaking on our public lands. The inclusion of projects which will cut large diameter trees (which are more fire-resistant than small trees and shrubs), or cut in areas remote from human communities, under CE rules, will only disenfranchise the public. And this is precisely the time when public involvement is desperately needed, to act as watchdog for the public forests when the Forest Service is derelict in its duty to protect their long term health. This administrative action seems to be creating a loophole for commercial logging, salvage logging and other activities that waste tax-payer money and do nothing to reduce fire risk. (Individual, Cave Junction, OR - #1420.2.11300.104)

BECAUSE PUBLIC INVOLVEMENT IS AN IMPORTANT PART OF THE AMERICAN WAY

I believe that this proposal will limit the general public's involvement in the review of the projects which indirectly affect their public lands. Public review is an important part of the American way and should be preserved in all instances, no matter how urgent. (Individual, No Address - #920.2.12000.700)

I also strongly demand that my opinion and those of others submitting similar letters be seriously considered and not entirely discounted. Despite the efforts of the Bush administration this is still a democracy and the will of the people must be served! (Individual, Lakewood, CO - #520.5.12300.108)

Our interpretation of this category (CEs) which is based on years of working on categorical exclusion issues, is that the agency will, for all practical purposes, be able to do anything and never have to seek public comment or do environmental reviews. This is unacceptable to us. This is supposed to be a democracy where the public is involved in the management of ITS lands. (Preservation/Conservation Organization, Bloomington, IN - #1371.6.11300.108)

TO PROTECT PUBLIC LANDS FOR FUTURE GENERATIONS

The American public should have a say to protect public forests and lands for their children and grandchildren. (Individual, Bethesda, MD - #1164.4.12000.700)

Public Concern: The USDAFS & DOI should recognize that the federal government has not been responsive to public input in the past.

I have neither the time nor energy to fully address the Healthy Forests Initiative. The Forest Service, with the unwavering help of the Bush administration, has commented us to death (ie. The Roadless Rule) so that the public no longer feels that their comments make any difference. Extraction industries meet with the Bush cabinet to help set policy. Over six million comments on an issue (Roadless) are ignored, and further analysis is sought (apparently because the Bush administration had a hard time understanding that the will of the people was at odds with their buddies in the timber and mining industries). But I will say a few choice words about your current proposal, just to let you know that many of us are keenly aware of the current administration's efforts to gut environmental protection

legislation. We are sick of having the will of the people ignored and our grandchildren's legacy sold to the highest bidder. All in the name of "forest health." (Individual, Burlington, VT - #1721.1.12300.104)

The voice of the people is not being heard by President Bush of his administration. Mr. Bush states frequently, that he speaks for all Americans—this is not true. Neither I or any of the people I know feel that he is representing our best interests. (Individual, Marshall, WI - #230.3.13000.103)

The Bush administration has tirelessly attempted to ignore and overrule the unprecedented expression of public sentiment in favor of protecting our national forests. A federal court recently told the administration that the roadless forest rules passed during the Clinton administration reflecting this sentiment could not be overturned by executive action. (Individual, No Address - #188.4.13000.001)

I hope the Forest Service will not disregard strong public opposition to this proposal, as it and other managing entities have flagrantly disregarded public input on other recent matters, e.g. banning snowmobiles in Yellowstone, preserving roadless areas in publicly held lands. It would be very disheartening to have to conclude that the request for public input in rule-making decisions is a SHAM and a mockery of the democratic process. (Individual, Charlottesville, VA - #1001.5.11300.104)

The public has indicated time and time again that we value the wild lands still undeveloped in this country. The Bush administration has continued to ignore existing input and request more, perhaps hoping to exhaust the topic so that eventually they can ignore public opinion. This does not change the millions of comments already obtained regarding maintenance of forests and roadless areas. The Bush administration simply cannot ignore both science and its own constituency. (Individual, Mount Vernon, WA - #508.9.10200.100)

Use of Public Involvement/Comment

Public Concern: The USDAFS & DOI should consider all forms of public comment.

So far all I have had time to do was find a form letter to send in, but you are telling us that won't even count for much!!!! I can't be an expert in everything, but I and my fellow Americans should be able to participate and let our views be known however we see fit, whether by pre-printed postcard, email, or lengthy letter. (Individual, Sandy, UT - #688.2.12300.108)

What is proposed, eliminates consideration of public comment by postcard, form e-mail or other mass mailings. Again this is undemocratic and moves towards a dictatorship like government. (Individual, Arcata, CA - #1283.14.12000.103)

Public Concern: The USDAFS & DOI should accept third party emails.

Yes, I am being redundant here but it doesn't hurt considering how little our government and elected officials actually do listen to the citizens and taxpayers.

Since the Forest Service conveniently changed its e-mail system without notice and very coincidentally just before the deadline for public comment on this issue—so that e-mails from third parties would not be accepted—and since many of the third party e-mails are from action centers set up by concerned environmental groups to save hardworking Americans like myself time and footwork—it seems the least you could do is consider this public comment even if received after 1/15/03. (Individual, Arden, NC - #1192.5.12300.108)

Your new e-mail blocking procedure, which blocks e-mail sent from a common domain through a third party, causes difficulty for such organizations as the World Wildlife Fund that fights to protect our environment and wildlife. These organizations frequently send petitions and other communication using this method.

By blocking such organizations, you prevent the voices of those who care about the issue enough to sign the petition from being heard. While the block can be circumvented, there is a limited time for comment. It is possible that many people who thought they were expressing their views will be delayed by your new system past this time limit.

While you may not agree with the opinions expressed, it is a fundamental basis of our nation's political system that each person has the right to express their [views] especially on issues as far-reaching as the ones you deal with. Causing serious inconvenience to those who would take an active role is in opposition to these rights.

Please reconsider your blocking policy, and let those who care enough to take the time and trouble to speak out be heard. (Individual, Stephenville, TX - #1460.1.12310.100)

I am appalled at the action someone took at the Forest Service with regards to blocking some common email domains during the comment period!!! The email I sent to you on Jan 13 was returned and when I investigated I found out that not just my email was involved but others as well. I am deeply disappointed that the Forest Service would take such drastic action and whoever is responsible should pay the consequences; a strong reprimand and a letter of correction placed in their personnel file would be a good start!! You can be sure that I'll make sure that others who have the authority to see that this does not happen again know what just did happen. (Individual, Claremont, NH - #1415.1.12310.104)

Public Concern: The USDAFS & DOI should not discount public comment that is not original or substantive.

We also must note our strenuous objections to what seems to be an emerging Forest Service policy to discount any public comment that does not contain "original, substantive" comments. Not every citizen has the expertise or the time to thoroughly analyze proposed changes in complex national forest management policies. However, every citizen is an owner of the national forests and many citizens wish to make their views known through simple means appropriate to their level of understanding and time availability. (Preservation/Conservation Organization, Kent, WA - #1756.10.12300.108)

Public Concern: The USDAFS & DOI should only consider comments received early in the process.

The NHTOA supports any effort that will make public participation more effective in the planning process and at the project level. In 2002, the White Mountain National Forest staff withdrew a timber sale after an individual failed to provide input on the sale during the public comment period in the Environmental Assessment process instead waiting to raise their concerns once the final management decision had been made. . . . the regional forester who made the decision, noted that they did not comment on the project's Environmental Assessment during the 30-day public comment period. [The regional forester] told the individual "It is important that we have the benefit of your insight as early in the environmental review process as possible. This permits the analysis team and the decision maker an opportunity to understand and hopefully resolve your concerns prior to making a final decision." This ambush appeal derailed the project and is a great example of why the Forest Service needs to seek and should only be asked to consider those comments received early in the process. (Timber or Wood Products Industry, Concord, NH - #948.2.12300.102)

Adequacy of Public Outreach for the Federal Register Notice

Public Concern: The USDAFS & DOI should ensure adequate public involvement in the development of the proposed fire management CEs.

Despite the enormous scope of this regulation change, which allows unknown and undisclosed amounts of logging and road building, public involvement was extremely limited. The comment period was limited to thirty days, no public meetings were held, and no EIS was prepared. (Individual, Galax, VA - #1674.6.12000.108)

We are also concerned that the public involvement process was not adequate or proportional to the large scope of this regulation change. No public meetings were held, the comment period was only 30 days, and no EIS was prepared. (Individual, West Lebanon, NH - #1771.5.12000.108)

Public Concern: The USDAFS & DOI should schedule hearings for the proposed fire management CEs.

There should be public notices announcing proposed sites, as well as hearings for public comment.

I see this as nothing more than one more attempt by the Bush administration to rape, plunder and destroy what is left of our environment in the name of greed. (Individual, Mountain Home, ID - #47.3.12000.104)

From what I can tell, there are also absolutely no public meetings scheduled—this seems to fly in the face of good public outreach and participation. The Clinton administration was hammered by the wise users, industry and Western elected officials for its roadless proposals which were developed over several years with massive public input, hundreds of meetings, and millions of comments, most of which favored the proposal. The courts have now vindicated the process used for that proposal. Where are all of those supposed supporters of an open, fair public process now and the current administration flagrantly eviscerates any vestiges of real public input under the guise of “efficiency,” all the while claiming to value and enhance public input? The doublespeak and outright contempt for the public is shocking in this day and age. (Individual, Sandy, UT - #688.5.12200.103)

THAT INCLUDE AVERAGE AMERICANS

Schedule a series of meetings with average Americans, not just industry representatives. (Individual, Sandy, UT - #688.7.12400.108)

Adequacy of Comment Period for the Federal Register Notice

Public Concern: The USDAFS & DOI should extend the comment period.

It's a shame that the public was given just thirty days to provide a response to the proposed rule changes. (Preservation/Conservation Organization, South Bend, IN - #671.2.12500.000)

I have a strong objection to the truncated comment period in this matter.

I think that this indicates the true antipathy of the Bush administration towards public comment and the public comment process.

Why is the Bush administration so fearful of public commentary that it has refused a normal comment period and has refused Public Hearings at which commentary can be provided? (Individual, No Address - #869.1.12500.103)

When did it become commonplace for comment periods to be so brief? Doesn't it seem a bit hypocritical from an administration that is fighting the roadless regulations from the Clinton administration on the grounds that there was not enough of a comment period (an argument that, to anyone who paid attention to those issues, is blatantly false)? (Individual, Bloomington, IN - #1111.4.12500.103)

These comments supplement previous comments. We wish to raise the issue of an inadequate comment period. Thirty days is grossly inadequate for such a major proposal. We request an extension of time. (Preservation/Conservation Organization, Wood River, IL - #1405.1.12510.108)

BECAUSE THE REGULATIONS WERE RELEASED DURING THE HOLIDAY SEASON

I write to urge the Forest Service to immediately extend the comment period for the so-called Healthy Forest Initiative which proposed to vastly expand the use of categorical exclusions for timber harvest and "fuels" management on federal lands. This proposal was slipped out amidst a multitude of other regulatory rollback proposals over the winter holidays, seemingly deliberately so that a busy and preoccupied American public would not participate. With only a 30 day comment period, half of which was over the holidays, how are working Americans who care about their public lands to participate or comment in any thoughtful or meaningful way? (Individual, Sandy, UT - #688.1.12500.103)

I am very disturbed that government officials announced the proposed rule change during the busy holiday season (when most people's attention is focused elsewhere), giving the public only 30 days to comment. That is an outrage given the controversial nature of the proposed changes. (Individual, Orlando, FL - #365.3.12000.103)

60 DAYS

Please extend the comment period at least 60 days so that we can have a chance to participate in a meaningful way! (Individual, Sandy, UT - #688.6.12510.108)

The purpose of this communication is to request a 60-day extension of the commenting period for the joint Department of Agriculture, Forest Service, and Department of the Interior notice entitled "National Environmental Policy Act Documentation Needed for Fire Management Activities; Categorical Exclusions." 67 Fed. Reg. 77038 - 77044 (Dec. 16, 2002). . . . Initially, we would observe that 30 days is not enough time for the average citizen to digest the wealth of background material essential to an understanding of the issues involved. That background material, identified in the notice, includes, but is not limited to (1) Healthy Forests Initiative, (2) National Fire Plan, (3) A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy, and (4) Implementation Plan for the 10-Year Comprehensive Strategy. Nor is 30 days sufficient time in which to gain a full appreciation for the scope of proposed categorical exclusions that have no apparent spatial or temporal bounds. (Individual, Hampstead, MD - #1745.14.12500.108)

Public Concern: The USDAFS & DOI should recognize that the release of the proposed fire management CEs during the holiday season made it difficult for the public to comment.

Trying to push through controversial rules over the Christmas holiday is the work of someone who knows that the majority are opposed. And if not the majority, then those who fight to protect our countries public lands for all, instead of for industry—those on a higher moral ground. (Individual, Cottonwood, AZ - #326.3.13000.103)

It is a shame that these new rules were announced during the holidays when most people are not paying attention to what their government is doing. Unfortunately, this is not the first time. (Individual, Alexandria, VA - #429.2.13000.103)

It seems disingenuous to publish this sort of sensitive and controversial rulemaking during the Christmas Holidays. A large portion of the nation's population reserves this time of year for family vacations and trips away from home, and are otherwise fully engaged with the business of the holidays—including mandatory use of use-or-lose vacation time.

There is a lot of explanation and justification in both the press release and in the FR Notice, but little substance. (Individual, Sandy, UT - #133.1.12000.104)

Public Concern: The USDAFS & DOI should reopen the comment period when the General Accounting Office completes its study.

We understand that the GAO is undertaking an updated and more detailed study of the relationship between administrative appeals and hazardous fuels projects. We believe that the public should have an opportunity to review and comment on some or all parts of the HFI once the GAO issues its report. At a minimum, the proposed hazardous fuels CE and administrative appeals regulations should be re-opened for public comment in light of the GAO study. (Preservation/Conservation Organization, No Address, - #1724.9.12500.108)

Adequacy of Information Available to the Public

Public Concern: The USDAFS & DOI should ensure that the Federal Register notice contains sufficient information to allow the public to comment.

The notice . . . states that instructions for applying the CE will not be issued until after this rule is finally established, thus neither the Forest Service nor the public can comment at this time on just how, where, when and how often this CE will be utilized. (Preservation/Conservation Organization, Chapel Hill, NC - #1730.18.12100.108)

Public Concern: The USDAFS & DOI should recognize that failure to issue instructions for applying the proposed fire management CEs until after the rule is finalized will preclude site-specific comment.

The notice . . . states that instructions for applying the CE will not be issued until after this rule is finally established, thus neither the Forest Service nor the public can comment at this time on just how, where, when and how often this CE will be utilized. (Preservation/Conservation Organization, Santa Fe, NM - #1186.17.14120.230)

Public Concern: The USDAFS & DOI should make available addresses where paper copies of information can be obtained.

Since I do not have Internet access, finding information has been difficult and very limited. Addresses where hard copies of information can be obtained should be made available. (Individual, Grangeville, ID - #1669.5.12100.108)

Collaborative Planning

Public Concern: The USDAFS & DOI should employ a collaborative process for fuel management projects.

We applaud the FS and BLM on their decision to expeditiously treat hazardous fuels on public land, but we are concerned that the rush to implement an aggressive hazardous fuel management program will preclude considerations for other resources, particularly fish and wildlife. All hazardous fuel management decisions should be based on a deliberative, open, science-informed protocol. By setting forth an open, i.e., collaborative, process for these decision, broader participation will be achieved and, potentially, better decisions will be made. (Preservation/Conservation Organization, Washington, DC - #1419.1.12600.313)

LOCAL COLLABORATIVE PLANNING

Projects near communities and private land will require local collaborative planning and application of projects that often cross jurisdictional boundaries. It is essential that CEs be considered and used to accomplish the work in a strategic, timely and effective manner.

When evaluating the use of CEs the projects need to consider maintenance, historic fire ecology and cost effective treatments, in addition to existing conditions. Further, project specifics should be readily available to interested publics to help in the project selection process and to rebuild public trust in land management. (Multiple Use or Land Rights Organization, No Address - #1729.6.64000.001)

Public Concern: The USDAFS & DOI should work with communities and environmentalists.

TO MINIMIZE ADVERSE EFFECTS ON WILDLIFE HABITAT

Carry out immediately the vast majority of fuel reduction projects in environmental issues. Work with communities and environmentalists to minimize the negative impacts of fuel reduction activities that may affect critical wildlife habitat.

These measures would provide prompt and effective assistance to the communities that need it most and would begin to restore the natural fire cycle in the backcountry that maintains forest health and reduces risk of catastrophic fire, all without suspending environmental laws that have served us well for many years. (Individual, Southlake, TX - #34.6.64000.300)

Public Concern: The USDAFS & DOI should improve consultation among agencies.

TO SIMPLIFY ADMINISTRATIVE PROCEDURES

NACD notes that there are still many other laws, including the Clean Air Act, the Wilderness Act, Endangered Species Act and National Historic Preservation Act, all of which have their own rules and agency guidelines. Coordination among all the agencies with jurisdiction over these issues might amount to a very small step in simplifying the administrative procedures. The consultation process could still be long and arduous. It remains that one agency would still be checking on another. NACD recommends efforts be made to further improve the consultation process. (Conservation District, Washington, DC - #1744.2.11100.112)

TO AVOID DELAYS IN PROJECT IMPLEMENTATION

We remain concerned that the agencies prioritize the work still required for implementation of projects under these exclusions, including appropriate consultations under the Endangered Species Act and the National Historic Preservation Act. These processes should not be allowed to unnecessarily delay or become barriers to project implementation. The preamble to the final categorical exclusions should reference the October 11, 2002 and December 10, 2002 guidance memos from the Department of the Interior regarding fuel treatment projects. These memos are a positive step forward in achieving better coordination among agencies with different mandates and hopefully will result in more timely consultations and consideration of the long-term impacts of fuels management proposals as well as short-term effects. (Business, Hayden Lake, ID - #1623.3.11130.101)

Public Concern: The USDAFS & DOI should collaborate with states and counties regarding forest health projects.

ARIZONA GAME AND FISH DEPARTMENT

Arizona Game and Fish Department be afforded the opportunities to be directly involved, as a full partner, in the planning, decisionmaking, and implementation of plans and projects that focus on forest health and forest restoration in Arizona. (Arizona Game and Fish Department, Phoenix, AZ - #799.21.12700.112)

TWIN FALLS COUNTY, IDAHO

Since the 640,000 acres of federal land in Twin Falls County is all in one block, we are constantly at risk of losing the productivity and enjoyment of 52% of our county in a single catastrophic fire. We feel the forests of Idaho are just as important as the forests of South Dakota and would respectfully request that the Twin Falls Ranger district be allowed, with a collaborative effort, to be part of a sensible, workable consensus driven Forest Health Plan without being subject to the delaying tactics of appeals and lawsuits available thru the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations. (Gary Grindstaff, Chairperson, Twin Falls Board of County Commissioners, Twin Falls, ID - #363.2.12700.100)

Public Concern: The USDAFS & DOI should specify how collaboration will be accomplished at the state, regional, and national levels.

We are concerned that under these proposed procedures the public will no longer be provided a reasonable opportunity to comment on or appeal decisions concerning fuel management activities. The CATEX proposal states that local-level public involvement in projects involving restoration or rehabilitation resulting from wildfires or hazardous fuels reductions will be consistent with the complexity of land ownership patterns, resource management issues, and the number of interested stakeholders as described in the 10-year Conservation Strategy for Reducing Wildland Fire Risks to Communities and the Environment. Relative to public involvement, the 10-Year Strategy prescribes only extremely vague public involvement procedures or requirements on the agencies at the state, regional and national levels. Similarly, in the CATEX proposal, there is no specific mention of public involvement at any level other than local. We suggest that the CATEX provide specific guidance on how collaboration will be accomplished at the State, Regional and National levels to ensure that it takes place. (Preservation/Conservation Organization, Washington, DC - #1419.7.12700.100)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs will not improve collaboration.

The Departments allege that the proposed CEs will foster collaboration as described in the 10-Year Comprehensive Strategy. 67 Fed. Reg. 77042. We fail to understand how the proposed CEs will foster collaboration. Already, the suggestion that fuels reduce and fire rehabilitation projects should be categorically excluded has drawn the sharp criticism of the public. Brian Stempeck, Bush Takes Steps to Speed Forest Thinning, Greenwire, Dec. 12, 2002. Further separating the public from land management decisions by streamlining the decisionmaking process and exempting controversial projects from detailed environmental review will not lead to collaborative decisions, or support for the Departments' agenda. The ability of the public to participate would only be made worse with the implementation of the proposed comment and appeal regulations that were released in conjunction with these proposed CE regulations. See generally 67 Fed. Reg. 77,451-77,463. (Preservation/Conservation Organization, Bloomington, IN - #1343.22.11300.100)

The proposed regulations would reduce and perhaps even eliminate involvement by those most directly affected by fires and fire risk—members of the public.

We're a small community here in the Gunnison Basin. We know our lands, and we care about them. Our community has engaged in some of the most well-known collaborative efforts with agencies in the entire West, beginning with the 1934 Taylor Grazing Act., the formation of the BLM Resource Advisory Councils in the 1980s, and the Gunnison Sage Grouse Working Group. We've formed alliances with ranchers, developers, highway departments, and federal land managers. The proposed regulations have the troubling potential to reduce, or even eliminate, public involvement concerning forest projects. Both legal precedent and common sense favor continued public involvement in fire and fuels-reduction projects. Legally, the Supreme Court has held that NEPA "guarantees that the relevant information [regarding proposed agency actions] will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision." [Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348, 109 S. Ct. 1835, 104 L.Ed.2d 351 (1989).] As a matter of common sense, public involvement at the project level is essential not only because it helps the agency identify previously unforeseen impacts and problems, but also lets the agency change project

components to reduce environmental impacts. (Preservation/Conservation Organization, Crested Butte, CO - #1804.19.12000.102)

The 10-Year Strategy recognizes that the multifaceted nature of tackling the risks posed by wildfires necessitates communication and collaboration across a wide spectrum of interests. The strategy wisely seeks to “enhance collaboration among all levels and all parties for planning, decisionmaking, implementation, monitoring, and learning.” 10-Year Strategy at 12. But the revised procedures effectively exclude the public from this collaboration.

Indeed, the new CEs will significantly reduce the flow of information from federal agencies to the public, which in turn will prevent the public as well as State agencies, from informed participation. The new CEs encourage federal agencies to circumvent NEPA’s documentation requirements by providing a vast array of projects without preparing an EA or an EIS. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.17.12700.101)

The Departments allege that the proposed CEs will foster collaboration as described in the 10-Year Comprehensive Strategy. But we understand how the proposed CEs will foster collaboration—it has already done just the opposite. Fostering collaboration, something we strenuously support, will happen only when the Forest Service, for example, truly accepts the context and premises of collaboration. That means inclusion, not exclusion. CEs are clearly intended to exclude by removing and restricting public participation. Only the most myopic and sinister believe this assists collaboration. If you want to collaborate, do so! We welcome such an effort (Preservation/Conservation Organization, Hyrum, UT - #1647.13.15110.001)

BECAUSE THEY ELIMINATE REQUIREMENTS FOR ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS

Collaboration among state, federal, tribal and other “interested stakeholders” can only occur to the degree all the parties share a common understanding of the environmental consequences of a proposed action. By eliminating the requirement for an EA or EIS in most cases where fuel reduction is the stated goal, information provided the various agencies and interested parties will be limited to a scoping letter, with little to no scientific data or analysis included. This will harm the nation’s effort to improve collaboration, not help it. (Preservation/Conservation Organization, Saint Paul, MN - #1156.4.12700.108)

Public Concern: The USDAFS & DOI should explain how exempting timber sales and other projects from environmental analysis will improve consistency and cooperation among federal agencies.

The proposed categorical exclusions will provide the departments with identical management tools that will improve consistency and cooperation among Federal agencies in the implementation of hazardous fuels reduction, stabilization, and rehabilitation projects. This improved cooperation will, in turn, foster more effective collaboration among Federal, State, tribal, and local governments and interested stakeholders consistent with the 10-Year Comprehensive Strategy Implementation Plan.

We fail to see how removing timber sales and other projects from detailed environmental analysis accomplishes the above stated outcome, if the purpose is fuel reduction. In truth, expanding the list of projects excluded from detailed analysis expedites projects at the expense of public involvement and careful scientific consideration. (Preservation/Conservation Organization, Montgomery, AL - #1409.1.14100.108)

The Federal Register notice announcing the proposed addition of two additional categories that may be excluded from analysis within an environmental assessment (EA) or environmental impact statement (EIS) fails to explain how removing timber sales and other projects from detailed environmental analysis will improve collaboration among land managers or accomplish any improvements in fuel reduction, if fuel reduction is designed to make personal property, human life, and environmental health better and safer. A categorical exclusion does not “include assessment of the communities at risk, current

vegetative conditions with respect to the likelihood of severe wildland fire, threats to key habitat and water quality (such as post-fire erosion), air quality and local economies, and the risks and trade-offs inherent to active management.” Nor does a CE “Allow for complete, current, and cooperative information sharing at all levels to assure maximum resource, policy, and scientific informational exchange.” Clearly, the Framework for Collaboration contemplated more complete NEPA analysis in order to arrive at fully informed fuel reduction decisions. (Preservation/Conservation Organization, Saint Paul, MN - #1156.2.12100.001)

The Federal Register notice announcing the proposed addition of two additional categories that may be excluded from analysis within an environmental assessment (EA) or environmental impact statement (EIS) states:

The proposed categorical exclusions will provide the departments with identical management tools that will improve consistency and cooperation among Federal agencies in the implementation of hazardous fuels reduction, stabilization, and rehabilitation projects. This improved cooperation will, in turn, foster more effective collaboration among Federal, State, tribal, and local governments and interested stakeholders consistent with the 10-Year Comprehensive Strategy Implementation Plan.

The UEC fails to see how removing timber sales and other projects from detailed environmental analysis accomplishes the above stated outcome, if the purpose is fuel reduction. In truth, expanding the list of projects excluded from detailed analysis expedites projects at the expense of public involvement and careful scientific consideration. “Collaboration” among state, federal, tribal and “interested stakeholders” can only take place to the degree all the parties share a common understanding of the environmental consequences of a proposed action. By eliminating the requirement for an EA or EIS in most cases where fuel reduction is the stated goal, information provided the various agencies and interested parties will be limited to a scoping letter, with little to no scientific data or analysis included. (Preservation/Conservation Organization, Salt Lake City, UT - #396.1-2.12700.001)

Public Concern: The USDAFS & DOI should make it clear that participants will be selected for the collaboration process who have demonstrated a willingness to collaborate.

The proposal specifies that only projects that have proceeded from a local collaborative process are eligible for the categorical exclusion. Among the requirements for an entity to be included in the collaborative process is that they must demonstrate a commitment to the goals of the comprehensive strategic plan. This is tantamount to saying that only those who agree with us can participate—a situation which renders collaboration moot. I suggest that collaboration demands tension and a certain level of (civil) disagreement.

Collaboration also demands parties who are willing to collaborate. I suggest making it clear that participants will be selected for the collaboration process who have demonstrated a willingness to collaborate—regardless of their positions or viewpoints. (Individual, Damascus, VA - #1045.3.12700.105)

Public Oversight of Proposed Fire Management CEs

Public Oversight of Proposed Fire Management CEs General

Public Concern: The USDAFS & DOI should include a wide variety of input in the development of the proposed fire management CEs.

By expanding opportunities for Categorical Exclusion, the government is expanding opportunities to limit public participation. Collaborating with a handful of preselected groups and interests and disguising it as public involvement does not meet the mandate of NEPA. The government has drafted this policy without “collaborating” or even inviting groups and citizens with a known interest in the outcome to participate in the process. (Preservation/Conservation Organization, Montgomery, AL - #1409.4.11300.104)

Public Concern: The USDAFS & DOI should ensure adequate public participation in projects carried out under the proposed fire management CEs.

The proposed categorical exclusions remove public participation in important resource decisions.

One of the purposes of NEPA was to involve the public in decisions affecting the human environment. These proposed categorical exclusions effectively remove this public role in a large category of projects and insulate these decisions to internal agency discretion. This runs counter to the intent of NEPA. These categories of decision potentially cover a huge class of agency actions. The Healthy Forest Initiative makes clear that these types of projects are not envisioned as isolated cases. Rather, these fuel reductions and rehabilitation projects are presented as a major focus of categorical exclusions as a major limitation of public participation in public lands management. (Place-Based Group, Asheville, NC - #1418.9.12000.322)

We can still have fire reduction where it's needed, and create much-needed jobs in our communities. But please don't lock out public review. That just creates an atmosphere of mistrust. (Individual, No Address - #889.4.11300.100)

We understand that the intended effect of these additional categorical exclusions, as presented in the Federal Register, is "to facilitate efficient planning and timely decisions concerning treatment of hazardous fuels and stabilization and rehabilitation of areas so as to reduce risks to communities NOLS supports this objective, however, we are concerned that some of the actions proposed to achieve it will negatively affect roadless areas in the long run. We offer the following suggestions in an effort to sharpen the focus of the new categorical exclusions on the intended objective.

Provide opportunities for public input

The proposal states that "the amount of collaboration at the local level will be consistent with the complexity of land ownership patterns, resource management issues, and the number of interested stakeholders," NOLS is concerned that this statement is too broad, introducing the possibility that the public will be excluded from the process entirely. We understand that one of the goals of this proposal is to expedite and make more efficient the process of hazardous fuels treatment and rehabilitation. This worthy goal should not be accomplished by eliminating public input but by refining the process by which involvement occurs. We feel strongly that fuels reduction and post-fire rehabilitation projects on public land should be conducted with public participation. (Special Use Permittee, Lander, WY - #841.5.12000.100)

IN THE PRE-NATIONAL ENVIRONMENTAL POLICY ACT STAGES OF PROJECT DEVELOPMENT

The proposal suggests that there will be meaningful opportunities for public involvement in the identification and selection of hazardous fuels reduction projects because the projects must be consistent with the collaborative framework in the 10-year comprehensive strategy implementation plan. However, the mechanisms for public involvement under the 10-year comprehensive strategy are as yet unclear and untested. Therefore, the promise of projects being identified in this manner does not instill great confidence that there will be meaningful opportunities for participation. We believe it would be helpful if there were a clear discussion in the proposed change of how the public can be involved in project identification and selection. We would support mechanisms that would provide opportunity for collaborative discussion and public comment in the pre-NEPA stages of project development. (Preservation/Conservation Organization, Washington, DC - #1726.3.11300.103)

BECAUSE THE AGENCY HAS MISMANAGED FOREST RESOURCES IN THE PAST

The last 50 years of FS forest mismanagement have wreak consequences of its fire suppression, clearcutting and road building policy, makes it abundantly clear that the agency does not have the ability to manage the public's forests without intense public oversight.

The proposed CE not only eliminates that oversight, but also effectively erodes the democratic process, that is the very foundation of our nation. It removes the right of the public to use the appeals process to challenge those whose previous poor judgment is reflected on the landscape. It rewards the FS with the right not only to continue making poor decisions, but removes the responsibility of conducting the kind

of thorough scientific analysis required by NEPA. (Preservation/Conservation Organization, Coeur D Alene, ID - #1725.8.11300.103)

BECAUSE IT IS THE PEOPLE'S DEMOCRATIC RIGHT TO ADD PUBLIC COMMENT TO PUBLIC LAND DECISIONS

It has also come to my attention that the Bush administration is trying to severely limit the public comment period on thinning and rehabilitation projects. It has been mentioned that the current administration feels this process is "excessive" and "burdensome; complex and time consuming." Be that as it may, I hold an extremely high amount of value to this process, feel that it is extremely useful and effective and this process represents the peoples democratic right to add public comment on how our public lands are managed. (Individual, Prescott, AZ - #1781.5.12000.108)

The "Categorical Exclusions" restrict the public comment period on thinning and rehabilitation projects. Both thinning and rehabilitation can have serious environmental impacts and should not be excluded from any NEPA regulations. Public comments are a democratic right and also give land managers an idea of community concerns and what actions will best serve the community. (Individual, Prescott, AZ - #1783.3.12000.001)

BECAUSE VALUABLE SCIENTIFIC INFORMATION IS OFTEN PROVIDED BY THE PUBLIC

The added benefit of public participation in the analysis process far outweighs claims made by the Bush administration that it is burdening forest management and threatening forest health. Eliminating environmental controls destroy public trust and increase opposition to fuel-reduction projects. Given the already existing authority for agencies to partake in hazardous fuel reduction projects, the main reason for these latest proposed CEs appears to be an attempt to close the resource management process to public participation. The proposed CEs are part of a continuing string of policy decisions by the Bush administration that affect a number of agencies, statutes and management plans.

The suggestion under this current proposal that all fuel reduction and rehabilitation/stabilization projects can be done under CE's without public involvement or environmental analysis is contrary to current evidence. Valuable scientific information is often provided by the public. Not only is the exclusion of such helpful information uneconomic, it will almost certainly lead to violations of NEPA. (Preservation/Conservation Organization, No Address - #1724.10.12000.104)

Protests and appeals are not typically made in order to provide needless antagonism—but are lodged because untrained, unscientific staff or managers propose projects that are one-dimensional (i.e. may eliminate fuels, but eliminates obligate or dependent wildlife as well), are often targeted for inappropriate plant communities or soil/topographical conditions, and are typically set for locations that would harm or eliminate recreational and/or wildlife opportunities or would contribute to the further need to list species as sensitive or TES.

Such decisions are frequently made from offices without any clue as to what actual ground conditions or needs may be, what species or resources would actually be impacted, and whether or not other alternatives might be available to fix a real or even a "perceived" problem. To "fast track" projects and bypass public input eliminates the opportunities for fellow agencies including state or private agencies, non-agency biologists and researchers, university and other researchers, local residents, recreationists, and other concerned parties from providing valuable information that would assist in developing alternatives or actions that would avoid either short or long-term disasters for legitimate projects. (Preservation/Conservation Organization, Twin Falls, ID - #817.5.12000.739)

BECAUSE PUBLIC INPUT IS NEEDED TO PROTECT WILDLIFE

These "new rules" would lessen the protections for wildlife. The people of the country have a high regard for the wildlife on our public lands. The "new rules" if put in effect would put such wildlife in jeopardy without allowing the citizens, myself included, to comment or appeal such actions in any meaningful way. (Individual, Selma, CA - #567.2.12000.313)

BECAUSE PUBLIC INPUT IS NEEDED TO PROTECT ROADLESS AND SPECIAL HABITAT AREAS

Public input is imperative on CEs planned for roadless and special habitat areas. This proposal allows Forest Service discretion on these special areas without public input. This is a travesty. Fuel reduction is a very important, worthy goal for our National Forests. However, environmental interests must be foremost in all National Forest planning as is stated in the NFMA and NEPA documents. (Individual, Cohasset, CA - #1428.3.12000.300)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs will provide adequate opportunity for public involvement.

The proposal will not shut the public out from the decisionmaking process. The collaboration requirements in the proposal ensure that all segments of the affected local communities will be heavily involved in developing these projects. It is only appropriate that the people who will be most affected by a project will be primarily responsible for recommending its scope and content. (Agriculture Industry, Oroville, CA - #806.7.11310.108)

We note public involvement will continue in the future, as prescribed in Section 30.3(3), 31.2 and 32.3(3) of FSM 1909.15. This insures the public will have an opportunity to provide input into which actual projects should, or should not, be categorically excluded. That input helps focus the decision on which kind of environmental documentation is needed. A time may come when public input identifies a proposed project that is an extraordinary circumstance and therefore requires an EA or EIS, not a CE, to document the action. This is entirely proper and in keeping with the NEPA process. We fully support public involvement in project initiation and evaluation. (Multiple Use or Land Rights Organization, Saint Anthony, ID - #13.5.12000.300)

The proposal will not, as some critics say, shut the public out from the decisionmaking process. The collaboration requirements in the proposal ensure that all segments of the affected local communities will be heavily involved in developing these projects. It is only appropriate that the people who will be most affected by a project will be primarily responsible for recommending its scope and intent. (Agriculture Industry, Gainesville, FL - #1811.5.12700.108)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs will reduce the public's opportunity to comment.

Under the proposed changes to the appeal regulations at 36 C.F.R. § 215, projects that are documented with a CE would be exempt from "legal notice and opportunity to comment." See proposed section 215.4(b), 67 Fed.Reg. 77459 (Dec. 18, 2002). Furthermore, under the proposed new regulation, CEs would not be subject to administrative appeal. See proposed Section 215.11(e), *id.* at 77461.

The net result could be that no public comment would be allowed on fuel reduction and post-fire rehabilitation projects if both the proposed NEPA procedure and modification of the appeal regulations are approved as currently written. At a minimum, existing opportunities for such comment would be considerably reduced. (Preservation/Conservation Organization, Denver, CO - #1403.19.12000.108)

The proposal will significantly reduce opportunities for the public to participate in and influence how their forests are managed, and how projects are designed and implemented. Exempting an unlimited number of projects of unlimited size and impact from NEPA analysis eliminates the public participation opportunities provided by NEPA. It also eliminates the consideration and presentation of alternative projects for the public to consider and comment on. Consistent with concurrent Forest Service and Department of Interior proposals, this proposal represents a return to the "trust us" era when agency officials had nearly unfettered discretion to manage public forests as they saw fit under the theory that they knew what was best for forest management. This approach led to the extreme over-logging, roading, and exploitation that brought on the ecological, fiscal, and management crises the agencies continue to wrestle with to this day. While there certainly is expertise within the agencies, it needs to be

tempered and channeled with public participation and oversight so that public forests are managed as the public sees fit. (Preservation/Conservation Organization, Washington, DC - #1501.14.11300.103)

The proposed rules would effectively eliminate the right of the public to prior notice and comment on future fire management actions that might have significant impacts on the environmental quality of millions of acres of federal forests and grasslands.

Is there something inherently undesirable about preparation of EAs (and, rarely, EISs) for these types of proposed actions? Did the public review and comments received on the approximately 1500 EAs and 50 EISs for fire management projects completed during the past five fiscal years fail to result in any constructive changes in the design or conduct of these projects? If so, is this a problem to be solved by adopting rules that would severely limit public participation, or does that record reveal substantial deficiencies in the way that the agencies have presented the information or responded to outside comment? Can it be demonstrated that public participation in decisions about managing fires on the public lands is no longer worth the cost and time required to produce the documents that make such participation possible? If so, then these arguments should have been set down in the notice, and the evidence produced to support them. This was not done. (Individual, Chevy Chase, MD - #1727.9.11300.108)

California was one of many western states that participated in the drafting of both planning documents of the National Fire Plan—the 10 Year Comprehensive Strategy and its companion Implementation Plan. As the federal agencies know well, Congress instructed them to collaborate with the states, local government, tribes and the public in drafting and implementing the National Fire Plan. In the discussions during the preparation of the plan, the drafters reiterated their support for maximizing public input in the process and explicitly rejected proposals to repeal or streamline NEPA and other environmental laws. Yet the proposal to categorically exclude fuel reduction projects from NEPA review does just that. (Resources Agency, State of California, Sacramento, CA - #1705.5.15000.108)

INCLUDING LOCAL RESIDENTS

The CE Proposal removes the ability of local citizens and communities to be involved in the analysis of local Forest Service projects that affect them. It also prevents local citizens from appealing activities being carried out by the federal government in their communities, even when these activities cause harm to their economies and environment. This situation invites distrust of big government and does not promote friendly cooperation and collaborative relations between local citizens, businesses, organizations, etc., and the federal government.

In conclusion, the WNC Alliance is concerned with this unprecedented move away from the economic and environmental well being of local communities, and loss of public participation in local decisionmaking. We oppose these categorical exclusion proposals and urge the U.S. Forest Service to withdraw them. (Place-Based Group, Asheville, NC - #1567.8.12000.103)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs will reduce the flow of information from the agencies to the public.

THEREBY PREVENTING INFORMED PUBLIC PARTICIPATION

We feel that the new regulations will greatly reduce the flow of information from the agencies to the public, which will prevent the public from being “informed” participants. This in itself will circumvent the intent of NEPA. Besides, depriving the public of information on projects, the CEs also prevent actual public participation in the project.

We feel that what is proposed will not stop the controversy surrounding such decisions; they will only increase the likelihood of litigation since the public has been removed from the equation to begin with. (Recreational/Conservation Organization, Coarsegold, CA - #1358.9.12000.108)

Public Concern: The USDAFS & DOI should recognize that scoping for categorically excluded projects does not offer adequate opportunity for public comment.

By definition, a CE means that neither an EA nor an EIS will be prepared. See 40 C.F.R. § 1508.4. While scoping is required for projects that “appear to be categorically excluded” (FSH 1909.15 30.3(3)), no further solicitation of public comments would be required. Scoping alone would not allow adequate public comment on specific projects, as the specific parameters of projects are often unknown to even the Forest Service itself at this early phase. Thus, right off the bat, opportunities for public comment would be reduced if these proposed procedures are implemented as currently drafted. (Preservation/Conservation Organization, Denver, CO - #1403.17.12300.739)

The proposed procedures have the troubling potential to reduce, or even eliminate, public involvement concerning forest projects.

Both legal precedent and common sense favor continued public involvement in fire and fuels-reduction projects. Legally, the Supreme Court has held that NEPA “guarantees that the relevant information [regarding proposed agency actions] will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348, 109 S.Ct. 1835, 104 L.Ed.2d 351 (1989). As a matter of common sense, public involvement at the project level is essential not only because it helps the Agency identify previously unforeseen impacts and problems, but public involvement also lets the Agency change project components to reduce environmental and social impacts.

EAs and EISs allow at least two opportunities for formal public involvement—during scoping and after publication of a draft. This solicitation and review of public comments is consistent with NEPA’s implementing regulations, which state that “federal agencies shall to the fullest extent possible: . . . (d) encourage and facilitate public involvement in decisions which affect the quality of the human environment.” 40 C.F.R. § 1500.2.

These proposed procedures would allow preparation of CEs, as opposed to EAs or EISs. Public comments need only be taken at the scoping stage for projects that “appear to be categorically excluded”—no further solicitation of public comments would be required. Scoping comments fail to provide a meaningful opportunity for public comment because specific project parameters are often unknown at this early phase. (Preservation/Conservation Organization, Paonia, CO - #1732.17.12000.109)

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Notably, our organization has never been invited to participate in any such process (if one even exists in Colorado), even though our interest in fuel reduction and other projects on Forest Service lands in Colorado is well known to local Forest Service line officers and staff. While the Preamble to these proposed regulations mentions the “collaborative framework” in the “10-year comprehensive strategy” as providing for public involvement (see 67 Fed.Reg. 77042), such participation fails to give the general public the opportunity to comment on specific projects scheduled for implementation on their own Public Lands. (Preservation/Conservation Organization, Crested Butte, CO - #1804.20.12000.110)

Public Concern: The USDAFS & DOI should explain why they have abandoned a commitment to full public participation in the development of the proposed fire management CEs.

Please discuss why this rulemaking process abandoned a commitment to conduct hazardous fuels treatment projects within the constraints of the existing legal and statutory framework that includes full public participation. (Preservation/Conservation Organization, Santa Fe, NM - #1766.22.12000.108)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs may violate the National Environmental Policy Act's requirement for public disclosure.

The proposed procedural exemptions set forth in this proposal are likely to violate NEPA's requirement for public disclosure of the possible impacts of proposed projects. (Preservation/Conservation Organization, Paonia, CO - #1732.9.12000.300)

*Public Oversight of Proposed Fuels Reduction CE***Public Concern: The USDAFS & DOI should ensure public review of hazardous fuels reduction projects.**

Curtailling public oversight and appeals in the thinning process of forests shows where President Bush's true intentions lie. Lacking environmental appeals, Bush's plan would allow timber companies to impose on forests their own version of forest health. The fox is guarding the hen house, and the fox, in this case the timber industry, contributed large sums of money to Bush's presidential campaign. President Bush is not afraid of the past 1% appeals of fire reduction thinning as reported by the 2001 GAO report. By changing laws, Mr. Bush wants to conceal the future environmental damage. (Individual, King George, VA - #499.8.11230.103)

The specter that timber cuts designated as CEs need not make available to the public any "legal notice and opportunity to comment" and that CEs would be exempt from appeal regulations is reprehensible. How can well-trained, longtime observers of forest health acquiesce to logging disguised as a "fuel reduction project" on which there are neither restrictions nor opportunities for public comment, especially when much evidence points to logging as a cause, not a cure, for forest fires? CEs smack of Big Brother knowing best what to do with our forest, not a surprising fruit to drop from the tree of this current administration, but nonetheless an insult in the face of representative government. (Individual, Gunnison, CO - #1072.3.12000.103)

The interested public has much to offer in the way of valuable expertise. Perhaps a study should be done of the economic benefits of having the expertise of many concerned people contributing to forming policy for public lands. There is certainly no possibility that the value of promoting democratic participation can be quantified. It is priceless. (Preservation/Conservation Organization, Eureka, CA - #1248.13.12000.739)

The history of the use of categorical exclusions to help expedite certain types of actions, such as small timber sales, is somewhat tarnished . . . and it is important for this rule to be structured in a way that recognizes the importance of building trust in the federal agencies to implement these hazardous fuels reduction projects in the right way. One of the key issues of trust is whether there remain incentives in these projects for the agencies to place an undue emphasis on "commercial" activities for revenue generation, even though this is not discussed as a goal of the rule change. It is important to structure this categorical exclusion proposal in a way that still provides meaningful public participation and safeguards to help allay public concerns and build public trust in the agencies' motivations and actions. (Preservation/Conservation Organization, Washington, DC - #1726.2.11300.103)

BECAUSE THE SUCCESS OF THESE PROJECTS DEPENDS ON PUBLIC SUPPORT

The success of fuel reduction efforts absolutely requires public support. This CE proposal threatens to reduce public support by significantly reducing the ability of the public to become informed and involved in the decisionmaking process. The best way to ensure public support is to:

- meaningfully involve the public throughout the process;
- follow all existing environmental laws;
- use the rational decisionmaking model of NEPA: consider alternatives, consider the environmental consequences, inform and involve the public, etc;
- ensure that projects are effective by prioritizing activities around homes and communities;
- avoid activities that will be controversial such as removing large or old trees, cutting in remote unroaded areas, degrading water quality or wildlife habitat, etc. (Preservation/Conservation Organization, Montgomery, AL - #1409.27.11300.001)

BECAUSE THE GENERAL ACCOUNTING OFFICE HAS DETERMINED THAT PUBLIC PARTICIPATION HAS NOT IMPEDED LEGITIMATE FUELS REDUCTION PROJECTS

I strongly oppose the use of Categorical Exclusion (CE) to reduce public review opportunities on any commercial or salvage logging done on public lands. Just because a project is called "hazardous fuel reduction" does not mean the public does not deserve to comment. I agree with the General Accounting Office that true fuels reduction projects, out of native forest designation, are rarely challenged by citizen litigation. (Individual, Cave Junction, OR - #594.1.64400.108)

The administration's . . . claims notwithstanding, a non-partisan analysis by the General Accounting Office proved that legitimate fuels reduction projects (ones that do not log native forests) have not been tied up by citizen appeals or lawsuits. Why then is the Forest Service attempting to lock us out of the decisionmaking process through this inappropriate application of CEs? This administrative action appears to be creating a loophole for commercial logging, salvage logging and other activities that will waste taxpayer money and do nothing to reduce the fire risk to local communities. (Individual, Salem, OR - #681.2.11300.106)

Forest Service claims that current avenues for public participation lead to 'analysis paralysis' (etc.) are clearly specious as a recent GAO report proves that 98% of fuel reduction projects have not been impeded by appeals or litigation.

This being the case, we can only conclude that the proposed exemptions are designed solely to facilitate the agencies' commodity agenda in contravention of existing laws guaranteeing the public's right to participate in land management decisionmaking processes. (Preservation/Conservation Organization, Priest River, ID - #1183.7.13000.104)

Protecting communities from wildfires is an important issue for Americans across the country. But it can, and must, be done without limiting the public's right to participate in forest management decisions, including appeals and litigation. The General Accounting Office has determined that citizen participation in the process has not impeded legitimate fire protection projects on our forests. (Individual, Albuquerque, NM - #937.1.11300.100)

Public Concern: The USDAFS & DOI should not implement a national fuels reduction plan without public participation and comment.

The result of this proposed CE and proposed limits on administrative appeals is to remove many significant Forest Service projects from public review. By avoiding NEPA documentation, logging projects labeled "fuels reduction projects" may proceed without full analysis of consequences and alternatives. Under the proposed appeals regulations, all activities which are categorically excluded from NEPA are exempt from public notice and comment and cannot be administratively appealed. 67 F.R. 77451. This means the Forest Service may undertake unlimited "thinning" and temporary road-building on public lands without public involvement and comment. The scoping process, by itself, is not adequate

to ensure meaningful public involvement. The public has a right to participate in and comment on decisions involving public lands. The Forest Service cannot implement a national fuels reduction plan without public participation and comment. (Preservation/Conservation Organization, Montgomery, AL - #1409.47.11300.108)

Public Concern: The USDAFS & DOI should develop guidelines to assist responsible officials in determining the appropriate level of public involvement in the proposed fuels reduction CE.

We are concerned that there may be significant inconsistencies among responsible officials when determining an appropriate level of public involvement in these decisions. We do not believe these determinations should be left solely to the discretion of a forest supervisor or district ranger. We recommend the federal agencies responsible for these decisions develop guidelines within the CATEX to assist the responsible official in determining appropriate levels of public involvement for categorically excluded fuel treatment projects, that the public be involved in the development of those guidelines, and that this involvement should extend beyond solely local interests. (Preservation/Conservation Organization, Washington, DC - #1419.8.11120.108)

Public Oversight of the Proposed Rehabilitation CE

Public Concern: The USDAFS & DOI should clarify the public involvement process for the proposed rehabilitation CE.

I urge you to adopt the following suggestions from NASF, which are intended to help the USDA and the Interior Department ensure that the CEs serve as effective tools for forest management.

Public Involvement for Rehab/Stabilization CE Needs Clarification

The preamble explains that the fuels reduction CE will involve the public as provided in the 10-Year Comprehensive Strategy. Indeed, state and regional processes for involving the public and local stakeholders in prioritizing projects funded by the National Fire Plan have been developed and continue to be refined.

However, the Federal Register notice contains no such description of public involvement for the rehabilitation/stabilization CE. The agencies need to clarify the public involvement process for the rehabilitation/stabilization CE, preferably using existing National Fire Plan models. (National Association of State Foresters, Washington, DC - #1731.3.12000.100)

Agency Personnel

Public Concern: The USDAFS & DOI should improve training and communication for agency personnel.

TO IMPROVE THE SAFETY RECORD OF FOREST SERVICE EMPLOYEES

Improved training and communication can improve the safety record of Forest Service employees as a whole. (Individual, Riggins, ID - #1677.3.64500.602)

Relationship to Other Plans and Rulemakings

Relationship to Other Plans and Rulemakings General

Public Concern: The USDAFS & DOI should explain the relationship between the proposed fire management CEs and other policies.

THE FEDERAL WILDLAND FIRE MANAGEMENT POLICY AND PROGRAM REVIEW, ITS IMPLEMENTATION ACTION PLAN, AND THE FOREST SERVICE MANUAL THAT INCORPORATES THE FEDERAL WILDLAND FIRE MANAGEMENT POLICY

This rulemaking does not mention its relationship to the Federal Wildland Fire Management Policy and Program Review, its Implementation Action Plan or the Forest Service Manual that incorporates the Federal Wildland Fire Management Policy.

According to the Federal Wildland Fire Management Policy, fire management plans are mandated for all areas subject to wildland fires. These plans should address all potential wildland for occurrences and include a full range of fire management actions. Moreover, plans should facilitate the implementation of landscape-scale prescribed burning and provide guidelines to manage lightning caused ignitions with the goal of restoring fire to fire-dependent ecosystems.

There is an urgent need to develop and approve new fire management plans. Indeed, in the 1996 Implementation Action Plan Report for the Fire Policy, fire management planning is presented as an "Action Item to be Implemented Immediately." The Fire Policy lists fire management planning second only to firefighter safety in order of priority. This rulemaking must disclose and discuss its relationship to this policy and how it facilitates the restoration of fire to fire-dependent ecosystems. (Preservation/Conservation Organization, Santa Fe, NM - #1766.15.15000.606)

Public Concern: The USDAFS & DOI should consider the cumulative effects of the various rules and regulations initiated by the agencies.

The Wilderness Society has very serious concerns about the proposed CE, particularly in light of the numerous other changes in federal land management procedures that have been proposed or adopted in recent months. Besides the HFI proposals noted above, these changes include the proposed revision of the National Forest Management Act regulations and the proposed CE for salvage logging projects up to 250 acres. While The Society will be commenting separately on each of these proposals, we wish to emphasize our concerns about the extraordinarily negative cumulative effects of these proposals on environmental protection and public participation in federal land management.

To our knowledge, the administration has completely failed to acknowledge or analyze the cumulative effects of the proposed hazardous fuels CE, other HFI-related changes, and other recent regulatory proposals. Yet, the proposed CE for fuel reduction projects is closely tied to all of these directives and proposals. For example, the proposed Appeals Reform Act regulations would exempt all CE projects from public notice and comment and administrative appeals. These proposed CE regulations, in turn, would exempt fuel reduction projects from NEPA documentation requirements. Consequently, the cumulative effect of these two amendments is to eliminate the opportunity for public comment on or appeal of these projects. It is essential to evaluate the cumulative effect of these numerous rule changes.

Many of the regulatory changes have the cumulative effect of undercutting the proposed CE sideboards that are supposedly intended to safeguard environmental quality. (Preservation/Conservation Organization, No Address - #1724.1.15000.301)

Cumulative Effects in Relationship to Other Administrative Initiatives

The CE proposal is one of several related administrative proposals and directives relating to national forest management. Some, but not all, of these administrative actions is part of the Bush administration's "Healthy Forests Initiative." The other changes include:

- Proposed amendments to the National Forest Management Act (NFMA) regulations (proposed 11/27/02, comments due 3/6/03).
- Proposed amendments to the Appeals Reform Act regulations (proposed 12/18/02, comments due 2/18/03).
- Guidance from Council on Environmental Quality concerning environmental assessments of fuel reduction projects (12/9/02).
- Guidance from U.S. Fish and wildlife Service and National Marine Fisheries Service concerning endangered species consultations on fuel reduction projects (12/10/02).
- Interim Directive on NEPA Categorical Exclusions and Extraordinary Circumstances (8/23/02).

A comprehensive analysis of the cumulative impact of these efforts to "streamline" land management and planning on the national forests is needed—this proposed rule does not stand-alone. It is important to note that the proposed CE for fuel reduction projects is closely tied to all of these other directives and proposals. For example, the proposed Appeals Reform Act regulations would exempt all CE projects from public notice and comment and administrative appeals. Since the CE regulations would exempt fuel reduction projects from NEPA requirements, the cumulative effect is to eliminate virtually any opportunity for the public to comment on or appeal these projects.

The proposals for categorical exclusions—this one with big loopholes for fuel reduction projects that have environmentally destructive actions, and another with three proposals to allow up to 250 acres of clearcutting with no NEPA, combine to allow several significant projects to occur simultaneously in the same watershed. By definition, there will be cumulative impacts, yet the rule change would not consider these projects together.

There must be a rational finding that these projects do not have a cumulative impact, and the record must support it. This Federal Register notice's conclusory assertions of no impact with vague citations to uncited materials not subject to public scrutiny is inadequate to meet that standard. (Preservation/Conservation Organization, Spokane, WA - #1610.13-14.15000.108)

These two new categories (1) Hazardous fuels reduction activities (such as thinning overstocked stands and brush), and (2) activities for rehabilitation and stabilizing lands and infrastructure (such as reseeded) impacted by wildland fires or fire suppression, should be considered and analyzed in combination with all the other new categorical exclusions, proposed NEPA and NFMA amendments, and other related regulatory actions being proposed to try to implement President Bush's Healthy Forest Initiative.

By themselves, these two new CEs appear fairly innocuous; but when looked at in context with all the other newly proposed CEs and NEPA and NFMA amendments and other related regulatory actions these two new CEs have the potential to drastically change the way the Forest Service complies with the intent of NEPA and NFMA, and could have potentially huge cumulative significant effects on the human environment. (Preservation/Conservation Organization, Paradise, CA - #1414.1.15000.322)

The cumulative effects of this and several other recent regulatory proposals on national forest management would take away my right to appeal logging projects, eliminate NEPA review of national forest plans and weaken protection for wildlife. (Individual, Culver City, CA - #485.3.15000.001)

BECAUSE THEY WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

This appears to be one more attempt of the Forest Service to over manage and log our national forests, against the will of the people, and at great cost to the environment. The combined impact of all of the current regulation changes that the Forest Service is proposing amounts to a massive policy shift which is undoubtedly going to have a significant impact on the environment. There has been no analysis or proper public notification of the ramifications of these policy shifts, although they are extreme. For example, forest plan revisions, which are now an action that requires an EIS, is proposed for a categorical exclusion. The forest plan EIS is one place where we expect to have the agency look at cumulative impacts and involve the public. This is just one example of the extreme policy shift being attempted by the current administration. It is going to destroy our national forests. More significantly is using this procedure to avoid hearing from the public who overwhelmingly opposes your policies. It is truly a travesty of justice and we oppose it strongly. (Preservation/Conservation Organization, Bloomington, IN - #1371.8.13000.322)

Columbia River Inter-Tribal Fish Council is concerned that the proposed categorical exclusions will not be reviewed for their cumulative effect with other contemporaneous changes (still proposed) to forest and other public land policy. The Departments are undeniably aware of these other proposals, which include both initiatives under the Healthy Forest Initiative as well as others of a more general and overarching nature. The piecemeal implementation of these various proposals seriously undermines public oversight, and most certainly violates tribal consultation requirements. Together, the various land management and administrative changes are almost guaranteed to have significant adverse environmental impacts with long-lasting damage to fish and wildlife. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.21.15000.001)

Because up to 190 million acres of federal land may contribute to fire risks, the effort to treat these fuels on such a large scale will certainly cause a significant cumulative environmental impact. All changes, including beneficial ones, must be analyzed by NEPA. The "may affect" threshold that is so clearly met by the asserted scale of the problem and the suggested program of treatment, that the agencies should withdraw the proposal and immediately prepare an EIS.

Ecological restoration of burned areas can have significant ecological effects and warrants close review through NEPA. Post-fire salvage logging can have grave environmental consequences and the ecological value for such activity has not been demonstrated.

In addition, we believe that the large number of changes in Federal regulations the current administration has proposed will result in environmentally significant cumulative effects. In addition to the categorical exclusions for hazardous fuels reduction projects, the administration has proposed categorical exclusions for "small" timber sales and salvage projects, lowered forest plan requirements so that an EIS is no longer needed, and allowed 4-year amendments to these forest plans with no public review. The cumulative impacts of all these separate proposals will have significant effects on the human environment and NEPA requires that they be examined under an Environmental Impact Statement.

Fully informed decisions cannot be made unless alternatives are considered, environmental consequences are considered, and differing public and scientific views are considered, etc. This is the core purpose of NEPA. A CE is by definition a means of making an uninformed and undocumented decision. (Preservation/Conservation Organization, Boise, ID - #1722.4.15000.300)

The Cumulative Effect of Current Proposals for Changes in Forest Service Regulations Will Have Significant Environmental Impacts

The current administration has proposed numerous changes in the regulations that govern the management of our national forests. Some of these regulations were proposed together with this proposal to categorically exclude hazardous fuels reductions projects while others have been proposed separately but relate to this rule in very important ways. Evaluating the combined impact of these various rules is critical because together they seriously undermine public oversight for the protection of our public lands. Considering the breadth of proposed rule changes that affect management of public

lands, there is no way that the combined effect of these changes will not have significant impacts and cause long-lasting damage to wildlife and wild places. (Individual, Seattle, WA - #1138.3.15000.001)

BECAUSE THEY WILL NEGATE THE NATIONAL ENVIRONMENTAL POLICY ACT

This proposal eliminates all quantitative restrictions, other than permanent road building, for the use of this category. Since any thinning, logging, or vegetation clearing activity could be termed “fuels reduction,” there is a need to include proscriptive language in order to restrict overuse of the category. In another action, the agency proposes changes that would allow immediate implementation of all projects in this category, while the public is denied the right to appeal if they appear to be flawed decisions. The Forest Service also plans, in yet a third action, to categorically exclude three additional types of timber sales. In essence, these multiple actions would give the agency the ability to place their entire timber program under the categorical exclusion, thereby negating the National Environmental Policy Act. The public would have no other option than to turn to costly and lengthy court processes to influence decisions about management of publicly owned resources. (Preservation/Conservation Organization, Point Arena, CA - #1737.3.13000.108)

Public Concern: The USDAFS & DOI should consider that the proposed fire management CEs are not consistent with other agency policies.

FEDERAL WILDLAND FIRE POLICY

Categorical exclusions are inconsistent with agency policies. Federal Wildland Fire Policy requires consideration of the “best available science” as well as “environmental quality considerations.” These factors are considered in EAs and EISs, but not in CEs. This proposal to use more CEs is inconsistent with federal fire policy adopted in 1995 and affirmed in 2001.

The Forest Service’s 2000 “Agency Strategy for Fire Management” describes a “desirable future” in which “The agency and public are active partners in forest protection . . .”(A Report from the National Management Review Team, January 12, 2000). Categorical exclusions exclude the public and fail to develop an information base upon which “active partners” can meaningfully converse, so CEs are inconsistent with the vision articulated by the Forest Service. (Preservation/Conservation Organization, Eugene, OR - #846.16.10000.001)

COHESIVE STRATEGY

The proposed categorical exclusions are inconsistent with the Forest Service “Cohesive Strategy.”

In response to the General Accounting Office Report GAO/RCED-99-65, Forest Service Management made explicit acknowledgement that success in restoring fire regimes would depend upon legal compliance and public involvement in determining the details of the fuel reduction and restoration programs:

“Forest planning and collaboration with states, local governments, tribes and the public will determine the number of acres to be treated and where and how the treatment will occur.”

“Community involvement will help to guide the types and locations of treatment actions . . .”

“The optimum method to ensure success in restoring ecosystems is collaborating with the local public in planning efforts. Regional planning, including stakeholders in identifying and assessing values at risk, is an important component of the strategy . . .”

“Public outreach and collaboration will be critical components to successful ecosystem restoration . . .”

“Implementation will be based on regional assessments, integrated planning processes, public input, and collaboration with other agencies. Environmental documentation for on-the-ground projects will contain many of the ‘how to’ actions necessary to move the strategy forward in a manner that is consistent with law, regulations, and Forest Service policy . . .”

“The strategy also maintains that constituency support and collaboration with tribal, other federal, state, local agencies and the public is an essential cornerstone for restoration work. It is consistent with the guiding principles of the Federal Wildland Fire Management Policy (approved by the Secretaries of Interior and Agriculture in 1995).”

Protecting People and Sustaining Resources in Fire-Adapted Ecosystems - A Cohesive Strategy. October 13, 2000. <http://www.fireplan.gov/cohesive.cfm> (Preservation/Conservation Organization, Montgomery, AL - #1409.23.15000.104)

Public Concern: The USDAFS & DOI should comply with the Environmental Policy and Procedures Handbook requirement to provide adequate public scoping for CEs.

In the application of Categorical Exclusions, the Forest Service regularly violates its own regulations as outlined in the Environmental Policy and Procedures Handbook (FSH 1909.15). Public scoping is not applied by the USDA Forest Service to the fullest extent possible in the determination of CEs. Too often, categorical exclusions are predetermined. In some cases, public input is completely eliminated. For example, the Sierra National Forest has stated: "Due to the brief planning time frame of hazard tree sales and special use permittee requests, some sales and issuance of permits may be planned, analyzed, and awarded in between the quarterly publication of this schedule [of proposed actions]. When this happens, notice of the action will be published in the next schedule." (USDA FS Sierra National Forest SOPA). On the Ranger Districts of several California National Forests, the publication of the project in the SOPA is considered as scoping for Categorical Exclusions, and no other efforts to involve the public are made. This happens on Descanso Ranger District (Cleveland National Forest), Santa Clara/Mojave Rivers Ranger District (Angeles National Forest), High Sierra Ranger District (Sierra National Forest), Placerville Ranger District (Eldorado National Forest), and Groveland Ranger District (Stanislaus National Forest). The effect is that the public often does not know of a categorically excluded action until after it has occurred. (Preservation/Conservation Organization, Eureka, CA - #1248.3.13000.108)

Public Concern: The USDAFS & DOI should ensure that qualified projects remain categorically excluded under the proposed fire management CEs during consultations required by other regulations.

Although we agree with the use of categorical exclusions as a means to more promptly reduce fire hazards in federal forests and to rehabilitate areas following a wildfire, categorical exclusions must be available to treat storm and insect damaged stands. We understand that [while] consultations under the endangered species act and the National Historic Preservation Act must take place, these processes must not be allowed to unnecessarily delay or become barriers to project implementation. (Timber or Wood Products Industry, Alexandria, LA - #1521.2.17110.230)

I am concerned, that the categorical exclusion rule as proposed may allow projects to be disqualified from C.E. eligibility if Endangered Species Act-required consultation is deemed necessary. I would suggest that the wording in the rule be clarified to assure that projects that qualify for this C.E. remain qualified even if it is determined that consultation is necessary. (Individual, Fruitdale, SD - #1742.2.17110.230)

10-Year Comprehensive Strategy Implementation Plan

10-Year Comprehensive Strategy Implementation Plan General

Public Concern: The USDAFS & DOI should support the 10-Year Comprehensive Strategy Implementation Plan.

I am strongly in favor of the Western Governors' Collaborative 10-Year Comprehensive Wildfire Strategy which Bush's administration has already endorsed. (Individual, King George, VA - #499.2.15110.000)

The State of Idaho strongly supports the 10-year Comprehensive Strategy Implementation Plan (10-Year Plan), a document that emerged from Idaho's leadership in the Western Governors' Association.

The key components of the proposed amendments to the USFS policy on categorical exclusions emanate from Goals Two and Three of the 10-Year Plan, which are set forth below:

Goal Two - Reduce Hazardous Fuels

Implementation Outcome: Hazardous fuels are treated, using appropriate tools, to reduce the risk of unplanned and unwanted wildland fire to communities and to the environment; and

Goal Three - Restore Fire-adapted Ecosystems

Implementation Outcome: Fire-adapted ecosystems are restored, rehabilitated and maintained, using appropriate tools, in a manner that will provide sustainable environmental, social, and economic benefits.

Idaho fully supports those laudable goals of the 10-year plan. The proposed USFS implementation procedures are an appropriate and consistent outgrowth of the commitment by the federal government to healthy forests and an approach to public lands management mindful of local interests. (Dirk Kempthorne, Governor, State of Idaho, Boise, ID - #805.3.15110.001)

The western governor's fire plan seemed to me to be an excellent approach to the problem presented by decades of fire suppression in the western U.S. I can't understand why the administration abandoned its support of this scheme unless it was simply to pay off political debts to the timber industry. (Individual, Plainfield, VT - #495.3.15000.103)

BECAUSE IT CONTAINS PROVISIONS FOR INVOLVING LOCAL AGENCIES

Wallowa County and the Wallowa County Chamber of Commerce concurs with the implementation plan and have been deeply involved with a series of collaboration efforts over the past 10 years to resolve conflict and move forward on the points discussed in the plan. The chamber would like to see a cooperative decisionmaking process between the public land agencies and our county local Natural Resource Advisory Committee that prioritizes business development issues and other factors affiliated with our economy. (Business, Enterprise, OR - #1408.2.15110.303)

"The 10-Year Comprehensive Strategy Implementation Plan set four primary goals: (1) improve fire prevention and suppression; (2) reduce hazardous fuels; (3) restore fire-adapted ecosystems; and (4) promote community assistance."

Comment: We concur with the implementation plan and have been deeply involved with a series of collaboration efforts over the past 10 years to resolve conflict and move forward on the points discussed in the plan. These collaboration efforts include: The Grande Ronde Model Watershed program, the Governor's Eastside Forest Advisory Group, and the John Day/Snake River RAC, among other efforts. Under our existing MOU with the Wallowa-Whitman National Forests we are operating in a co-leader status for watershed assessments and project development. (Bruce Dunn, Chairperson, Wallowa County Natural Resource Advisory Committee, Enterprise, OR - #1412.3.15110.303)

Public Concern: The USDAFS & DOI should specify how projects will be identified that contribute to the goals of the 10-Year Comprehensive Strategy Implementation Plan.

The intent of the new proposal is clearly to limit the use of the categorical exclusion to projects that contribute to the goals of the 10-Year Comprehensive Strategy Implementation Plan. However, the lack of specificity in the implementation plan would make it extremely difficult for forest managers to conclude whether a proposed project is, or is not, in alignment with the plan. A more concrete method of determining which projects qualify for use of the exclusion must be developed if this provision is to be useful. (Preservation/Conservation Organization, Santa Fe, NM - #308.1.15110.102)

Public Concern: The USDAFS & DOI should consider that the goals of the 10-Year Comprehensive Strategy Implementation Plan are mutually exclusive.

The outcome of the administration's [10 year strategy] "collaborative" effort has been a list of four goals, at least two of which are mutually exclusive. These goals include: 1) Improve fire prevention and suppression; 2) reduce hazardous fuels; 3) restore fire-adapted ecosystems; and 4) promote community assistance. The first goal, "Improve fire prevention and suppression," reflects an apparent desire on the part of those that participated in "collaboration" with the government, including so called "environmental organizations," to continue a policy that has created the situation the new CE regulations are allegedly designed to correct.

As virtually every EA or EIS regarding a project where fuel reduction is either a primary or secondary goal readily acknowledges, decades of fire prevention and suppression have created fuel loading across the national forests of the lower 48. If continued fire suppression is the goal, the restoration of fire-adapted ecosystems (goal #3) cannot be. Fire-adapted ecosystems are not adapted to thinning or commercial logging. They are adapted to fire. While removal of fuels from the understory may be necessary in some cases, it must be followed up by a willingness to allow fire to return to the ecosystem after this is accomplished. Goal number one makes clear that is not the direction the Forest Service or Department of Interior wish to take. (Preservation/Conservation Organization, Montgomery, AL - #1409.5.15110.606)

Public Concern: The USDAFS & DOI should prepare an environmental impact statement for the 10-Year Comprehensive Strategy Implementation Plan.**BECAUSE THE PLAN IS BEING USED AS JUSTIFICATION FOR THE PROPOSED FIRE MANAGEMENT CE'S AND AS THE CRITERIA FOR DETERMINING ALLOWABLE ACTIVITIES UNDER THE CE'S**

We object to the proposed CEs because they are based on the Implementation Plan for the 10 Year Comprehensive Strategy. This "Strategy" never had public scoping and no EIS has been prepared for public review and comment. Since the "Strategy" is being used as an excuse to allow these CEs and since the "Strategy" is being used as the measure whereby the FS will determine which activities are allowed under these CEs, the "Strategy" has direct environmental impacts and is a "major federal action significantly affecting the quality of the human environment" and is required by law to have public scoping and the preparation of an EIS. We request that the FS prepare such an EIS and that the HSC be provided a scoping comment period to provide input on the content of this EIS. We also request that we be sent a copy of the EIS, when it is prepared, so that we may review and comment on its contents and adequacy. (Preservation/Conservation Organization, Houston, TX - #12.6.15110.300)

In more than three decades since becoming law, NEPA has truly become "our basic national charter for protection of the environment." 40 C.F.R. § 1500.1(a). A key to NEPA's success has been the commitment to integrate "to the fullest extent possible" its goal of protecting and promoting environmental quality into the ongoing programs and actions of the federal government. 40 C.F.R. § 1500.2(c).

In this case, the federal government has embarked on an unprecedented program to reduce hazardous fuels on public lands without the benefit of NEPA disclosure, analysis and public review.

A programmatic Environmental Impact Statement ("EIS") was not prepared for the "Implementation Plan for the 10-year Comprehensive Strategy". This major federal program completed in May 2002 authorizes thousands of individual projects that will adversely affect wildlife, water quality, soils, watersheds and long-term productivity on millions of acres of public lands. In addition, an EIS was not prepared for this rulemaking process which proposes to create a broad new category of projects excluded from NEPA scrutiny. Both actions are contrary to law and frustrate our national commitment to protect, enhance and restore environmental quality. (Preservation/Conservation Organization, Santa Fe, NM - #1766.1.15110.001)

Public Concern: The USDAFS & DOI should indicate whether the 10-Year Comprehensive Strategy Implementation Plan was developed in compliance with the Federal Advisory Committee Act.

The FR Notice states: The resulting strategy, “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy,” completed in August of 2001, was developed by Federal, State, tribal, and local government and nongovernmental representatives. In May of 2002, these same parties completed the Implementation Plan for the 10-Year Comprehensive Strategy. Was this done in compliance with Federal Advisory Committee Act? (Preservation/Conservation Organization, Wood River, IL - #1405.6.23240.230)

10-Year Comprehensive Strategy Implementation Plan Public Involvement Requirements**Public Concern: The USDAFS & DOI should recognize that the collaborative framework within the 10-Year Comprehensive Strategy Implementation Plan allows public involvement at the same level as an environmental analysis.**

The proposed categorical exclusion is applicable only to projects developed through a public collaborative process identified in the 10-year Comprehensive Strategy. The Collaborative process assures public involvement at least to the degree afforded the public in an environmental analysis. (Sacramento Regional Council of Rural Counties, Sacramento, CA - #1161.6.15110.108)

Public Concern: The USDAFS & DOI should recognize that the 10-Year Comprehensive Strategy Implementation Plan does not ensure adequate public involvement.**BECAUSE IT LIMITS PARTICIPATION TO “STAKEHOLDER GROUPS WITH BROAD REPRESENTATION”**

The proposed procedures have the troubling potential to reduce, or even eliminate, public involvement concerning forest projects.

While the preamble to these proposed procedures mentions the “collaborative framework” in the “10-year comprehensive strategy” as providing for public involvement (see 67 Fed.Reg. 77042), such participation is limited to “stakeholder groups with broad representation.” Therefore, the proposed procedures fail to give local governments, adjacent and nearby homeowners, and the general public the opportunity to comment on specific projects scheduled for implementation on their own public lands. (Preservation/Conservation Organization, Aspen, CO - #1732.18.15110.108)

According to the proposal, The CE projects will “only apply to projects identified in a manner consistent with the collaborative framework in the 10-Year Comprehensive Strategy Implementation Plan.” (67 FR 77038) That plan, which was adopted by the Western Governors Association in cooperation with The Wilderness Society and other stakeholders, envisioned a collaborative decisionmaking process operating within the context of existing federal laws. “The Collaborative Framework established in the 10-year Comprehensive Strategy and further explained in the Implementation Plan will improve cooperation and communication among all parties at national, regional, and local levels, acknowledging that key project planning decisions should be made after collaboration at the local level.” (10-Year Comprehensive Strategy Implementation Plan, p. 7) Such now seem nearly impossible, due to the Bush administration’s recent aggressive measures to eliminate public notice and comment.

With the proposed CEs, it will be a struggle for the public even to know what federal management activities are planned within their own neighborhoods. The Comprehensive Strategy does not include an alternative public involvement process other than vaguely calling for the inclusion of “stakeholder groups with broad representation” in local decisionmaking. It provides no mechanism for involving interested citizens who are not members of stakeholder groups, most likely because the NEPA process was in place at the time the Plan was written. The Comprehensive Strategy gives the Forest Service the

final say on project selection, saying the “key decisions . . . should be made by the local land manager.”
Id. (Preservation/Conservation Organization, No Address - #1724.22.15110.108)

Public Concern: The USDAFS & DOI should recognize that the public involvement processes described in the 10-Year Comprehensive Strategy Implementation Plan are vague.

Besides depriving the public of information about the federal agencies’ decisionmaking processes, the CEs also curtail the public’s actual participation in the process. While it is true that the notice in the Federal Register states that use of the proposed CEs will “include the public as provided in the collaborative framework,” 67 Fed. Reg. 77042, the collaborative framework, as described in the 10-Year Strategy, does not provide a mechanism for public involvement. Instead, it vaguely promises to “increase public awareness and participation.” Absent specific requirements to allow public participation, this will not happen.

No one suggests that an EIS needs to be done prior to putting out an existing fire, but adopting long-term strategies which circumvent public participation in forest management is short sighted and will only serve to increase the amount paperwork and controversy coinciding with this process. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.20.12000.108)

The Forest Service states that they will include the ‘public as provided in the collaborative framework.’ What is the collaborative framework? As discussed in guidance documents the Forest Service defines “Collaborative Stewardship: as communities, interest groups, state and other federal agencies. What is the method for reaching out to these parties in order to identify and address issues of concern? In a media advisory issued January 13, 2003, the Department of the Interior and USDA announced a conference to be held merely two days later. In addition to the short notice, the limited time period in which to conduct a variety of discussions and activities could not possibly have addressed all the stated goals nor attracted all interested parties. This is an invalid means for both gathering public comment and establishing a collaborative framework for the entire categorical exclusion scoping process. NEPA already provides effective guidelines to facilitate this process. Why not implement and follow a strategy that already exists? There is no need to recreate the ambiguous wheel.

Fact sheets regarding this action indicate that the primary purpose of this action is to “Facilitate Timely Reviews of the Forest Health Restoration and Rehabilitation Projects.” This is also acknowledged in Notice of Proposed NEPA implementing procedures in 67 FR 77038, published December 16, 2002 for which comments were requested. Implementing a Categorical Exclusion for the purpose of efficiency runs counter to the stated purpose in CEQ regulations in 40 CFR 1508.4. The request for Categorical Exclusion is for the purpose of dealing with environmentally related impacts not for the purpose of speeding up the process. NEPA was not designed for the purpose of efficient planning and timely decisions, unless an emergency was to be declared, it was designed to address environmental effects. (Individual, Hampstead, MD - #1745.7.11300.300)

The public involvement clause in the Federal Register notice is totally vague and gives the public no assurance of being informed or involved in fuel reduction projects. The Federal Register notice just says “include the public [in the application of the proposed new categorical exclusions] as provided in the collaborative framework The hazardous fuels reduction categorical exclusion will be applicable only to projects identified consistent with this collaborative framework.” The Federal Register notice claims that the collaborative framework includes “extensive public participation,” when in fact the “collaborative framework” section of the 10-year strategy is only a few paragraphs long and somewhat un reassuring. It says, “Successful implementation will include stakeholder groups with broad representation including Federal, State, and local agencies, tribes and the public, collaborating with local line officers on decisionmaking to establish priorities, cooperate on activities, and increase public awareness and participation to reduce the risks to communities and environments.”
http://www.na.fs.fed.us/nfp/pa/major_reports/10yr_strat_plan/final_10yr_strategy.htm#Framework
(Preservation/Conservation Organization, Takoma Park, MD - #1591.4.12000.108)

WITH RESPECT TO THOSE WHO ARE NOT MEMBERS OF STAKEHOLDER GROUPS

The proposed CE has several sideboards, but they generally do not provide effective protection, particularly in light of other Bush administration regulatory changes.

CE projects would have to be identified based on the framework described in “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy”. However, the Comprehensive Strategy does not mention public involvement other than vaguely calling for inclusion of “Stakeholder groups with broad representation” in local decisionmaking. It provides no mechanism for involving interested citizens who are not members of stakeholder groups. The Comprehensive Strategy gives the Forest Service the final say on project selection, saying that “key decisions” should be made by the local land manager.” (Individual, No Address - #1245.3.15110.108)

WITH RESPECT TO RESOURCE ADVISORY COMMITTEES

We are concerned with the inadequate sideboards of the proposal:

Resource Advisory Committee (RACs) “The 10-Year Comprehensive Strategy provides a collaborative framework for the selection and prioritization of hazardous fuels reduction projects which includes extensive public participation. Indeed, local involvement is the primary source of annual hazardous fuels project planning, prioritization, and resource allocation. The hazardous fuels reduction categorical exclusion will be applicable only to projects with this collaborative framework.”

What is envisioned for a collaborative framework which includes extensive public participation? Will it be the RAC process? (Preservation/Conservation Organization, Kalispell, MT - #388.10.15110.108)

Public Concern: The USDAFS & DOI should recognize that the collaborative efforts utilized in the drafting of the 10-Year Comprehensive Strategy Implementation Plan did not include all “interested parties.”

To date, “collaboration” has not involved all “interested parties.” The notice frequently cites “A Collaborative approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy” as an example of collaboration that included “non-governmental representatives.” These representatives, based upon the list of those involved included in Appendix 2 of the 10-Year Strategy, was limited to national environmental groups such as the NRDC and Wilderness Society and to representatives of the timber and livestock industries. No effort was made to invite local or regional organizations to the table. Collaboration that involves only those interest groups the Forest Service and Department of Interior choose to invite is not collaboration but exclusion. The Wilderness Society and NRDC do not represent the interest of all environmentalists, and they certainly do not represent the UEC. (Preservation/Conservation Organization, Salt Lake City, UT - #396.3.12700.112)

To date, collaboration has not involved a sufficient number of interested parties. The notice frequently cites “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy” as an example of collaboration that included “non-governmental representatives.” These representatives, based upon the list of those involved included in Appendix 2 of the 10-Year Strategy, was limited to national environmental groups such as the NRDC and Wilderness Society and to representatives of the timber and livestock industries. No effort was made to invite local or regional organizations to the table. (Preservation/Conservation Organization, Saint Paul, MN - #1156.5.12700.108)

Public Concern: The USDAFS & DOI should prioritize and design projects in the context of the local collaborative framework within the 10-Year Comprehensive Strategy Implementation Plan.

The National Association of Counties is particularly anxious that the final rule require agencies to prioritize and design projects under the categorical exclusions in the context of the local collaborative framework contemplated by NACo, Secretaries Norton and Veneman and the Western Governors’ Association et al. in the 10-Year Strategy and its Implementation Plan. County officials, local landowners and other stakeholders have, as Assistant Secretary Scarlett put it, “the textured, tailored

knowledge of specific circumstance that is so important to environmental problem solving.” Furthermore, it is imperative that agency professionals fully engage in the local collaborative processes so that appropriate projects can be identified and planned in a timely manner.

Assuming that projects are properly designed with local expertise and specificity, NACo questions the necessity of precluding projects in wilderness or wilderness study areas, the use of pesticides and herbicides and the construction of roads. It is quite possible that such tools could be appropriate and not trigger the more burdensome NEPA documentation requirements for an EA or an EIS. (Government Employee/Union, Washington, DC - #1402.2.11310.108)

Consistency Between 10-Year Comprehensive Strategy Implementation Plan and Proposed Fire Management CEs

Public Concern: The USDAFS & DOI should clarify the relationship between the proposed fire management CEs and the 10-Year Comprehensive Strategy Implementation Plan.

Please describe in the final rule, how projects would be determined to be consistent with the 10-Year Comprehensive Strategy Implementation Plan. How does the 10-Year Plan provide a framework for the selection and prioritization of hazardous fuels reduction projects? How does this comply with NEPA? (Individual, Meridian, ID - #1432.10.15110.101)

Public Concern: The USDAFS & DOI should provide more information regarding the content of the 10-Year Comprehensive Strategy Implementation Plan.

SO THE PUBLIC CAN ASSESS WHETHER PROJECTS UNDER THE PROPOSED FIRE MANAGEMENT CE'S ARE CONSISTENT WITH THE COLLABORATIVE FRAMEWORK WITHIN THE PLAN

The 10-Year Comprehensive Strategy is touted many times in this Federal Register as being a model of public involvement. Perhaps it was.

The Federal Register then says that the projects that might fit these two new CE categories should be consistent with the framework described in “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan.”

How do you expect the public to respond to this, when you include next to nothing about the content of the Strategy in the Federal Register?

Just because the Strategy provided a collaborative framework for the selection and prioritization of hazardous fuels reduction projects do not automatically mean that the public will accept using CEs for all prioritized projects on the list. This is twisted logic. (Individual, Grangeville, ID - #10.13.12100.104)

Public Concern: The USDAFS & DOI should ensure consistency between the proposed fire management CEs and the 10-Year Comprehensive Strategy Implementation Plan.

We are very pleased to see the administration developing administrative measures closely linked to the 10-year Comprehensive Strategy Implementation Plan (10-year IP). Developed by diverse stakeholders brought together with the common goal of reducing wildfire risks, the 10-year IP emphasizes a collaborative approach needed to work beyond the ideological and philosophical differences in public land management. We applaud this Federal Register notice as the first commitment of the administration in regulation to apply the collaborative framework for project selection as outlined in the 10-year IP.

Forest ecosystems are complex, diverse and vary from region to region. In this regard, we believe sound science needs to guide project implementation through the collaborative project selection process.

We would prefer to see more specificity identifying which implementation tasks contained within the 10-year IP are addressed by these categorical exclusions. Detailing how this notice relates to the 10-year IP action items to develop a collaborative process for fuel reduction (Goal II) and ecosystem restoration (Goal III) projects would be useful.

We understand that a Memorandum of Understanding (MOU) is being developed by Federal, State, Tribal and local government entities. There are links between this notice and the agreements being made in that MOU and we urge you to consider development of these rules in the context of the MOU.

Along these lines, we encourage the administration to look to the 10-year IP more often for common ground and solutions when dealing with the contentious issue of wildfire management. We hope that the final rule establishes a robust and meaningful collaborative process. (Multiple Use or Land Rights Organization, No Address - #1729.2.15110.100)

It should be very clear that the categorical exclusions should be guided by the Ten Year Comprehensive Strategy. (Individual, Spearfish, SD - #1829.4.15110.100)

Forest experts predict fuels treatments lose their effectiveness in many western forests within five to 10 years, creating a perpetual cycle of fuels treatment activities. Assuming the treatment objective of the implementation plan is met, the first acres treated will be in the same condition in ten years that they are today. Unless an expedited process is continued which allows treatments at the same scale and pace required in the Comprehensive Strategy, the proposed category exclusion is merely a ten year delay of catastrophic wildfire. We suggest the categorical exclusions be made applicable to the 10 year Comprehensive Strategy Implementation Plan and subsequent established fire risk reduction plans. (Sacramento Regional Council of Rural Counties, Sacramento, CA - #1161.2.15110.602)

WITH RESPECT TO THE GOALS OF THE 10-YEAR COMPREHENSIVE STRATEGY IMPLEMENTATION PLAN

On page 77040 you state in the left most column that “Moreover, a key implementation task requires agencies to assess regulatory processes governing hazardous fuels projects and activities done in conformance with the 10-Year Comprehensive Strategy and Implementation Plan and to improve the timeliness of decisions. The proposed categorical exclusions respond to this task and the goal of restoring fire adapted ecosystems under Goal Three of the 10-Year Comprehensive Strategy Implementation Plan.” In fact, goal 2 does not actually state that agencies assess regulatory processes governing hazardous fuels projects, instead the goal states that agencies should assess regulatory processes related to ALL projects and activities. Your statement implies to the public that the process is limited to just hazardous fuels projects which is clearly wrong. I would suggest you strike the term hazardous fuels projects. (Business, Arcata, CA - #860.1.12100.109)

WITH RESPECT TO PUBLIC INVOLVEMENT AND COLLABORATION

Collaborative Approach to Reducing Wildland Fire Risk Strategy - This strategy, which is the basis for the draft changes to the CE regulations, continuously refers to the need to have an “open, collaborative process” “among citizens,” and that a “community based approach” is needed for success. At the same time you state with one hand—open process, while you implement with the other hand—minimum public input of a CE, no addressing of public issues, no alternatives, no discussion of the consequences of your proposal, and no appeal. Your claim to increase public involvement is misleading the public, and you are failing to follow your own Strategy of openness.

Page 9 of the Strategy states that local environmental conditions should be factored into hazardous fuels treatment planning. How does elimination of preparing EAs for almost all projects incorporate local environmental conditions and the public’s concerns about those conditions?

Page 11 of the Strategy states that you will increase the incentive for private landowners and promote local government initiatives to reduce wildfire risk. You are eliminating the historical public process (EA/EIS) which is the most visible, public oriented process you have. The process could involve and help inspire local government and private actions to reduce wildfire vulnerability in communities, another Strategy goal. How will a CE meet or contribute to the agenda of local involvement in the Strategy, and how will it be more effective than a rigorous EA/EIS process? (Individual, Canton, KY - #137.6.12000.104)

The expansion of these CEs is contrary to the Collaborative Framework. One thing the collaborative framework does call for is fully informed decisions. Thus, the entire concept of this proposed expansion of these CEs is contrary to the collaborative framework which provides in part “facilitate the exchange

of technical information to make fully informed decisions.” Fully informed decisions cannot be made unless alternatives are considered, environmental consequences are considered, differing public and scientific views are considered, etc. This is the core purpose of NEPA. A CE is by definition a means of making a uninformed and undocumented decision.

The referenced Framework for Collaboration in the 10-Year Comprehensive Strategy goes on:

There should be an ongoing process whereby the local, tribal, State and federal land management, scientific, and regulatory agencies exchange the requisite technical information to make fully informed decisions. At a minimum, the information that is shared should include assessment of the communities at risk, current vegetative conditions with respect to the likelihood of severe wildland fire, threats to key habitat and water quality (such as post-fire erosion), air quality and local economies, and the risks and trade-offs inherent to active management. This process should include specific outreach and coordination efforts that:

Allow for complete, current, and cooperative information sharing at all levels to assure maximum resource, policy, and scientific informational exchange. Coordinate with local, tribal, state, and federal governments and agencies and others in documenting specific resource needs, goals and objectives.

Conduct appropriate outreach to communicate the operational needs of implementing this strategy.

Include as part of the Implementation Plan to be developed for the strategy, an information system designed to facilitate information gathering and exchange.

A categorical exclusion does not “include assessment of the communities at risk, current vegetative conditions with respect to the likelihood of severe wildland fire, threats to key habitat and water quality (such as post-fire erosion), air quality and local economies, and the risks and trade-offs inherent to active management.” Nor does a CE “Allow for complete, current, and cooperative information sharing at all levels to assure maximum resource, policy, and scientific informational exchange. Clearly, the Framework for Collaboration contemplated more complete NEPA analysis in order to arrive at fully informed fuel reduction decisions. (Preservation/Conservation Organization, Ashland, OR - #1411.14-15.15110.001)

The Federal Register notice states that the hazardous fuels reduction categorical exclusion will only apply to projects identified in a manner consistent with the collaborative framework in the 10-Year Comprehensive Strategy Implementation Plan. But that “Plan” was not subject to the NEPA and its provisions for public comment. Further, the Plan was adopted under the agreement that it would be implemented only through the existing legal and statutory framework. In particular the “Plan” states, “The implementation plan does not alter, diminish, or expand the existing processes of participating Federal, State, and Tribal agencies.”

Changing that framework as the administration proposes to do via this rulemaking invalidates the conditions under which the “Plan” was adopted by its various collaborators and contributors and thus the “Plan” itself is no longer valid. The “Plan” was conceived and adopted under the constraints of existing law, the proposed rulemaking changes the context of the “Plan.”

A key provision of the “Plan” and the law itself that generated the “Plan” is “close collaboration among citizens and government at all levels.” Again, the “Framework for Collaboration” states clearly that information sharing is critical and that at the local level the framework will “increase public awareness and participation” and “facilitate the exchange of technical information to make fully informed decisions and should include specific outreach and coordination efforts.” Under “Information Sharing,” the Framework goes on to state that “at a minimum the information that is shared should include assessment of the communities at risk, current vegetative conditions with respect to the likelihood of severe wildland fire, threats to key habitat and water quality (such as post-fire erosion), air quality and local economies, and the risks and trade-offs inherent to active management.” essential nature of a categorical exclusion is contrary to the stated intent of the “Framework for Collaboration” because it would remove the public and citizens from the information sharing process and exempt these categories of actions from any type of environmental analysis. Thus, the proposed rule conveniently and deviously cut out citizen participation from these activities on Forest Service lands, effectively eroding the democratic process. (Preservation/Conservation Organization, Boulder, CO - #1186.26-27.15110.108)

The proposed CE is inconsistent with the citizen participation spirit of the National Fire Plan. The federal register notice states that the hazardous fuels reduction categorical exclusion will only apply to projects identified in a manner consistent with the collaborative framework in the 10-year Comprehensive Strategy Implementation Plan. But that "Plan" was not subject to the NEPA and its provisions for public comment. Further, the Plan was adopted under the agreement that it would be implemented only through the existing legal and statutory framework. Citizen involvement will be further curtailed as the proposed Fuels CE rule relates directly to the proposed changes in the "Appeals Reform Act" implementing regulations, which preclude public notice for any projects and activities which are categorically excluded in an EIS or EA pursuant to FSH 1909.15, sections 31.1 and 31.2. (67 Fed. Reg. 77451-77463). (Individual, No Address - #1289.5.17120.108)

Public Concern: The USDAFS & DOI should ensure that there is not consistency between the proposed fire management CEs and the collaborative framework in the 10-Year Comprehensive Strategy Implementation Plan.

BECAUSE THE PLAN PLACES TOO MUCH EMPHASIS ON MARKET BASED APPROACHES

The proposed rule places undue emphasis on commercial logging.

Without limiting the proposal to the wildland-urban interface, it will be used to accelerate commercial logging on millions of acres of public land and provide incentive for managers to masquerade timber projects as restoration projects in order to avoid environmental analysis. The rule requires that activities be "consistent with the framework described in A Collaborative Approach for Reducing Wildland Fire Risks and the 10-Year Comprehensive Strategy Implementation Plan." These plans place undue and irresponsible emphasis on "market-based approaches."

The Comprehensive Strategy states that "Market-based approaches, wherever feasible and cost effective, that offset the cost of hazardous fuels reduction are encouraged when appropriate." The Implementation Plan specifically states that reducing the threat of wildfire requires "thinning that produces commercial or pre-commercial products." Implementation Plan, at 3; see also 67 F.R. 77041 (2002). Reducing hazardous fuels is one of the four central goals of the Implementation Plan. One of the three measures of performance of that goal is the number of acres treated per million dollars gross investment. Implementation Plan, at 7.

With the emphasis on market-based approaches, the Forest Service will reduce fuels by thinning commercial timber, or by trading fuels reduction work for commercial timber. To keep the ratio of acres treated per million dollars high, commercial benefit will become the priority in "fuels reduction" projects. These projects will be concentrated in remote areas with more large-diameter, commercial timber, at the expense of less profitable activities in the wildland-urban interface. And the areas purportedly in need of intervention will go unprotected. The Forest Service must close this loophole by limiting fuels reduction activities to the wildland-urban interface assuring the high-risk areas in the interface have absolute priority. (Preservation/Conservation Organization, Copper Hill, VA - #816.8-9.15120.001)

Public Concern: The USDAFS & DOI should specify that the proposed fire management CEs will be "guided by," rather than "consistent with," the 10-Year Comprehensive Strategy Implementation Plan.

While we support the inclusion of the new categories, we have some concerns about the proposed rule and some suggestions regarding the preamble.

The rule has a potential of creating a new cause of action, "failure to be consistent with the 10-Year Comprehensive Strategy Implementation Plan". The rule discusses how the projects will go forward only when consistent with the Comprehensive Strategy. There is a possibility of disputes of consistency and the agencies should write the rule in a way that does not create a new cause of action. A better term is that the categorically excluded project will be "guided by" rather than must be "consistent with" the Comprehensive Strategy. For example, a goal of the Comprehensive strategy is to "facilitate a collaborative approach". If public comment is not allowed is the project "inconsistent" with the

Comprehensive Strategy? It is not clear when or how public involvement will occur for the categorically excluded projects. (Timber or Wood Products Industry, Cottage Grove, OR - #1603.6.15110.108)

1994 Northwest Forest Plan

Public Concern: The USDAFS & DOI should support the 1994 Northwest Forest Plan.

No, I want our forests healthy and I want our economy healthy. That's why I strongly support the 1994 Northwest Forest Plan, a plan that should allow the production of a billion board feet of timber per year. This is a plan that was a well thought out plan. It's a plan that was put together to protect wildlife habitat, to protect recreational areas. But it's a plan that's got another dividend, besides a healthy forest. It means 100,000 jobs—this would be sustainable timber harvesting on a small portion of the forest. The prior administration developed and agreed to this plan. I support the plan. Congress needs to pass the laws necessary to implement the plan. (Individual, Troy, MT - #1878.12.15100.001)

2000 Strategic Plan

Public Concern: The USDAFS & DOI should adhere to the Forest Service 2000 Strategic Plan.

The 2000 Strategic Plan can be summarized in its one sentence mission statement.

“The mission of the USDA Forest Service is to sustain the health, diversity and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.”

There it appears that the National Forest Service has a huge interest in the opinions of the American public in order to meet the needs of present and future generations. These opinions are a piece of information needed to manage our forest lands and provide for future sustainability. Imagine the difficulty of a medical doctor who had to assess the prognosis of a patient who is unable to provide any information because the patient's ability to communicate was eliminated. Does the elimination of public comment and environmental review sound like a fair policy?

We must continue the public comment and environmental review process on proposed logging projects. I strongly urge the Bush administration to adhere to the National Forest Service Strategic Plan and not deny the American public a voice. (Individual, Seattle, WA - #1670.1.11300.100)

Appeal Rule (215 Appeals Revision)

Public Concern: The USDAFS & DOI should implement the revised Appeal Rule.

We support proposed amendments which will restrict appeals of management decisions to the Appeals Reform Act (ARA). (Place-Based Group, Fresno, CA - #825.2.15000.000)

Public Concern: The USDAFS & DOI should not implement the revised Appeal Rule.

I . . . strongly oppose recent proposals to change the FLPMA and Administrative Appeals procedures. I feel that current proposals challenge my freedom as a citizen to voice my opinion and concern for national forest management. (Individual, Olympia, WA - #1100.3.15000.108)

I . . . urge you to oppose proposed amendments to the Appeals Reform Act (ARA) regulations, which would restrict appeals of management decisions (proposed 12/18/02), and amendments to the National Forest Management Act (NFMA) regulations which would eliminate public comment and wildlife protection in forest plans (proposed 11/27/02).

These amendments compromise the ability of the citizens of the U.S. to have a say in the fate of the nation's forests which belong to all of us and all the generations of Americans to come. These

amendments are proposed by non-elected public appointees and do not address the safety and preservation concerns of the American public. (Individual, Denver, CO - #881.2.15000.001)

A major flaw with the plans is the changes to the Appeals Reform Act, which would eliminate the public's ability to appeal decisions and changes to the National Forests' plans. This is blatantly stripping the public of its rights and handing them to industry. It is also putting the administration's short sighted, flawed ideas right in the open, making their intentions obvious. If anyone might disagree with what I am saying, I ask this question: If Bush's plans are indeed beneficial for forests and the communities near forests, then why is he trying so hard to block any public appeal? The answer is clear, eventually the public will see that Bush's plans are decimating our forests, damaging tourism and the economies of towns near forests, and causing other problems like water contamination. Some will (let's say, in a year) try to appeal the plans because of this, but they will be unsuccessful because the public's right to appeal a decision would have been eliminated (a little future planning on Bush's part). If Bush's plans were beneficial to the majority of the public, then why is he "planning" for public appeals of his plans by eliminating the public's right to do so? (Individual, Hoboken, NJ - #1173.3.15140.108)

BECAUSE IT IS CONTRARY TO THE APPEALS REFORM ACT

Prohibiting citizen appeals is contrary to the 1992 Appeals Reform Act. Congress mandated in the 1992 Appeals Reform Act that all activities that implement forest plans must be subject to citizen appeal. "the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans . . . and shall modify the procedure for appeals of decisions concerning such projects." 16 USC 1612 note P.L. 102-381 Oct. 5, 1992. (Preservation/Conservation Organization, Eugene, OR - #846.28.15000.108)

Public Concern: The USDAFS & DOI should consider that the cumulative effect of the proposed fire management CEs and the revised Appeal Rule is to significantly curtail public involvement.

Since these two CE regulations would exempt fuel reduction projects from NEPA requirements, and the proposed Appeal's Reform Act regulations (proposed 12/18/02) would exempt all CE projects from public notice and comment and administrative appeals, the cumulative effect is to eliminate virtually any opportunity for the public to comment on or appeal these projects. Continued public oversight of Forest Service projects is vital to ensure compliance with our nation's venerable environmental laws and also needed to comply with the stated intention of having a "collaborative approach for reducing wildland fire risks to communities and the environment" as outlined in the 10-Year Comprehensive Strategy. (Preservation/Conservation Organization, Paradise, CA - #1414.4.15140.108)

Citizen involvement will be further curtailed as the proposed Fuel CE rule relates directly to the proposed changes in the "Appeals Reform Act" implementing regulations, which preclude public notice for any projects and activities which are categorically excluded in an EIS or EA pursuant to FSH 1909.15, sections 31.1 and 31.2 (the very same sections under consideration in the present rule change). (67 Fed. Reg. 77451-77463). Not only will these procedures avoid a public NEPA process, they will also avoid "notice" under 36 CFR 215.4(b) simply because they are CEs. Any NEPA "scoping" would only have to be internal to the Forest Service and would not require involvement of the public or even "notice" to the public that such a CE project was being proposed. Thus, the two proposed rules together conveniently and deviously cut out citizen participation from these activities on Forest Service lands, effectively eroding the democratic process. (Preservation/Conservation Organization, Boulder, CO - #1186.28.15140.108)

The emerging regulatory situation is potentially even more problematic if one looks beyond just the proposed rule. According to other proposed changes to the appeal regulations at 36 C.F.R. [section] 215, projects that are documented with a CE would be exempt from "legal notice and opportunity to comment." See proposed section 215.4(b), 67 Fed.Reg. 77459 (Dec. 18, 2002). Furthermore, under the

proposed new regulation, CEs would not be subject to administrative appeal. See proposed Section 215.11(e), id at 77461.

The net result could be that no public comment would be allowed on fuel reduction and post-fire rehabilitation projects if both the proposed NEPA procedure and modification of the appeal regulations are approved as currently written. (Preservation/Conservation Organization, Montpelier, VT - #808.7.15140.108)

Proposed changes to the Appeals Reform Act implementing regulations do away with public notice for projects that are categorically excluded from an EIS or environmental assessment pursuant to Forest Service Handbook 1909.15, section 31.1 and 31.2 (67 Federal Register 77451-77463). In turn, this rulemaking vastly expands these same categorical exclusions to include all projects claiming to treat hazardous fuels.

Unfortunately, it is not disclosed how many projects will be covered, how many acres will be affected or how many trees will be removed. But since almost every project includes hazardous fuels reduction, the vast majority of vegetation manipulation on public lands will likely take place without public comment or notification of any kind.

As if this were not enough, restricting public notice and comment also flies in the face of the carefully negotiated collaborative framework's commitment to "increase public awareness and participation" and include "specific outreach and coordination efforts" (A collaborative approach for reducing wildland fire risks to communities and the environment 10-year comprehensive strategy, p. 12).

The combined effects of these actions frustrate a central purpose of NEPA which mandates that "federal agencies shall to the fullest extent possible . . . encourage and facilitate public involvement in decisions which affect the quality of the human environment." 40 C.F.R. § 1500.2(d). Such a basic erosion of public rights, as proposed here, must be fully analyzed and disclosed in an EIS where the public can exercise its democratic right to informed dissent. (Preservation/Conservation Organization, Santa Fe, NM - #1766.10.15000.108)

The result of this proposed CE and proposed limits on administrative appeals is to remove many significant Forest Service projects from public review. By avoiding NEPA documentation, logging projects labeled "fuels reduction projects" may proceed without full analysis of consequences and alternatives. Under the proposed appeals regulations, all activities which are categorically excluded from NEPA are exempt from public notice and comment and cannot be administratively appealed. 67 F.R. 77451. This means the Forest Service may undertake unlimited "thinning" and temporary road-building on public lands without public involvement. The public has a right to participate in and comment on decisions involving public lands. The Forest Service cannot implement a national fuels reduction plan without public participation and comment. (Preservation/Conservation Organization, Saint Paul, MN - #1156.45.15000.108)

Endangered Species Act 2002 Net Benefit Guidance

Public Concern: The USDAFS & DOI should consider the cumulative effect of the proposed fire management CEs and the net benefit guidance in the 2002 directive regarding Endangered Species Act consultation requirements.

The Federal Register notice states that projects subject to a CE "must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service." However, a directive on endangered species consultation was issued in December 2002. This directive unreasonably assumes that long-term benefits of fuel reduction activities will outweigh short-term impacts to endangered species except in "very rare situations". But short-term negative impacts could be enough to lead to the extirpation of some populations long before any long-term benefit became available. It seems clear that the proposed categorical exclusions in the context of the directive would be covered by these "expedited

reviews”, leaving another gap in adequate determination of effects. (Preservation/Conservation Organization, Staunton, VA - #1493.19.11130.315)

It is essential to evaluate the cumulative effect of these numerous rule changes.

Many of the regulatory changes have the cumulative effect of undercutting the proposed CE sideboards that are supposedly intended to safeguard environmental quality.

The notice states that projects subject to a CE “must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.” (67 FR 77,041) Yet, the December 10 HFI guidance from those two agencies greatly lowers the level of scrutiny of fuel reduction projects by assuming that the long-term benefits of such projects will outweigh any short-term impacts to endangered species, except in “very rare situations.” ESA Net Benefit Guidance, <http://www.fs.fed.us/projects/HFI.shtml>. Furthermore, there is no limitation on segmenting projects into actions on a scale small enough to avoid ESA protection. For example, multiple fuel reduction or fire rehabilitation projects in a watershed could avoid being assessed in a single consultation document. (Preservation/Conservation Organization, No Address - #1724.5.15000.315)

Public Concern: The USDAFS & DOI should support revisions to Fish and Wildlife Service policies on long-term benefits versus short-term effects.

Most land and resource management plans in Arizona and New Mexico are obligated to implementation of the Mexican spotted owl (MSO) recovery plan. The MSO recovery plan prohibits reduction of tree densities below arbitrary thresholds in the woodland, ponderosa and mixed-conifer zones. Those thresholds have been identified as placing the forests at risk to insect and disease infestation and catastrophic wildfire.

The above situation coupled with the proposed revisions to the FSH and DM will leave the southwest region in a Catch 22. That is why we are also highly supportive of revisions in the Fish and Wildlife Service’s policies on consideration of long term benefits vs. short term impacts for the purpose of reducing the overall threat of catastrophic fire to sensitive, threatened and endangered species. (Coalition of Arizona/New Mexico Counties, Glenwood, NM - #1628.6.15000.322)

Public Concern: The USDAFS & DOI should support the speeding up of Endangered Species Act review on fuels treatment projects

President Bush and Secretaries Veneman and Norton have announced four administrative changes that will allow us to actually move fast enough to have an immediate positive impact on forest health and rehabilitation.

The second two changes have to do with speeding ESA review on fuels treatment projects and improving the Environmental Assessment process on forest health projects. Provisions are being made to test this with ten demonstration projects on the fast track. We are asking for your support on these changes. By staying in political gridlock on these issues we are virtually guaranteeing destruction of habitat, loss of lives, and economic hardship. Let’s look beyond politics and do the right thing. (Business, Portland, OR - #1503.4.15000.001)

BECAUSE THIS MAY ALLOW A MORE REASONABLE APPROACH TO FUELS REDUCTION IN THE SIERRA NEVADA

You state that categorical exclusions must be consistent with applicable land and resource management plans. . . . the SNFPA will preclude the use of categorical exclusions for hazardous fuel reduction projects from most of the 11.5 million acres in the Sierra Nevada Range and as a consequence is clearly not in line with the National Fire Plan. In October 2001, the Fish and Wildlife Service stated in its biological evaluation of the SNFPA that it was their view that mechanical treatments for fuels reduction posed a greater threat to T and E species and sensitive species than wild fire. We are encouraged by the December 10, 2002 Fish and Wildlife Service guidance that directs the Service to adopt a “long term view” when consulting on fuels treatment projects under section 7 of the ESA. We hope that this change

in direction by the Fish and Wildlife Service will allow a more reasoned approach to fuels reduction in the Sierra Nevada Range. (Multiple Use or Land Rights Organization, Auberry, CA - #820.4.15000.112)

Limited Timber Harvest Proposed CEs

Public Concern: The USDAFS & DOI should consider the cumulative effects of the proposed fire management CEs and the proposed limited timber harvest CEs.

There are two proposals for categorical exclusions—this one with big loopholes for all kinds of environmentally destructive activities, and another with three proposals to allow up to 250 acres of clearcutting with no NEPA, going on simultaneously. How can there not be cumulative impacts? There is nothing in the wording of this CE that prohibits tree cutting, but we want to object strongly to any CE that allows tree cutting on our national forests with no environmental studies.

There must be a rational finding that these projects do not have a cumulative impact, and it must be supported by the record. This Federal Register notice's conclusory assertions of no impact with vague citations to uncited materials not subject to public scrutiny is inadequate to meet that standard. (Individual, No Address - #311.2.15000.109)

Although comments on this rule apply to the first two categories, it is difficult to not at least take a look at the additional three categories also out for rulemaking change (those comments are due March 10, 2003). We will contain our comments to the first two exclusion categories but make the comment here that individually and cumulatively effects of these five could be extremely environmentally destructive. (Preservation/Conservation Organization, Olympia, WA - #1372.2.15000.300)

National Fire Plan

Public Concern: The USDAFS & DOI should recognize that the process used to develop the proposed fire management CEs contradicts the National Fire Plan's commitment to foster collaboration.

The process by which this proposal was created and its result explicitly contradicts the commitment in the National Fire Plan to foster collaboration. First, this proposal was developed without input from the states. This omission is particularly troubling in that the agencies had several existing, effective, informed mechanisms, such as the Western Governor's Association, and the Western Forestry Leadership Coalition, available to them to collaborate with in crafting the proposal. Second, the public was not included in the Forest Service review of the 3000 fuels reduction projects, nor was it included in developing this proposal. Third, removing the NEPA analysis eliminates the opportunity for the public to participate in the process, again, explicitly contradicting the National Fire Plan. Fourth and finally, by failing to establish an explicit collaborative process for project selection (and oversight), California, other states and the public are essentially left out of the process entirely, again, inconsistent with the National Fire Plan. (Resources Agency, State of California, Sacramento, CA - #1705.7.12700.101)

Public Concern: The USDAFS & DOI should prepare an environmental impact statement and carry out Endangered Species Act consultation prior to incorporating the National Fire Plan into land management guidelines.

The Incorporation of "A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment: 10-Year Comprehensive Strategy" and Implementation Plan into the Proposed CEs requires NEPA Analysis and ESA Consultation.

While I support some of the tenets outlined in the National Fire Plan, I note that the Departments' direct incorporation of the NFP into land management guidelines requires the preparation of an EIS and ESA consultation. The failure to undertake such analysis and review is arbitrary and capricious. (Individual, Seattle, WA - #1138.10.17100.101)

The Departments are clear in their intent to incorporate the “Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment: 10-Year Comprehensive Strategy” and Implementation Plan (collectively, “National Fire Plan” or “NFP”) into the proposed CEs. See generally, 67 Fed. Reg. 77039-77040. While we support some of the tenets outlined in the National Fire Plan, we note that the Departments’ direct incorporation of the NFP into land management guidelines requires the preparation of an EIS and ESA consultation. The failure to undertake such analysis and review is arbitrary and capricious.

In *Lane County Audubon Society et al. v. Jamison*, the Ninth Circuit held that the Jamison Strategy—a strategy developed by the Bureau of Land Management to conserve the northern spotted owl and its habitat—was an agency action necessitating ESA consultation. *Lane County Audubon Society et al. v. Jamison*, 958 F.2d 290, 294 (9th Cir. 1992). Although the BLM maintained that the Jamison Strategy was only a “voluntarily created ‘policy statement,’” the court held that the regulations implementing the ESA and the nature of the Strategy itself rendered the Jamison Strategy a federal agency action. *Id.* at 293; see also, 50 C.F.R. § 402.02.

The court also noted that the plaintiffs in *Lane County Audubon* were free to proceed with National Environmental Policy Act claims regarding the Jamison Strategy. *Lane County Audubon Society*, 958 F.2d at 293, fn. 4. In particular, the plaintiffs alleged that the new information surrounding the owl that was incorporated into the Jamison Strategy required the preparation of a supplemental environmental impact statement for the various Resource Management Plans for the BLM Districts at issue. *Seattle Audubon Society et al. v. Evans*, 952 F.2d 297, 302 (9th Cir. 1991).

We point out the similarities between the Jamison Strategy and the National Fire Plan. The Departments intend to implement many of the goals outlined in the NFP through the fuels reduction and fire restoration CEs. While the Departments may maintain that the NFP is a mere “policy statement,” it is clear that the Departments are attempting to influence land management decisions according to that “policy statement.” The courts have made it clear that these types of proposals are federal actions, requiring both NEPA compliance and ESA consultation. 16 U.S.C. § 1536; 50 C.F.R. § 402.02; 42 U.S.C. § 4332.

Until the Departments prepare a legally adequate environmental impact statement for the NFP and submit it to the National Marine Fisheries Service and Fish and Wildlife Service for ESA consultation, the decision to move forward with the proposed CEs is arbitrary and capricious, as well as an agency decision made “without observation of procedure required by law.” 5 U.S.C. § 706(2)(A), (D). (*Preservation/Conservation Organization, Bloomington, IN - #1343.25-26.15120.230*)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs are not consistent with the National Fire Plan.

WITH RESPECT TO PUBLIC INVOLVEMENT AND ENVIRONMENTAL ANALYSIS

The CE is inconsistent with the Fire Plan.

The Federal Register notice states that the hazardous fuels reduction categorical exclusion will only apply to projects identified in a manner consistent with the collaborative framework in the 10-Year Comprehensive Strategy Implementation Plan. But that “Plan” was not subject to the NEPA and its provisions for public comment. Further, the Plan was adopted under the agreement that it would be implemented only through the existing legal and statutory framework. In particular the “Plan” states, “The implementation plan does not alter, diminish, or expand the existing processes of participating Federal, State, and Tribal agencies.” [Footnote 18: *A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, 10-Year Comprehensive Strategy: Implementation Plan*. May 2002. p.5]

Changing that framework as the administration proposes to do via this rulemaking invalidates the conditions under which the “Plan” was adopted by its various collaborators and contributors and thus the “Plan” itself is no longer valid. The “Plan” was conceived and adopted under the constraints of existing law, the proposed rulemaking changes the context of the “Plan.”

A key provision of the “Plan” and the law itself that generated the “Plan” is “close collaboration among citizens and government at all levels.” [Footnote 19: *Public Law 106-291. Conference Report for the Fiscal Year 2001 Interior and Related Agencies Appropriations Act*] Again, the “Framework for

Collaboration” states clearly that information sharing is critical and that at the local level the framework will “increase public awareness and participation” and “facilitate the exchange of technical information to make fully informed decisions and should include specific outreach and coordination efforts.” [Footnote 20: A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, 10-Year Comprehensive Strategy. August 2001. p. 12] Under “Information Sharing,” the Framework goes on to state that “at a minimum the information that is shared should include assessment of the communities at risk, current vegetative conditions with respect to the likelihood of severe wildland fire, threats to key habitat and water quality (such as post-fire erosion), air quality and local economies, and the risks and trade-offs inherent to active management.” [Footnote 21: Ibid at 12-13.]

The essential nature of a categorical exclusion is contrary to the stated intent of the “Framework for Collaboration” because it would remove the public and citizens from the information sharing process and exempt these categories of actions from any type of environmental analysis.

Because, the categorical exclusion effectively excludes citizen participation and environmental analysis, the proposed rulemaking violates the very laws and collaborative documents it invokes as justification. (Preservation/Conservation Organization, Chapel Hill, NC - #1730.33-34.15120.108)

The proposed CE is inconsistent with the citizen participation spirit of the National Fire Plan. The Federal Register notice states that the hazardous reduction categorical exclusion will only apply to projects identified in a manner consistent with the collaborative framework in the 10-Year comprehensive Strategy Implementation Plan. But that “Plan” was not adopted under the agreement that it would be implemented only through the existing legal and statutory framework. Citizen involvement will be further curtailed as the proposed Fuels CE rule relates directly to the proposed changes in the “Appeals Reforms Act” implementing regulations, which preclude public notice for any projects and activities which are categorically excluded in an EIS or EA pursuant to FSH 1909.15, sections 31.1 and 32.2 (67 Fed. Reg. 77451-77463). (Individual, Salt Lake City, UT - #1659.5.11300.108)

The Department intends to implement many of the goals outlined in the NFP [National Fire Plan] through the fuels reduction and fire restoration CEs. While the Departments may maintain that the NFP is a mere “policy statement,” it is clear that the Departments are attempting to influence land management decisions according to that policy statement. The courts have made it clear that these types of proposals are federal actions, requiring both NEPA compliance and ESA consultation. 16 U.S.C. § 1536; 50 C.F.R. § 402.02; 42 U.S.C. § 4332. (Preservation/Conservation Organization, Republic, WA - #1429.3.15120.100)

Public Concern: The USDAFS & DOI should not incorporate the National Fire Plan into the proposed fire management CEs.

I support President Bush’s proposal with the exception of implementation of the National Fire Plan.

The National Fire Plan is a product of ecosystem management policy and has not been subjected to NEPA analysis as to cumulative effects. The amount of smoke particles sent into the air from allowing forests to burn is a severe threat to the health of our citizens.

The amount of wildlife that is sacrificed by using fire to thin the forests is staggering.

The amount of contamination to our headwaters from the ash, soil, debris and dead animals washing into our streams after the wildland fires is unacceptable.

Healthy forests can be and have been sustainable for over 100 years through the National Land Management Plan. Selective thinning can be used for forest management rather than the ecosystem management on a landscape scale being implemented by policy rather than congressional law. (Individual, Republic, WA - #1078.1.15120.300)

Public Concern: The USDAFS & DOI should recognize that the National Fire Plan Operations and Reporting System may not be effective in assessing the progress and effectiveness of planning and implementation.

The NFP sets up a National Fire Plan Operations and Reporting Systems (NFPORS), the primary purpose of which is “to assess the progress and effectiveness of planning and implementation.” (NFP, Pg. 15, P.1). The primary emphasis is based on process. Because the proposed CEs virtually eliminates all review procedures, it is probable that decisionmaking will be expedited, and monitoring and review will happen long after the projects have been completed, if at all. If indeed these projects do cause significant environmental harm, it will be too late as the ecological damage will already have been done to the resource.

The Forest Service has a history of abuse and lack of accountability. See generally, General Accounting Office. Reducing Wildfire Threats: Funds Should be Targeted to the Highest Risk Areas. GAO/T-RCED-00-296 and General Accounting Office. 2001. Financial Management: Annual Costs of Forest Service’s Timber Sales Program are not Determinable. GAO-01-1101R. Given the Forest Service’s poor accountability record (and BLM’s record fairs little better), public involvement and environmental assessment before project implementation is critical. Without significant initial environmental assessment, the Departments can implement projects that may in fact significantly adversely affect the environment without ecological review and public oversight and recourse. Monitoring is effective when the results can be measured against predetermined criteria and goals. It does not seem that categorically excluding projects provide that ability. (Preservation/Conservation Organization, Santa Fe, NM - #1413.29.15111.104)

BECAUSE IT IS UNTESTED

Like the promise of collaboration, the promise of monitoring in the proposal is based on unclear and untested mechanisms in the 10-year comprehensive strategy. Monitoring is to be done through the new National Fire Plan Operations and Reporting System (NFPORS) that we and our community partners have little knowledge of at this point. We would prefer it if the mechanism for monitoring engaged diverse interests in communities through a multi-party monitoring framework, as is being used in several other programs, such as the Forest Service stewardship contracting pilot projects. (Preservation/Conservation Organization, Washington, DC - #1726.8.15111.108)

Public Concern: The USDAFS & DOI should incorporate the National Fire Plan into forest plans.

The fact that only 3,000 projects were completed over five years (an average of only 600 projects per year) is symptomatic of a larger problem. This is an abysmal record given that 190 million acres need fuels treatment. Clearly this record of performance does not bode well for the 10- Year Comprehensive Strategy Implementation Plan. While categorical exclusions will help, the real issue is the land and resource management plans. What is needed is clear federal direction to incorporate the National Fire Plan in the land and resource management plans, especially in the west. (Multiple Use or Land Rights Organization, Auberry, CA - #820.5.15120.102)

Planning Rule (Proposed Revision to the National Forest Management Act Implementing Regulations)

Public Concern: The USDAFS & DOI should implement the Planning Rule.

I am writing to express my support for the proposals published in the Federal Register by the U.S. Forest Service and the Bureau of Land Management which will allow them to more effectively and actively manage the public’s forests.

I believe these policy and procedural changes are necessary to protect forests, wildlife habitat, watersheds, air quality, water quality, homes, communities, human lives, and private forests and rangelands. The proposals will enable the land management agencies to make environmentally sound, scientifically-based decisions on projects that seek to reduce the threats from catastrophic wildfire, insect

infestations and disease, by giving them the tools they need to implement the goals laid out in the National Fire Plan and Healthy Forests Initiative.

The specific proposals is:

National Forest System Land and Resource Management Planning - 67 Fed. Reg. 72770 (December 6, 2002) (Individual, No Address - #16.4.15150.001)

NHTOA believes the proposed rule changes will provide forest managers with greater flexibility to address the specific challenges on their lands, and eliminate many of the burdensome procedural requirements that have prevented timely on-the-ground actions. A great example of how bureaucracy made the planning process very complicated and burdensome is the revision of the WMNF's [White Mountain National Forest] 15-year management plan. The process on revising the WMNF 15-year management plan began in 1998 (we are anticipating it will take over 6 years to develop a 15-year management plan).

Because this process has become so tedious and time consuming many of the individual members of the public have lost interest in the process. The NHTOA sees changes in the current planning rules designed to streamline the management of the forest and get more dollars to on-the-ground projects while keeping the public engaged in the process as an improvement. (Timber or Wood Products Industry, Concord, NH - #948.3.15000.102)

I support the proposal for the changes to the Forest Service Planning Rule because it will provide forest managers with the flexibility they need to address specific problems at the local level and remove the often unnecessary and burdensome requirements that have prevented them from taking action in their own districts in time to prevent a disaster. (Individual, Saint Helens, OR - #1426.4.15150.100)

Public Concern: The USDAFS & DOI should recognize that it may be difficult to determine whether activities allowed under the proposed fire management CEs are consistent with forest plans.

BECAUSE A CE FOR A HAZARDOUS FUELS REDUCTION PROJECT MAY NOT PROVIDE SUFFICIENT INFORMATION TO DETERMINE COMPLIANCE WITH FOREST PLAN STANDARDS AND GUIDELINES

In the document, the proposed categorical exclusions, as written, "shall be conducted consistent with agency and Department procedures and land and resource management plans." It is the Department's belief that without adequate environmental analysis, it may be difficult to determine if activities are consistent with land and resource management plans. Categorical exclusions may include effects on watersheds, recreation, and fish and wildlife resources. For example, habitat capability indices for management indicator species in the Apache-Sitgreaves National Forests need to be maintained at 40 or better, per Forest Plan direction (USDA Forest Service 1996, as amended). However, a categorical exclusion for a hazardous fuels reduction project may not provide sufficient information to determine compliance with this standard and guideline. (Arizona Game and Fish Department, Phoenix, AZ - #799.17.15150.230)

Public Concern: The USDAFS & DOI should consider the cumulative effect of the proposed fire management CEs and the Planning Rule.

DUE TO CHANGES TO THE PLANNING RULE THAT WILL ALLOW AMENDMENTS TO FOREST PLANS FOR UP TO FOUR YEARS WITHOUT PUBLIC NOTICE

The current administration has proposed numerous changes in the regulations that govern the management of our national forests. Some of these regulations were proposed at the same time as this proposal to categorically exclude hazardous fuels reduction projects while others, including revisions to the National Forest Management Act regulations, have been proposed separately but relate to this rule in very important ways. Evaluating the combined impact of these various rules is critical because together they seriously undermine public oversight for the protection of our public lands. Considering the breadth of proposed rule changes that affect management of public lands, there is no way that the combined

effect of these changes will not have significant impacts and cause long-lasting damage to wildlife and wild places.

Specifically, plan and site specific project level planning are inextricably tied. The fundamental tenet of NFMA is consistency between site-specific projects and land and resource management plans (LRMP or forest plans). The cumulative impact of site-specific projects authorized by the LRMP must be analyzed currently in an EIS for the forest plan.

However, the current proposed NFMA regulations would allow forest plan revisions to be accomplished with a categorical exclusion. The proposed regulations would also allow four year interim amendments to forest plans to be issued without review or comment. 67 Fed. Reg. 72,797. This provision has the potential to allow projects inconsistent with the management goals of the forest to proceed with no environmental analysis of the impact. Given the perceived urgency of the hazardous fuels situation and the political pressure surrounding the issue, it seems likely that such an interim amendment would be used to allow categorically excluded hazardous fuels treatments in areas where they would otherwise be excluded. Therefore, because the plan is not going to undergo a cumulative impacts analysis, and many of the projects proposed in the CEs are not going to be subject to analysis, then the Departments have failed to demonstrate that the cumulative impact of the various rule changes will not be significant.

NEPA requires the Departments to demonstrate that its decisions are supported by the record and have undergone the appropriate level of analysis. Actions that have significant effects on the human environment—either directly, indirectly, or cumulatively—must be assessed in an environmental impact statement. Moreover, the Administrative Procedure Act requires reasoned decisionmaking based on the record and supported by evidence.

Thus far, the Departments have made no such finding. Until the Departments are able to support the proposed CEs with evidence that these exclusions are warranted and will not have significant direct, indirect, or cumulative effects to the environment, they must be withdrawn. (Recreational/Conservation Organization, Talent, OR - #1400.8-9.15150.100)

One of the restrictions reportedly placed upon the two new CEs is that these activities “must be consistent with agency and Departmental procedures, land and resource management plans, and must comply with all applicable Federal, State, and tribal laws for protection of the environment”, yet the administration’s proposed NFMA regulations (proposed 11/27/02) would allow forest plans to be amended for up to 4 years with no public notice. Thus, the Forest Service could easily make a project “consistent” with a forest plan simply by changing the plan on an interim basis. (Preservation/Conservation Organization, Paradise, CA - #1414.3.15000.100)

Of particular concern are proposed NFMA regulations which would allow forest plans (LRMPs) to be revised and amended without environmental review or comment. If no environmental review is being done at the planning level, and these and other proposed CEs (i.e., those for small timber projects) will allow numerous projects to proceed without individual review or environmental analysis, then there is no mechanism to catch or prevent cumulative effects from causing serious adverse effects. The Department has failed to even discuss cumulative effects of the various proposals, or even of the multitude of projects likely to result from the fuel reduction categorical exclusion alone. In this way, the Departments fail to provide support for their assertion that allowing the categorical exclusion will not significantly affect the environment. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.22.15150.300)

Republicans for Environmental Protection America has identified a number of serious deficiencies in the proposed policy. They include the following:

Under the proposed policy, projects subject to categorical exclusion would have to be consistent with national forest land management plans. However, pending changes in National Forest Management Act, planning regulations would permit forest supervisors to amend land management plans for up to four years without public notice. In essence, the scope and nature of projects subject to categorical exclusion could be dramatically changed through the expedience of altering land management plans. The resulting change in the impacts of “hazardous fuels reduction projects” could be substantial, but there would be no

analysis or disclosure of environmental impacts under the National Environmental Policy Act, nor would there be any opportunity for the public to comment or appeal, as a result of proposed changes in Appeals Reform Act regulations. Sweeping exemptions from public notice, scrutiny, environmental analysis and disclosure are recipes for costly mismanagement. (Preservation/Conservation Organization, Kent, WA - #1756.1.15150.108)

The proposal . . . suggests important forest resources will be adequately protected because projects will have to be “consistent with agency and Departmental procedures and land and resource management plans.” However, departmental procedures and land and resource management plans have proven insufficient on their own to adequately protect the natural resources on public lands. Further, the Department of Agriculture has issued a concurrent proposal that, if adopted, would significantly limit the role of forest plans in national forest management, for example by making them essentially voluntary documents from which projects could be easily exempted. 67 Fed. Reg. 72,770 (to be codified at 36 C.F.R. 219). That proposal seeks to allow entire forest plans to be exempted from all environmental review under the NEPA through the expansion of the same categorical exclusion regulations that would be expanded by this proposal. Id. That proposal also would allow forest plans to be amended for up to four years at a time without public notification, allowing the Forest Service to readily amend a forest plan to make it consistent with any project or goal. Id. And that proposal seriously weakens environmental protections, wildlife requirements, scientific input, monitoring and evaluation requirements, and public participation. Id. (Preservation/Conservation Organization, Washington, DC - #1501.13.15000.100)

Roadless Area Conservation Rule

Public Concern: The USDAFS & DOI should implement the Roadless Area Conservation Rule.

Assistance needs to be provided to communities in these areas. Following are some suggestions to take pre-emptive action, while maintaining old-growth and other aspects of forest health.

Honor the will of the American public and enforce the Roadless Rule of the Clinton administration, approved during the tenure of Mike Dombeck. Scientific studies have repeatedly shown roadless forests to be at reduced risk of fire and sustain much less damage than do roaded and logged areas.

This is a measure which could provide prompt and effective assistance to the communities the “Healthy Forests Initiative” purports to be designed to aid. In addition, it would begin to restore the natural fire cycles in the backcountry science has shown maintains forest health and reduces risk of catastrophic fire, all without suspending the environmental safeguards we so need to honor if we hope to have a healthy planet to pass on to future generations. (Individual, La Grande, OR - #383.8.15130.530)

Public Concern: The USDAFS & DOI should resolve the conflict between the Roadless Area Conservation Rule and the proposed fire management CEs in favor of protecting roadless areas.

The proposed rule is contrary to the Roadless Area Conservation Rule. The Roadless Rule prohibits road construction or reconstruction in inventoried roadless areas unless the road “is needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause loss of life or property. 66 F.R. 3244 (2002). Generally, there is not imminent threat to life or property in roadless areas. We urge the Forest Service to resolve the conflict between the Roadless Rule and the proposed CE in favor of protecting roadless areas. Inventoried roadless areas should be treated like wilderness and wilderness study areas where fuels reduction activities cannot be categorically excluded from NEPA. 67 F.R. 77043 (Preservation/Conservation Organization, Ellijay, GA - #1152.10.15130.230)

Sierra Nevada Framework

Public Concern: The USDAFS & DOI should consider how the proposed fire management CEs will interface with local fuel reduction plans.

INCLUDING THE SIERRA NEVADA FRAMEWORK

The proposal is a broad-brush approach, applicable equally across the nation. Yet the situation in California does not conform to the rationale provided in the notice for the proposal. For example, two years ago the Forest Service adopted an amendment to the 11 national forests in the Sierra Nevada, termed “the Framework.” The Framework is the first landscape-level management plan in the country that ascribes a fuel treatment strategy to every acre. The California Resources Agency and many of its departments participated in the development of this plan for more than a decade. The Framework is strongly supported by the general public, scientists, and a majority of environmental groups in the state. In fact, the Forest Service received over 40,000 public comments urging it to adopt greater protection than the preferred alternative. In addition, the Chief of the Forest Service denied all administrative appeals to it and affirmed the decision. The Framework is also consistent with the National Fire Plan by placing a priority for fuel reduction activity on the wildland urban interface. Thus, in California, the Forest Service has a scientifically sound, publicly acceptable fuel reduction strategy which the Forest Service has chosen to delay with further review. (Resources Agency, State of California, Sacramento, CA - #1705.3.15000.102)

Public Concern: The USDAFS & DOI should make the proposed fire management CEs consistent with guidelines in the Sierra Nevada Forest Plan Amendment.

BECAUSE THIS WILL HELP WIN PUBLIC SUPPORT

If the U.S. Forest Service truly follows the intent of the standards and guidelines such as those contained in the Sierra Nevada Forest Plan Amendment, the environmental community will welcome the accompanying hazardous fuels reduction and restoration activities. (Preservation/Conservation Organization, Grass Valley, CA - #459.7.15000.000)

Public Concern: The USDAFS & DOI should recognize that the Sierra Nevada Framework is preventing the efficient implementation of fuel reduction projects.

Here in northeastern California, the broken NEPA process is combining with the restrictive standards and guidelines of the Sierra Nevada Framework [SNF] and preventing the efficient implementation of fuel reduction projects at the required scale and pace. As Regional Forester Blackwell completes his review of the SNF and makes the appropriate changes to the standards and guidelines, it is important that the NEPA process be streamlined through the utilization of categorical exclusions for hazardous fuel reduction projects. (Quincy Library Group, Chico, CA - #1373.3.15000.303)

General Legal Considerations

Appeals Reform Act and Administrative Appeals Act

Public Concern: The USDAFS & DOI should clarify whether categorically excluded projects can be appealed.

We . . . think it would be helpful if the proposal would clarify questions about whether projects that are categorically excluded can be appealed. We believe that citizen rights to appeal are important, and we have heard mixed responses from lawyers on whether and how categorical exclusions can be appealed. (Preservation/Conservation Organization, Washington, DC - #1726.4.24000.109)

We also wish to raise the issue of administrative appeals. The notice is unclear on if the Forest Service is proposing to provide administrative appeals for these CEs. (Preservation/Conservation Organization, Wood River, IL - #1405.5.17100.109)

Public Concern: The USDAFS & DOI should codify who has the right to appeal.

I am glad these changes will codify who is allowed to appeal a project since it is so extremely unfair that someone who is not a stakeholder of any kind and has no personal stake in the project itself can stop it with a 37 cent stamp on the last day of the comment period. These frivolous appeals cost taxpayers millions of dollars unnecessarily. (Individual, Rathdrum, ID - #907.6.24000.740)

Public Concern: The USDAFS & DOI should require appellants to cover the costs of litigation.

Reduce the forever legal stalling process of appeals. Require bond if appealing a sale or procedure. (Individual, Libby, MT - #1362.9.23200.200)

I would also like to see the cost of litigation be at least partially born by those bringing the litigation and not by the tax payers. The Forest Service loses a huge sum of money to these lawsuits that could be put to better use than a rat hole. That is not good stewardship. (Individual, Eureka, MT - #1528.8.24000.113)

Those who wish to take their view or problem to court would do so at their own expense, thereby stopping the use of taxpayer money against the taxpayer. (Individual, Hamilton, MT - #1167.2.24000.113)

Public Concern: The USDAFS & DOI should require those who appeal fuel reduction projects to produce credible scientific evidence.

TO AVOID LEGAL DELAYS

The initiative states that no adverse effects on threatened species or their habitat will occur, but makes no indication as to who will determine whether these effects occur. Our experience in central Idaho leads us to believe that some groups are more than willing to declare adverse effects on any species, real or imagined, that can help to further their cause. Credible scientific evidence is often not required as part of their case. Unless reliable science, preferably peer-reviewed, is required, it is entirely probable that efforts to reduce hazardous fuels could be bogged down in the legal system long enough for the inevitable catastrophic fires to happen, and the fuels are finally removed in the least desirable way. (R.E. Cope, Chairperson, Lemhi County Board of Commissioners, Salmon, ID - #1370.1.64000.739)

Public Concern: The USDAFS & DOI should maintain the public's right to appeal.

This is a right, guaranteed by Congress when NEPA was promulgated. I do not believe the American public supports being deprived of this right to appeal these and other projects that may have significant negative effects on our environment. (Individual, Olympia, WA - #1364.6.24000.108)

I am concerned with the forest service's proposal to limit or ban my right to appeal any project that comes under the new hazardous fuels classification. (Individual, New Orleans, LA - #1234.2.24000.108)

IN COMPLIANCE WITH THE APPEALS REFORM ACT

Prohibiting citizen appeals is contrary to the 1992 Appeals Reform Act. Congress mandated in the 1992 Appeal Reform Act that all activities that implement forest plans must be subject to citizen appeal. "The 2001 Federal Fire Policy and its implementation are founded on the following Guiding Principles: Fire management plans, programs, and activities support land and resource management plans and their implementation. [and] Fire management programs and activities are . . . based upon . . . land and

resource management objectives.” http://www.nifc.gov/fire_policy/docs/exsum.pdf. (Preservation/Conservation Organization, Saint Paul, MN - #1156.31.24000.108)

BECAUSE FAILURE TO ALLOW APPEALS WILL LEAD TO MORE LITIGATION

The proposed rule will not lead to a decrease in paperwork, but rather an increase. Because categorically excluded projects provide no opportunity for appeal, and only one opportunity for comment (scoping), those with questions or concerns will have no alternative but litigation if they wish to see their concerns addressed. More litigation will hardly accelerate the fuel reduction and restoration efforts the rule claims to advance. (Preservation/Conservation Organization, Montgomery, AL - #1409.49.24000.102)

FSH 1909.15, Section 31.1b - The category of documents, as you know, requires no planning record or decision document, and is often performed with little scoping or analysis. That is because the activities included are benign in nature. Lumping large hazardous fuels projects into category 31.1b, where decisions are non-appealable, will encourage lawsuits as the only citizen recourse. Increased lawsuits mean increased cost for litigation, mean increased taxes. Many of these lawsuits will likely be successful since the FS will have so little documentation on the effects of the projects. That means you will pay plaintiff lawyers' fees also, further increasing taxes and cost. Why is this not discussed in the draft regulations in the Federal Register? (Individual, Canton, KY - #137.5.24000.740)

Public Concern: The USDAFS & DOI should provide language in the proposed fire management CEs that will help prevent future legal challenges.

The wording of the two new exclusion categories should be carefully crafted to help prevent future challenges to them.

For example, how endangered species/critical habitat issues are addressed should be spelled out very clearly so that the consulting agencies can not eliminate projects from exclusion (or delay them) without very good reason. (Individual, Spearfish, SD - #1829.2.17100.322)

Public Concern: The USDAFS & DOI should eliminate the appeals process.

Abolish the appeal process, the process has been abused and has been used to destroy communities, caused repetition of efforts, loss of tax for schools and roads, families have become destitute, misuse of tax dollars and no land or forest management. (Individual, Hamilton, MT - #1167.1.24000.730)

Endangered Species Act

Public Concern: The USDAFS & DOI should modify the Endangered Species Act.

The famous “Endangered Species Act” is the most harmful legislation of all time and has caused most of the problems we are facing as a society today, now is the time we must act! (Individual, No Address-#684.4.23240.001)

Migratory Bird Treaty Act

Public Concern: The USDAFS & DOI should comply with the Migratory Bird Treaty Act.

The Migratory Bird Treaty Act prohibits killing, taking, or possessing migratory birds, and provides other statutory requirements geared toward the protection and survival of migratory bird populations. 16 U.S.C. S 703. These and other statutory obligations can not be avoided simply by categorically excluding projects from NEPA. (Preservation/Conservation Organization, Washington, DC - #1501.2.23000.100)

National Environmental Policy Act

Public Concern: The USDAFS & DOI should comply with the National Environmental Policy Act.

Our concern involves the process of thinning in the extensive forest fires of 2002 and [we] strongly support projects to prevent a repetition of these fires. However, at the Western Governor's Association Meeting this past May, attendees, including secretary of Interior Gale Norton and Secretary of Agriculture Ann Veneman, agreed that new wildfire plans do not require any changes to existing laws, but have adequate emergency considerations built into them. Yet we understand that the administration now is supporting amendments to exempt forest-thinning projects from NEPA review.

Since its passage in 1970, the National Environmental Policy Act has brought about a revolution in environmental protection, requiring prior study by all federal agencies of the potential environmental impacts of their proposed actions, as well as requiring comment periods and scoping sessions open to all interested citizens.

The principles in the National Environmental Policy Act have been emulated by at least 25 states and more than 80 other nations. This law has served our country well by protecting our environment since its adoption in 1970.

We feel that the National Environmental Policy Act is perhaps the most significant of all the environmental statutes signed into law by President Nixon, and we urge you to support this act as written. (Preservation/Conservation Organization, New York, NY - #844.1.17100.300)

Public Concern: The USDAFS & DOI should consult with the Council on Environmental Quality before announcing any changes to National Environmental Policy Act regulations.

In promulgating the proposed CEs, the Forest Service and DOI have a duty to consult with the Council on Environmental Quality ("CEQ"). "Each agency shall consult with the Council while developing its procedures and before publishing them in the Federal Register for comment." Additionally, "the procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the [NEPA] and these regulations." 40 C.F.R. S 1507.3. Neither the Federal Register Notice announcing the proposed CEs nor any of the Forest Service DOI's supporting documents make reference to the required consultation with CEQ. As such, the Forest Service must withdraw the current notice and consult with CEQ before any subsequent notices announcing changes to its NEPA regulations are published. (Preservation/Conservation Organization, Santa Fe, NM - #845.11.23230.230)

Executive Orders

Public Concern: The USDAFS & DOI should comply with Executive Order 11988.

Require compliance with Executive Order 11988 (Floodplain Management)
(Preservation/Conservation Organization, Vancouver, WA - #314.9.17700.001)

Public Concern: The USDAFS & DOI should comply with Executive Order 11990.

Require compliance with . . . Executive Order 11990 (Protection of Wetlands),
(Preservation/Conservation Organization, Vancouver, WA - #314.9.17700.001)

Tribal Rights and Interests

Collaboration and Tribal Consultation

Public Concern: The USDAFS & DOI should develop tribal collaboration processes for the proposed fire management CEs.

With regards to future tribal collaboration, the Notice [for the proposed categorical exclusion] states that the fuel reduction categorical exclusion implements tasks under Goal 2 of the Implementation Plan, which call for:

Agencies to assess regulatory processes governing hazardous fuels projects and activities done in conformance with the [Implementation Plan] and to identify measures to improve the timeliness of decisions.

67 Fed. Reg. 77,040; Implementation Plan at 13. However, Goal 2 also directs the agencies to

“develop and implement a process for Federal, State, Tribal, and local government to collaborate on the annual selection of fuel treatment projects within their respective jurisdictions.”

Implementation Plan at 13. It does not appear that this collaborative process has been developed yet, and the timeframe given in the Plan for completing this latter task is September 2003. Since the proposed categorical exclusions are founded on this Implementation Plan, it is incongruous for the activities implementation to move forward—i.e., the categorical exclusions—while the planning piece of the Plan—the collaborative process for selecting projects—has yet to be developed. Notably, the notice states that “fuels reduction categorical exclusion will only apply to projects identified in a manner consistent with the collaborative framework in the [Implementation Plan].” To be consistent with the Plan, a collaborative process must first be developed. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.7.12700.100)

Public Concern: The USDAFS & DOI should consult with American Indian tribes regarding the proposed fire management CEs.

Rather than change the rules, the Forest Service needs to use its resources and energy to do real risk reduction. Focus on the rural/urban interface, thin the small diameter, overstocked plantation trees that are so fire-prone, remove ladder fuels, and implement carefully designed and monitored controlled burns where appropriate. And please, please, please, consult with knowledgeable Indian people on this issue when and wherever possible; there is still good knowledge among them and it should be respected and utilized. (Individual, Medford, OR - #815.3.64100.710)

IN COMPLIANCE WITH EXECUTIVE ORDERS 13175 AND 13007, AND THE EXECUTIVE MEMORANDUM REGARDING “GOVERNMENT TO GOVERNMENT RELATIONS WITH NATIVE AMERICAN TRIBAL GOVERNMENTS”

Executive Order 13175 requires federal agencies to respect Indian tribal self-government and sovereignty, to honor tribal treaty and other rights, and to create an accountable process for tribal input into regulatory processes with tribal implication. So far, no consultation has been requested of any of the Columbia River Tribes with regard to these proposed categorical exclusion—a regulatory process with tribal implications. Nor do the categorical exclusions provide any assurance of future consultation on individual projects.

Other guidance on consultation requirements include the Executive Memorandum regarding “Government to Government Relations with Native American Tribal Governments” of April 29, 1994 (regarding consultation requirements), and Executive order 13007, of May 24, 1996 (regarding Indian Sacred Sites). (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.5.26200.108)

INCLUDING FORMAL CONSULTATION WITH THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

After careful review of the proposed categorical exclusions, the FWC [Confederated Tribes of the Umatilla Indian Reservation (CTUIR)] can not identify any tribal consultation that has taken place on this proposal nor can we identify the reason these categorical exclusions are necessary. Because of this, the FWC requests formal consultation with the Department of Agriculture and the Department of the Interior on the revisions to the categorical exclusions and other proposed changes to existing policies under the Healthy Forest Initiative. It is only after formal consultation where the FWC and the United States can engage in a meaningful dialog and truly bilateral decision making process whereby FWC rights and interests are protected. (Jay Minthorn, Chairperson, Fish and Wildlife Committee, Confederated Tribes of the Umatilla Indian Reservation, Pendleton, OR - #1145.16.26200.112)

Public Concern: The USDAFS & DOI should consult with American Indian tribes regarding cultural resources.**IN COMPLIANCE WITH THE NATURAL HISTORICAL PRESERVATION ACT**

The Background for the Proposal document, states “if it is determined through the Section 106 [of the National Historic Preservation Act (NHPA)] process that the proposed project may have adverse effects on significant cultural resources, the action agency, under NEPA must prepare an environmental document and cannot apply a Categorical Exclusion.” There are several reasons why this statement is misleading. First, the only way to find out if there is an historic property within the area of potential effect, there must be a file and literature search, physical survey and consultation with the tribe(s) which may attach religious or cultural significance to the site. If the activity is categorically excluded from public review and the agency only reviews its records, there will be no way for the [Confederated Tribes of the Umatilla Indian Reservation (CTUIR)] to know whether the federal agency complied with the NHPA.

The reason the quoted language from the Background for the Proposal is inaccurate is that it seems to indicate that only impacts to “significant cultural resources” will be evaluated pursuant to an environmental document under NEPA. This is blatantly false. Although, the [Natural Historical Preservation Act] is a procedural statute and only requires that the effects of federal undertaking be considered on historic properties, and does not mandate any specific protection level, this does not mean that only significant impacts will be evaluated or that only significant cultural resources will be protected. Indeed, the NHPA does not draw a line as to what constitutes a site. Additionally, sacred sites of Traditional Cultural Properties can often only be defined by consultation with the tribe which holds those sites as sacred. If the federal agency contemplating the action does not consult with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR)], they will be in violation of the NHPA. (Jay Minthorn, Chairperson, Fish and Wildlife Committee, Confederated Tribes of the Umatilla Indian Reservation, Pendleton, OR - #1145.6-7.23240.260)

Don't leave Indian tribes out of your thought process. NEPA and National Historic Preservation Act require consideration of resources important to Indian tribes. National Historic Preservation Act requires the agency to make a good faith effort to identify and notify (and consult) with tribes whose traditional cultural values may be affected by a proposed activity. Without some defensible knowledge of tribal concerns, shifting projects into categorical exclusions without notification and consultation will lead the agencies directly into protests, appeals, and the courtroom. (Individual, Sandy, UT - #133.5.26000.108)

Public Concern: The USDAFS & DOI should not use Executive Order 13175, Section 6, to avoid consultation with American Indian tribes.

The mere mention of Bureau of Indian Affairs and Department of Interior and other federal agencies is enough to send a message to tribes that they are somehow affected by the proposed Categorical Exclusions. The use of existing Executive Orders 1288, 13132, 13175, 12630, 12988, 13211 may very well cover the proposed Categorical Exclusions if they are arranged in such a matrix to meet the intent of the objectives. However, the proposed Categorical Exclusion is stated to have no “implications”, as defined by Executive order 13175 and further states that consultation and coordination with Indian Tribal Governments and therefore advance consultation with tribes is not required.

Executive order 13175 is devised by Federal Governments to skirt tribal governments. As an example see 6. Increasing Flexibility for Indian Tribal Waivers. This is followed by Sec 8 “Independent Agencies. Independent regulatory agencies are encouraged to comply with the provisions of this order.” These crafted phrases then complement Executive Order 13132 (Federalism) of the consultation and waiver provisions. The design of Executive Order 13175 in this case complements and helps meet the intent for the proposed NEPA Categorical Exclusion to alleviate any tribal concerns. Tribes are losing the ability to have meaningful input into the NEPA through the administrative rule making process. (Yakima Nation Water Program, Toppenish, WA - #813.2.26000.103)

Public Concern: The USDAFS & DOI should recognize that American Indian tribal input is often communicated to agencies through the National Environmental Policy Act process.

Columbia River Inter-Tribal Fish Commission’s initial concern with the addition of the proposed categorical exclusions is that the departments’ federal trust responsibilities to protect treaty and trust resources and consult with affected tribes will be lost in the streamlining and elimination of effects analysis. Fuel reduction and rehabilitation activities that might fall under the proposed categorical exclusion have the potential to dramatically affect tribal trust resources such as native plants (including roots and berries), fish, and wildlife, and their habitats, as well as cultural resources. Although tribal consultation requirements and the trust obligation to protect tribal resources are separate from NEPA, the reality is that tribal input is often communicated to the Departments through the NEPA process. Without this process, how will trust responsibilities be complied with? How will treaty rights be protected? How will environmental effects on trust resources and treaty rights be analyzed? How will government-to-government consultations be initiated, or the need for them recognized? Obligations to consult cannot be revoked through agency rulemaking, much less implementing procedure amendments. However, Columbia River Inter-Tribal Fish Commission is concerned that without formal process, our founding tribes may not even be made aware of impending projects or granted consultation opportunities, or alternately, that their input will fall on deaf, already-decided, ears. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.2.26100.261)

Public Concern: The USDAFS & DOI should explain how they will ensure consultation with American Indian tribes if the proposed fire management CEs are not subject to public comment.

This Executive Order EO 13007, [section] 2-3 further required that, within one year of the effective date of the EO, agencies submit reports identifying necessary changes to accommodate tribal ceremonial access, necessary changes to avoid adversely affecting the physical integrity of sacred sites and what procedures were implemented to “facilitate consultation with appropriate Indian tribes and religious leaders.” EO 13007, [section] 2(b). The proposed categorical exclusions fail to address how consultation will continue to occur if the activities are not subject to public comment. (Jay Minthorn, Chairperson, Fish and Wildlife Committee, Confederated Tribes of the Umatilla Indian Reservation, Pendleton, OR - #1145.10.26200.108)

Public Concern: The USDAFS & DOI should not overstate the amount of American Indian tribal consultation that occurred during development of the 10-Year Comprehensive Strategy Implementation Plan.

The notice for the proposed categorical exclusion indicates that the CE implements part the fire strategy “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan” (“Implementation Plan”) and that this plan was developed in part by tribal representatives. This is an egregious overstatement. It is our understanding that one tribal representative submitted input on one occasion during this process. In addition, that representative was from the Intertribal Timber Council, an organization that is unlikely to adequately represent the varied interests of multiple tribes, such as the at-times conflicting interests in fish and wildlife resources. The Notice errs in its emphasis that this strategy was based on tribal collaboration. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.6.26000.111)

Public Concern: The USDAFS & DOI should recognize that the 10-Year Comprehensive Strategy Implementation Plan did not involve consultation with American Indian tribal governments.

Neither the “Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment” “10-Year Comprehensive Strategy Implementation Strategy” of August 2001 or the “10-Year Comprehensive Strategy Implementation Plan” involved consultation with the [Confederated Tribes of the Umatilla Indian Reservation] (CTUIR) or any specific tribal government. Additionally, the plans contain no benchmarks, guidance or standards for implementation, only goals and policies. (Jay Minthorn, Chairperson, Fish and Wildlife Committee, Confederated Tribes of the Umatilla Indian Reservation, Pendleton, OR - #1145.2.15110.261)

Federal Trust Responsibilities

Public Concern: The USDAFS & DOI should fulfill the federal government’s trust responsibility to protect American Indian tribes’ reserved rights.

The federal government has a trust obligation to protect the rights reserved by each of the Columbia River Tribes pursuant to their respective treaties with the United States. These reserved rights include rights to hunt, graze and gather on open and unclaimed lands—which included Forest Service and BLM lands—and to take fish from usual and accustomed places—which includes fish that spawn, rear, or migrate through public lands. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.3.26100.261)

Chapter 3

Use of Science in Decisionmaking

Use of Science in Decisionmaking General

Public Concern: The USDAFS & DOI should use the best available science in public land management.

We advocate the use of sound science in the management of our public lands. This includes all disciplines; ecology, biology, restoration ecology, conservation biology, etc. in addition to silviculture, wildlife management, etc. An integral component of all science is the gathering and analysis of base line data. From this perspective, eliminating the need to do environmental analysis and environmental impact statements in the planning process of fire prevention projects is not sound science. (Preservation/Conservation Organization, Westminster, SC - #1850.2.14000.300)

I live, work and play at Eureka, Montana which is centered in the Kootenai National Forest. More than 80 percent of this county consists of federal land, so we have a serious stake in seeing that things are done right. They haven't been for the past dozen years and it is time to turn this mess around. Get some real science in to protect our homes, our jobs, our water, our private land, and our communities. (Individual, No Address - #52.4.14000.001)

The natural, biological and ecological heritage of our public lands is priceless. We cannot afford to destroy any more of it. We, as a nation, must use the best science available to manage and preserve what is left for future generations of humans as well as other biota. I implore you to get on the twenty first century bandwagon and set a precedent for the globe by not letting pressure from the Bush administration destroy our nation's biological health and diversity. (Individual, Ventura, CA - #1008.4.14100.001)

Understandably your team has been tasked to change the forest fire prevention plan and that you need to find a way to meet the political objectives that the Administration has set before you.

I hope that your Team takes a long term view of this issue and trusts the science behind it. (Individual, Pittsburgh, PA - #270.2.14000.100)

I disagree strongly with the approach and rule changes contained in the Healthy Forests Initiative for the following reasons:

The expansion of the circumstances under which categorical exclusions can apply would remove extremely important input from scientists and other publics. Fire management and thinning are major activities that have the potential to strongly influence forest structure, composition, and processes and the wide diversity of species dependent on these attributes. Furthermore, local restoration is not a one-size-fits-all proposition. Research very clearly shows a considerable degree of variation across the landscape in natural fire dynamics and ecosystem responses to fire. Both of these points argue strongly for the maximum amount of sound science input, environmental analysis, and oversight for each thinning project. The suggested change in the categorical exclusions rules would do the opposite. (Individual, Farmington, ME - #1676.1.14000.100)

BECAUSE MANAGEMENT OF FEDERAL FORESTS CAN ALSO AFFECT ADJACENT PRIVATE LANDOWNERS AND PRIVATE LAND INHOLDINGS

Mississippi farmers and ranchers wish to see that our State's federal forests are managed in an environmentally sound manner. To accomplish this task, USDA-FS and DOI employees must be able to allow science-based management and quality forest policy to lead the decision making process. As you know, management decisions that affect federal forests can also affect adjacent private landowners and private land inholdings. (Agriculture Industry, Jackson, MS - #1759.1.14100.100)

Public Concern: The USDAFS & DOI should follow the advice of experts.

FIRE EXPERTS

If you want to reduce fire risk, please follow the advice of the fire experts, not the logging experts. (Individual, Columbus, OH - #449.3.14000.000)

FORESTRY RESEARCHERS

Please seriously regard the people who have studied forestry for years and understand the total impact of making changes to the existing system. We certainly need to prevent so many forest fires but it needs to be done in a way that will keep the diversity of the forests alive and vibrant. (Individual, Plymouth, MA - #238.9.14100.602)

Public Concern: The USDAFS & DOI should eliminate the requirement that forest planners must consult with a panel of scientists regarding management plans.

Eliminate the requirement that forest planners consult with a panel of scientists when drafting management plans. This sidesteps the democratic process of ensuring a project will not create harms to the communities which are affected by these projects. (Individual, Arcata, CA - #1283.11.14000.703)

Analysis/Documentation Requirements

Analysis/Documentation Requirements General

Public Concern: The USDAFS & DOI should consider the cost of National Environmental Policy Act analysis/documentation requirements.

Our rancher members have worked closely with the Forest Service for years to improve watersheds and wildlife habitat, while at the same time maintaining viable grazing operations. Despite investing many dollars of their own funds, they often find the projects bogged down in unnecessary analysis and paperwork

Many dollars are exhausted in environmental study on projects that clearly have only beneficial effects that could be used to implement improvements on the ground.

Even when these projects do get implemented, their value is often offset or minimized because the Forest Service is unable to accomplish their full share due to much of the funding is siphoned off to do endless studies. (Agriculture Industry, Alturas, CA - #1427.1.14000.001)

Public Concern: The USDAFS & DOI should create more concise environmental impact statements.

I have attempted to read some of the EISs but they are too cumbersome. They are almost a textbook. There is duplication in the reports which adds to the length of them. (Individual, Trout Creek, MT - #1693.2.12100.111)

Public Concern: The USDAFS & DOI should recognize that the trend to make environmental assessments lengthy, detailed documents has not been imposed by existing rules or by the courts.

Over the years, Environmental Assessments (EAs) have tended to grow from concise reports of a few pages in length (as they were originally envisioned) to lengthy, detailed documents that resemble full-scale EISs, but this trend has not been imposed by existing rules or by the courts (except in cases where the courts have ruled that the EA was inherently inadequate because the proposed action was of a scale that required an EIS). In fact, EA documents are generally the best evidence an agency has for demonstrating that it has an adequate administrative basis for not preparing an EIS. These proposed rules would eliminate not only these documents, but also the environmental analysis required for their preparation. (Individual, Chevy Chase, MD - #1727.7-8.14120.230)

Public Concern: The USDAFS & DOI should consider that National Environmental Policy Act analysis/documentation requirements do not unduly delay scientifically supported projects.

If the Forest Service proposes good, scientifically supported projects, they will not be slowed significantly by using the current NEPA procedures. If they are using fires as an excuse to push through damaging commercial logging in our National Forests, then they should be slowed down by the NEPA process. That is what it was created to do. (Preservation/Conservation Organization, No Address - #1682.6.14000.230)

Analysis/Documentation for the Proposal to Implement the Proposed Fire Management CEs**Public Concern: The USDAFS & DOI should subject the proposal to implement the proposed fire management CEs to National Environmental Policy Act analysis.**

The agencies' proposal violates the provisions of NEPA. Adoption of this proposal would pave the way for clearing of forests and underbrush without any assessment whatsoever of the significance of the environmental impacts of these activities and without any opportunity for public comment or participation. The cumulative effects of thousands of fuel reduction activities would not be adequately considered. Under the proposal, timber sales would be excluded from the NEPA process without any opportunity for public comment and participation, although the Forest Service requires an environmental assessment for timber sales and has historically prepared environmental impact statements for such sales. The proposed categorical exclusions also would not adequately consider all of the extraordinary circumstances that could arise in connection with fuel reduction activities. We recognize the importance of legitimate fuel reduction and land stabilization activities; however, the agencies' proposal constitutes a major "federal action," with the potential for significant impacts and cumulative effects on the environment, and therefore, a NEPA document, preferably an environmental impact statement, should be prepared for this proposal. (Individual, Hampstead, MD - #1745.1.17100.001)

In addition to the general requirement to prepare an EA or EIS for rulemaking, the CEQ regulations specify that this is required for an agency's CE rules. The CEQ regulations state that CE rules adopted by an agency must "not individually or cumulatively have a significant effect on the human environment and [must] have been found to have no such effect . . ." by that agency. 40 C.F.R. [section] 1508.4. Thus, in order to adopt a CE, an agency must make a Finding of No Significant Impact ("FONSI"). See 40 C.F.R. [section] 1508.13. In order to produce a FONSI, an agency must first conduct an EA. Id., 40 C.F.R. [section] 1508.9. As explained by the CEQ:

The FONSI is a document in which the agency briefly explains why an action will not have a significant effect on the human environment and, therefore, why an EIS will not be prepared. Section 1508.13. The finding itself need not be detailed, but must succinctly state the reasons for deciding that the action will

have no significant environmental effects and, if relevant, must show which factors were weighted most heavily in the determination. In addition to this statement, the FONSI must include, summarize, or attach and incorporate by reference, the environmental assessment.

“40 Most Asked Questions,” *supra*, 46 Fed. Reg. at 18.037 (answer to question 37a).

This requirement is particularly important for CE rules. If an EA determined that the proposed CE rules would in fact have a significant impact, then of course they would fail to meet the substantive requirement that CEs not have a significant impact, and would have to be rejected. However, the Forest Service never conducted such an analysis. Thus, the Forest Service was required to at least prepare an EA, and FONSI if appropriate, before promulgating these CE rules. (Preservation/Conservation Organization, Santa Fe, NM - #1186.9.14120.230)

Promulgating the CEs itself is a major federal action requiring its own NEPA review, which should include an analysis of available alternatives and cumulative impacts. A “major federal action” includes “new or revised agency rules [and] regulations.” 40 C.F.R. section 1508.18 (a) (emphasis added); *Sierra Club v. Penfold*, 857 F.2d 1307, 1313 (9th Cir 1988). Agencies cannot exempt themselves from complying with NEPA. *Calvert Cliffs Coordinating Committee, Inc., v. U.S. Atomic Energy Committee, Inc.*, 449 F.2d 1109, 1111 (D.C. Cir 1971).

Although the new CEs would affect up to 190 million acres of federal land which may have an unnatural fuel build up contributing to fire risks, the federal agencies have failed to subject the proposed action to NEPA review. 67 Fed. Reg 77039. Instead, they assert, without analysis, that the unprecedented effort to treat these fuels will not cause a significant environmental impact. *Id.*

The cumulative effects of fuel reduction activities on up to 190 million acres requires full environmental review; unquestionably, such a massive project may have very significant environmental effects. The federal agencies’ complete failure to conduct any cumulative impact analysis to determine whether in aggregate implementing the proposed CEs, under which thousands of projects may be authorized, will impact the environment is a significant violation of NEPA. See *Defenders of Wildlife v. Ballard*, 73 F. Supp 2d 1094, 1113 (D. AZ. 1999) (Army Corps required to take a “hard look” at the cumulative impacts of their authorization of the nationwide permit program which identifies categorically certain activities determined not to impact the environment and not to require further analysis. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.6-7.14120.300)

This CE rule change covers a much large scope of land and allows unknown and undisclosed amounts of logging and road building, yet public involvement was extremely limited. The comment period was limited to thirty days, no public meetings were held, and no EIS was prepared. This is ridiculous—the administration cannot turn the laws protecting Federal lands on their head, removing the heart of their regulatory effectiveness, and claim that no substantial impacts will occur. An EIS is required for all the rule changes currently in progress. (Individual, Charlottesville, VA - #1762.4.17100.103)

IN COMPLIANCE WITH THE ADMINISTRATIVE PROCEDURES ACT

Under the plain language of the CEQ regulations and the Administrative Procedures Act (“APA”), adoption of the CE rules constitutes a “federal action” subject to NEPA. 40 C.F.R S 12508.18(b). This means that the Forest Service and DOI must prepare either an EA or an EIS to analyze the effects of adopting the rules, unless such analysis is properly categorically excluded for that particular type of rule by the agency. 40 C.F.R. SS 1501.4, 1502.4, 1508.4. See *American Public Transit Ass’n v. Goldschmidt*, 485 F. Supp. 811, 832-33 (D.D.C. 1980) (nationwide regulations governing mass transit access by disabled persons required EIS). Relying upon *Kleppe v. Sierra Club*, 427 U.S. 390 (1976). The Federal Register notice does not explain why the Forest Service and DOI failed to conduct any NEPA review of the proposed CE rules. (Preservation/Conservation Organization, Santa Fe, NM - #845.10.23200.230)

TO ADEQUATELY DETERMINE EFFECTS ON MIGRATORY BIRDS

The Migratory Bird Treaty Act (“MBTA”), and the international migratory bird treaties implemented through the Act, impose substantive obligations on federal agencies to conserve migratory birds and their habitats. 16 U.S.C. 703-711.

In addition, Executive Order 13186 signed by former President Clinton on January 10, 2001 directs federal agencies to take specific actions to further implement the Act. These actions include integrating bird conservation principles, measures and practices into agency activities and avoiding or minimizing adverse impacts to migratory birds and their habitats when conducting agency actions.

This rulemaking process erred in not disclosing its substantive duty under the MBTA and Executive Order 13186 to protect migratory birds and the habitat upon which they depend. This omission must be corrected by a full disclosure and analysis in an EIS of the impacts of this rulemaking to migratory birds. (Preservation/Conservation Organization, Santa Fe, NM - #1766.13.17120.313)

Public Concern: The USDAFS & DOI should subject the proposal to implement the proposed fire management CEs to review by independent scientists.

Why is there no review of this proposal by independent scientists similar to the Committee of Scientists (COS) that reviewed the 2000 rule?

If reducing the risk of wildfire for communities and homeowners while still leaving the ecosystem in good shape is really your intent, then a review by a COS would do nothing but strengthen the proposal.

If your intent is to make it easier to approve logging projects without much meaningful, site-specific environmental effects analysis, then I can understand why a COS review is not being done. In my opinion, if such a COS review were done, they would shoot this proposal out of the water in an instant.

They would evaluate things that likely were never even thought of when this proposal was developed. They would surely weigh the following 2 factors against one another. Did you? On a post-fire site, is it better to:

- 1) Run heavy equipment around on fragile, erosive soils (sometimes near streams), or
- 2) Let the ecosystem heal on its own as it has done successfully for so many millions of years?

We both know what their conclusion would be. (Individual, Grangeville, ID - #10.35.14000.300)

Expert testimony from forest scientists not employed or otherwise beholden to the timber industry should be solicited, accepted and made public. If subjected to appropriate scientific, objective and honest review, the foibles and fallacies of the proposed regulations regarding Categorical Exclusions affecting hazardous fuels reduction projects will be exposed and said proposed regulations will be rejected and/or withdrawn. (Individual, Shepherdstown, WV - #1758.4.14000.602)

Public Concern: The USDAFS & DOI should comply with Office of Management and Budget guidelines regarding data collection and analysis for the proposed fire management CEs.

We have . . . concerns that actions under these proposed categorical exclusions will depend upon the collection and interpretation of scientific data, and that the information quality guidelines required by Congress and specified by OMB Guidelines (67 FR 8452-8450) have not been adequately defined by the agencies promulgating these changes. Determination as to whether potential actions would fall under these categorical exclusions depends upon data collection and analysis that would be considered “influential” by OMB guidelines.

In particular, the agencies state that they will utilize the National Fire Plan Operations and Reporting System to “collect data in the areas of restoration and rehabilitation, hazardous fuels reduction, community assistance, and the method of NEPA compliance.” Apart from adequately detailed data quality standards, we are concerned that decisions will be made arbitrarily, without detailed data quality standards, without due regard to the completeness and accuracy of data collected. No detail is provided as to the current operating processes for data collection under the NFPORS. We urge the agency to

address the ability of a system primarily designed to collect information regarding wild and prescribed burns to adequately address the multitude of ecological data necessary to fully describe the actions and their possible effects. CEQ's own regulations regarding scientific data require identification of methodologies used (40 CFR 1502.24).

We have further concerns that the information quality guidelines published by USDA are not adequately suited for the specific mission of the U.S. Forest Service, and that those guidelines cannot therefore ensure that the information that the Forest Service relies upon to make decisions is of sufficient quality. The Forest Service should use this action as an opportunity to fully develop their own data quality guidelines to maximize the "quality, objectivity, utility, and integrity of information (including statistical information) disseminated" (OMB Guidelines). (Individual, Hampstead, MD - #1745.8.15111.109)

Public Concern: The USDAFS & DOI should consider that reliance on personal observation and unknown sources is not sufficient to justify the proposed fire management CEs.

The proposed rule is based on a selective and limited review of nearly 3,500 hazardous fuels and fire rehabilitation projects. We have several significant concerns about the proposed guidance, including:

The Departments have not provided clear information regarding how they assessed the actual effects of fuel reduction and fire rehabilitation projects. The Data Call Analysis Summary states that the information source for determining the actual impacts of these types of projects came predominately (48%) from "personal observation." Data Call Analysis Summary, 4. A disturbingly high percentage of the information (20.9%) came from "unknown" sources. *Id.* Only 16% of the information regarding actual environmental effects came from formal monitoring.

We point out that "personal observations" are highly variable, and do not conform to any sort of rigorous and standardized scientific method. Indeed, the courts have found this sort of rationale insufficient in providing support for agency decision-making. *Northwest Motorcycle Ass'n v. U.S. Dept. of Agriculture*, 18 F.3d 1468, 1475 (W.D. Wash. 1994). (Preservation/Conservation Organization, Davis, CA - #1767.5.14000.109)

The information the Forest Service uses to support this proposal is inadequate. The notice states that 3,500 projects were examined to determine that there would be no significant environmental impacts. However, the determination was done through personal observation and unknown sources and is clearly inadequate to base a determination of "no effect". The evaluation would be inadequate if it were done by impartial individuals; it is even more suspect because the examination was performed in the context and the climate of trying to justify adding these categorical exclusions. There is also no documentation that the selected projects have any similarities with the proposed CEs. The proposal is arbitrary and capricious because it is unclear whether the vast majority of the projects that provide the basis for the Departments' proposed CE have in fact resulted in no significant environmental effects. (Preservation/Conservation Organization, Copper Hill, VA - #816.3.14120.100)

Data located in the Data Call Analysis Summary only increases doubt about the scientific expertise used in assessing the impacts of such projects. The Summary states that 48% of the information came from "personal observation", 20.9% came from "unknown" sources and 16% from formal monitoring. (Data Call Analysis Summary, 4) Such dramatic changes to management of forests are occurring without sound scientific analysis, contrary to the Administrative Procedure Act which requires courts to set aside "agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." (5 U.S.C. 706(2)(A)) (Preservation/Conservation Organization, No Address - #1724.14.14120.104)

The Department fails to provide a rational explanation between the projects reviewed and the conclusion that such fuel reduction projects do not create significant environmental impacts and that a categorical exclusion is therefore appropriate. The Data Call Analysis Summary Document provided on the website in association with the Notice states that 48% of the information on actual impacts of the reviewed projects came from "personal observation," and that 20.9% of the information came from "unknown

sources.” This type of data hardly provides the support necessary to assert that such a large proposal as is presented in the fuel reduction categorical exclusions will not significantly affect the human environment. “Personal observations” can vary and can be subject to bias, particularly when the persons reporting the information are themselves responsible for the effects of an implemented project as is likely the case with all projects reviewed. Without substantial support for its determination, the Departments’ decisions to issue the proposed categorical exclusions is arbitrary and capricious. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.10.14120.109)

Public Concern: The USDAFS & DOI should disclose the methodology used to determine that 190 million acres are at risk for severe fires.

We strongly question the methodology used by the Forest Service, which apparently identifies 190 million acres “at risk” of severe wildland fires. The initial course scale data, which was compiled in 1999 by the Forest Service and BLM, was never intended to be used for a broad “thinning” or “logging” mandate (Cohesive Strategy 2000). In fact, the course scale data only shows alterations in ecosystems, and does not “prove” that 190 million acres are at risk for severe fire. Thus, the agency must disclose the methodology used to determine that 190 million acres are at risk for severe fires and how the conclusion was then made from this data that thinning or logging across the landscape would restore low intensity fire regimes, especially given that the majority of fire regimes in the Western U.S. are not low intensity, high frequency regimes. (Preservation/Conservation Organization, Davis, CA - #1767.19.64520.606)

American Lands strongly questions the methodology used by the Forest Service, which apparently identifies 190 million acres “at risk” of severe wildland fires. The initial course scale data, which was compiled in 1999 by the Forest Service and BLM, was never intended to be used for a broad “thinning” or “logging” mandate (Cohesive Strategy 2000). In fact, the course scale data only shows alterations in ecosystems, and does not “prove” that 190 million acres are at risk for severe fire. Thus, the agency must disclose the methodology used to determine that 190 million acres are at risk for severe fires and how the conclusion was then made from this data that thinning or logging across the landscape would restore low intensity fire regimes, especially given that the majority of fire regimes in the Western U.S. are not low intensity, high frequency regimes. (Preservation/Conservation Organization, Bloomington, IN - #1343.20.14000.109)

We question the legitimacy of any statement so broad as to say that 190 million acres of land are” at risk” of catastrophic fire outside of an ecological historical range or properly functioning condition. The relevant Forest Service literature for example, here in Northern Utah, Sub-Regional Assessment of Properly Functioning Conditions for Areas Encompassing the National Forests of Northern Utah or The Uinta Mountain Ecosystem Report, suggests fire hazards are out of historical range only in isolated locations due to past management errors. From an ecological perspective it is just not possible to make such a broad claim!

In fact a review of the relevant literature suggests that past logging, road building and grazing practices, for example, coupled with fire suppression, have altered fire regimes. The report, Cohesive Strategy, and the initial Report to the President, Managing the Impact of Wildfires on Communities and the Environment (2000), identify drought as the major causative factor in contributing to severe fires since 1994. This is obvious here in the interior West where the drought, as of the end of January 2002, has become severe to extreme across large portions of the West. To the extent that one can imagine or predict fire hazards reaching broad acreage potentials as a result of a huge drought, it is possible to claim a broad fire hazards. But it must be based primarily on drought conditions—an act of nature.

Such absurdly broad statements affecting public participation and public policy only serve to alter the focus of what needs and can be done to minimize impacts from fires resulting from severe conditions and poor past forest management. The Cohesive Strategy and the Report to the President make it clear that the priority for fuels reduction would be targeted in only these naturally short fire interval systems.

The low intensity, high frequency fire regimes are only a very small portion of the total public lands. This initial course scale data (190 mm acres), which was compiled in 1999 by the Forest Service and BLM, was never intended to be used for broad “thinning” or “logging” mandate (Cohesive Strategy

2000). In fact, the course scale data only shows alterations in ecosystems, and does not “prove” that 190 million acres are at risk for severe fire. Thus, the agency must disclose the methodology used to determine these acres are at risk for severe fires, and how the conclusion was then made that thinning or logging across the landscape along with restricting public participation and agency accountability stemming from the participation will restore low intensity fire regimes. (Preservation/Conservation Organization, Hyrum, UT - #1647.7-8.14100.109)

Public Concern: The USDAFS & DOI should consider that the 1999 General Accounting Office report, which is cited as justification for fuels reduction projects, has been criticized by independent researchers.

The Bush Administration’s rationale for implementing expanded Categorical Exclusion provisions is being based on the supposed need for massive fuels reduction. However, the often cited 1999 General Accounting Office report stating the purpose and need for such projects has been seriously criticized by independent researchers. (Place-Based Group, Troy, MT - #1743.4.14000.109)

Public Concern: The USDAFS & DOI should consider additional alternatives to the proposal to implement the proposed fire management CEs.

Categorical Exclusion shortcomings: only a single alternative is considered. (Individual, Grangeville, ID - #10.11.20000.230)

Proponents of this measure must also comply with NEPA’s requirement to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. [section] 102(2) (E) (emphasis supplied). (Individual, Baltimore, MD - #114.7.20000.230)

Public Concern: The USDAFS & DOI should consider that CEs do not require an evaluation of alternatives or a determination of effects.

Table 1 of the Summary shows approximately 52 percent of reviewed projects were documented with an environmental assessment (EA) or an environmental impact statement (EIS). Table 2 of the Summary indicates that of these projects, most found the impacts to be as expected from the NEPA process. However, in developing these EAs and EISs as required by NEPA, the agencies analyzed and evaluated a reasonable range of alternatives, including the No Action alternative, for each project. The agencies were able to compare alternatives relative to identified project objectives and anticipated impacts and select an alternative that best met the project objective while minimizing or avoiding negative effects. Categorical exclusions do not require an evaluation of management alternative or a determination of effects in order to predict the outcome of a selected alternative. (Arizona Game and Fish Department, Phoenix, AZ - #799.4.14120.109)

Adequacy of Projects Review (FONSI)

Adequacy of Projects Review General

Public Concern: The USDAFS & DOI should submit the methodology and data used for the projects review to independent peer review.

The 3,000 projects reviewed relied on anecdotal information relative to cumulative impacts, and did not utilize monitoring data from field biology units.

The notice that was published in the Federal Register stated that the proposed change was “based upon review of field data: and that the agencies reviewed “over 3,000 hazardous fuels reduction and rehabilitation/stabilization projects completed in FY 1998 through FY 2002”. We spoke with resource specialists throughout the region and found that very few had contributed “data” to the field review. In fact, in all of FS district offices we spoke with, fire/fuels crew staff provided the data for this review. We

do not believe the agencies can state that this forms a credible basis for the proposal. If indeed this is the basis for the proposal, then the review needs to include input from field biologists who have engaged in active monitoring of resource impacts, population trends, and cumulative effects to species and resources. Fire staff are trained to view project impacts based on fire-related criteria, such as whether or not the fire was in prescription, how many acres burned and at what intensities, etc. We therefore believe that the methodology and the data used to evaluate the impacts from the 3,000 projects needs to be peer reviewed for scientific validity by a team of scientists from within and without the agency, and should include a wide range of specialists (ecologist, wildlife biologist, soil scientist, botanist, hydrologist), etc. This is appropriate, since recent commitments have been made by this administration and the previous one to ensure that the “best scientific information available” will be used to inform decision making. (Preservation/Conservation Organization, Point Arena, CA - #1737.4.14100.100)

It appears that the basis given for the adoption of these two new categories of the CE is biased and scientifically flawed. We therefore request that the methodology be subjected to a peer review by a team of scientists from a wide range of fields and expertise relative to natural resources from within and without the agency. The Committee of Scientists are a logical choice for this review. (Other, Nevada City, CA - #1832.7.14120.001)

Public Concern: The USDAFS & DOI should recognize that the projects review provides evidence against using the proposed fire management CEs.

Instead of the required EA or EIS the agencies are presenting as evidence that these categories of actions proposed for CE do “not individually or cumulatively have a significant effect on the human environment” an in-house review of 3,000 projects that are exemplary of what would be allowed under the CE. These projects do not support the CE, however, and are actually evidence against it inasmuch as they demonstrate cumulative environmental harm. Together they involve tens of thousands of acres of national forests, with all the attendant effects on water, soil and wildlife.

The total of the fuel treatment activities surveyed for 2 years was 3,300,594 acres alone. That itself represents a cumulatively significant amount of acreage. Some of the individual sales on the list were over 5,000 acres, which on its face is individually significant. In addition, there does not appear to be any limitation on how often the individual CEs could be used, so that many individually insignificant (small) projects could be right next to each other without their total effect ever being taken into account. (Preservation/Conservation Organization, Santa Fe, NM - #1186.21.14120.109)

Public Concern: The USDAFS & DOI should consider that the data call information can only be reviewed with the Excel spreadsheet program.

The public could only review the data call information if they had a computer equipped with the Excel spreadsheet program, which Plumas Forest Project did not; and this information was not readily available through the links provided in the proposal but had to be requested. While individual agency personnel were extremely helpful in trying to get the information to us, the process was so cumbersome that we had to settle on getting only the information on the eight Plumas National Forest projects out of the overall 3,000+ projects. (Place-Based Group, Blairsden-Graeagle, CA - #1736.5.12100.108)

Public Concern: The USDAFS & DOI should provide data regarding the scope and level of detail in public comment submitted on the projects reviewed.

BECAUSE LIMITING PUBLIC INPUT TO LOCAL POPULATIONS MAY RESULT IN FAILURE TO GATHER SUFFICIENTLY DETAILED FEEDBACK ON LIKELY ENVIRONMENTAL EFFECTS

My experience with local involvement in hazardous fuel reduction and rehabilitation/stabilization activities is that it is unlikely that those local populations have any scientific knowledge or practical experience with these activities. What was the finding of the agency review of public comments in the 3,000 projects? How will decision makers recognize the appropriate level of local collaboration if specialized knowledge is generally unavailable to assess complex questions and trade-offs associated with every decision of when, where, how, and the effects of treatments? How will decision makers be

confident when determining which projects are consistent when this is not clearly spelled out in the proposed change other than to say that they will be? (Individual, No Address - #309.4.31300.739)

Adequacy of Projects Review – Parties who Submitted Data

Public Concern: The USDAFS & DOI should consider the adequacy of the projects review with respect to the parties who submitted data.

THE REVIEW RELIES EXCLUSIVELY ON AGENCY OPINION

The data call analysis is simply a compilation of “predictions” made in the NEPA documents prepared for each of the sampled projects and a compilation of “personal observations of field staff” as to whether or not those predictions were accurate. While the Forest Service and DOI purport to have analyzed monitoring data, most often, such data also consists of nothing more than agency staff opinions and not the hard data necessary to actually verify whether predicted effects occurred. Moreover, Forest Service and DOI monitoring has been woefully incomplete. Only a fraction of the monitoring items set forth in land and resource management plans or projects are ever actually implemented. For example, time and time again courts at both the district and appellate levels have chastised the Forest Service for failing to monitor population trends for indicator species

In *Heartwood, Inc. v. United States Forest Service* 73. F. Supp. 2d 962, 974-77 (S.D. Ill. 1999), the Court found that the Forest Service could not rely exclusively on “Forest Service expertise and prior experience with timber sales” to justify its position that a 10-fold increase in the upper volume limit for a timber harvest categorical exclusion rule was justified. Likewise, in this case, the Forest Service and DOI cannot rely exclusively on the agency expertise and experience reported in the data call analysis to support their conclusion that the broad categories of actions authorized under the proposed categorical exclusion rules will not individually or cumulative result in significant environmental harm. (Preservation/Conservation Organization, Santa Fe, NM - #845.7.14120.109)

THE REVIEW WAS NOT CONDUCTED BY AGENCY PERSONNEL WITH ADEQUATE EXPERTISE REGARDING THE ROLE OF FIRE

Even though fire cycles occur over decades and often even over centuries, the data used to justify the proposed change spanned only from October 2000 to the present for the Forest Service and from 1998 to the present for the Bureau of Land Management and other agencies. <http://www.fs.fed.us/emc/hfi/analysis.pdf>: Also, the Federal Register notice claims that agencies have had “extensive experience” in implementing fuels reduction and fire rehabilitation projects. 67 Fed. Reg. 77,041. However, the value of thinning to address fire risks in other forest ecosystems is still poorly understood. Even the agencies’ own documents such as the Review and Update of the 1995 Federal Wildland Fire Management Policy states that “little information exists on the effects of post-fire rehabilitation activities that fully integrate biological, hydrological, and geological disciplines. There is also a lack of information concerning the social science implications of fire management activities on firefighting personnel, decision makers, and the public.” (p. 13) It also states that “the public, as well as some agency employees and managers, still do not adequately understand the role of fire in maintaining natural systems.” (p. 16) Some of the analysis in the over 3,000 projects examined could have been done by these very agency employees that are not clear about the role of fire in our forests. (Preservation/Conservation Organization, No Address - #1724.13.14120.104)

DATA WAS SUBMITTED BY FUELS/FIRE PERSONNEL

The Federal Register notice states that “based upon review of field data, the agencies conclude that actions identified in the proposed categories would not individually or cumulatively have significant effects on the human environment and therefore would not require preparation of an environmental assessment or an environmental impact statement.” The notice also claims that the agencies reviewed “over 3,000 hazardous fuels reduction and rehabilitation/stabilization projects completed in FY 1998 through FY 2002” and the review included “30 different data items for each project, including information on project location and size, vegetation cover type, fuels treatment type, predicted environmental effects, actual environmental effects after project completion, and mitigation measures. Environmental effects include ecological, aesthetic, historic, cultural, economic, social, or health

effects” (FR 67, No. 241, p. 77041). This language suggests that a systematic and detailed review based on monitoring using consistent protocols had been undertaken to analyze the environmental impacts of each of the projects.

How rigorous was this data analysis, and how good was the data submitted?

Data not based on science: We inquired and found that these data were submitted—perhaps in toto—by fuels/fire personnel in the FS district offices. Fire personnel are not trained to monitor or to assess the impacts of individual projects or the cumulative impacts of projects for parameters relative to biological impacts—in short, they would tend to evaluate the impacts of a project from the standpoint of fire objectives obtained. Fire personnel would not have consistent expertise in the fields of forest ecology, wildlife biology, botany, cultural and historical resources, soil science, or hydrology, which is required to assess environmental impacts. (Other, Nevada City, CA - #1832.4.14120.001)

THERE WAS NO INPUT FROM BIOLOGISTS

Lack of input from biologists: We have informally surveyed wildlife biologists throughout the FS in California, and none of the biologists we spoke with had been asked to provide input into this request for data on the 3,000 projects. Yet, biologists are the staff specialists most knowledgeable concerning the impacts to wildlife from management activities. (Other, Nevada City, CA - #1832.5.14120.001)

Adequacy of Projects Review – Timeframe for Data Submission

Public Concern: The USDAFS & DOI should consider the adequacy of the projects review with respect to the timeframe for data submission.

LACK OF ADEQUATE TIME TO PROVIDE QUALITY INFORMATION

Process was biased, evidenced by the lack of time to provide quality information: The Washington Office of the Forest Service sent a letter to the Regional Foresters on September 11, 2002, asking for information concerning the environmental impacts of fuel hazard reduction and rehabilitation projects. The forests were given one week—by September 25, 2002—to submit this information. One week is hardly enough time to gather this type of information on 3,000 projects, particularly since it is not possible to judge the cumulative and long-term effects of a project that has just been completed, or in many cases, may still be in process—and given that monitoring of FS actions seldom if ever takes place in any event. We cannot believe that the agencies had the sincere intention of conducting a credible review of the 3,000 projects given this rapid turn-around time, and given the failure of the agencies to require quality data in a consistent and scientifically defensible manner. (Other, Nevada City, CA - #1832.7.14120.001)

Adequacy of Projects Review – Selection of Projects

Public Concern: The USDAFS & DOI should consider the adequacy of the projects review with respect to the selection of projects.

THE METHOD OF PROJECT SELECTION IS QUESTIONABLE

While the Departments of the Interior and of Agriculture have examined several thousand fuel reduction and fire rehabilitation projects, their methods of project selection and their final conclusion do not meet the requirements of scientific review. Personal experience with several rehabilitation projects, including the Big Bar post fire salvage in Six Rivers National Forest has proven to us that environmental regulations are often ignored when there are large commercially viable trees at stake. NEPA was enacted for just this reason. To expand these categorical exclusions would be against the letter and intent of NEPA. Public oversight is necessary for the protection of our public lands. (Preservation/Conservation Organization, Santa Rosa, CA - #1769.2.14000.230)

Are you sure your review of completed hazardous fuel reduction and rehabilitation/stabilization projects was not biased?

You say you reviewed over 3,000 hazardous fuel reduction and rehabilitation/stabilization projects completed in FY 1998 through FY 2002 and concluded that these categories of actions do not individually or cumulatively result in significant effects on the human environment. According to the Federal Register, well over 50% of these projects were documented in an EA or EIS.

How were these review samples chosen? If you had reviewed any of these types of projects in my area, I have no doubt that you would not have reached the same conclusion. Why didn't the Federal Register discuss this? (Individual, Grangeville, ID - #10.27.14100.104)

We have received credible information indicating that the federal agencies selectively analyzed previous fuel suppression and fire rehabilitation projects, and in doing so, omitted several projects where additional NEPA analysis was required. If this occurred, it calls into question the federal agencies' decision to propose the CEs, and we request that the federal agencies explain why some projects were analyzed while others were excluded. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.15.14120.100)

The Departments seem to have selectively reviewed "hazardous fuels reduction" and "fire rehabilitation" projects in reaching their conclusion that these projects should be categorically excluded from further NEPA analysis. For example, BMBP has reviewed nearly all of the timber sales in eastern Oregon for the past several years, most of which have "fuels reduction" as one of the primary objectives of the project. However only one of these projects—the Blackbear timber sale—is listed on the Department's data call spread sheet. Other fuels reduction and fire rehabilitation projects such as the McCache, W2, Big Tower, and Timber Basin timber sales are not listed on the spreadsheet. Some of these projects were analyzed with EAs, others with EISs, and some resulted in litigation that ultimately concluded that additional NEPA analysis was required. Clearly, a CE for any of these—or similar—projects is inappropriate because projects of this type necessarily result in significant impacts. Consequently, we request that the Departments clarify why some fuels reduction and fire rehabilitation projects were analyzed and others were not. (Preservation/Conservation Organization, Vancouver, WA - #314.1-2.14120.103)

The proposed rule is based on a selective and limited review of nearly 3,500 hazardous fuels and fire rehabilitation projects. We have several significant concerns about the proposed guidance, including:

The Departments seem to have selectively reviewed "hazardous fuels reduction" and "fire rehabilitation" projects in order to favor the conclusion they desired. We request that the Departments clarify why some fuels reduction and fire rehabilitation projects were analyzed while others were not.

Frequently, timber sales advanced in the name of hazardous fuel reduction are not legitimate hazardous fuels reduction projects. Based on an independent review, many of the cited projects (among others) are in fact green timber sales in areas without high fuel loadings or adjacent homes or communities, nor are they at a significant risk of catastrophic fire. The prescriptions for these projects generally involve even-aged logging that removes the types of vegetation that are in fact most fire resistant, such as large, old growth and mature trees. Litigation surrounding several of these projects has led to the preparation of an environmental impact statement (EIS), and yet it is these types of projects that the Departments are now proposing to categorically exclude from even an environmental assessment (EA). (Preservation/Conservation Organization, Davis, CA - #1767.3.14120.104)

THE REVIEW DOES NOT INDICATE WHETHER THE MAJORITY OF CATEGORICALLY EXCLUDED PROJECTS WERE FOR FUELS REDUCTION OR REHABILITATION

Agency activities may differ significantly. As shown in Table 1 of the Summary, twenty-five percent of the projects reviewed were implemented by the U.S. Fish and Wildlife Service (USFWS); however, most USFWS proposed projects in Arizona are not large-scale fuels reduction projects. Thirty-four percent of the projects were implemented by the USFS. Of these USFS projects, 63 percent were documented with categorical exclusions. However, it does not indicate whether the majority of these categorically excluded projects were rehabilitation/stabilization projects or fuels reduction projects. (Arizona Game and Fish Department, Phoenix, AZ - #799.3.14120.109)

SOME OF THE PROJECTS WERE APPROVED DURING THE SALVAGE RIDER

There are several serious problems with the analysis of “over 3000” prior fuel reduction and rehabilitation projects. This CE proposal must be withdrawn until this spreadsheet analysis is corrected and the public is more accurately informed.

Some of the projects were approved during the Salvage Rider. During the Rescissions Act “Salvage Rider,” environmental laws were suspended and EISs were not required, so the agencies should not rely on any findings of no significance during the time period July 1995 through December 1996, because they were not credible or comparable to findings made when NEPA was in full force. (Preservation/Conservation Organization, Eugene, OR - #846.24.14120.109)

MANY OF THE PROJECTS WERE SALES OF GREEN TIMBER FAR FROM WILDLAND-URBAN INTERFACE AREAS

The discussion of past fuel-reduction projects is incomplete and misleading.

Many of the projects that were included in the spreadsheet were, in reality, sales of green timber far from the Wildlands-Urban Interface (WUI) located in units lacking a significant fuel-loading component. Clearly, these commercial timber sales would be categorically excluded under proposed rules. (Preservation/Conservation Organization, Republic, WA - #1429.15.14120.109)

SOME ENVIRONMENTAL ASSESSMENTS WERE FOR COMMODITY TIMBER SALES WHICH REQUIRED NATIONAL ENVIRONMENTAL POLICY ACT ANALYSIS

There are several serious problems with the analysis of 3400 prior fuel reduction and rehabilitation projects. This CE proposal must be withdrawn until this spreadsheet analysis is corrected and the public is more accurately informed.

Some EAs were for commodity timber sales that clearly required NEPA analysis. Many of the fuel reduction EAs listed in the spreadsheet were for slash treatment following purely commodity timber sales. The underlying objective of these timber sale was to meet timber targets and had nothing to do with fuel reduction and they clearly required NEPA analysis. The fuel reduction aspect of these sales was merely cleaning up the mess left behind after a forest destruction project. There is every reason to require full NEPA analysis of such projects and no reason to exempt them from NEPA. (Preservation/Conservation Organization, Montgomery, AL - #1409.24.14120.109)

SOME CE'S WERE “CONNECTED ACTIONS” RELATED TO LARGER PROJECTS WHICH NEEDED NATIONAL ENVIRONMENTAL POLICY ACT ANALYSIS

There are several serious problems with the analysis of 3400 prior fuel reduction and rehabilitation projects. This CE proposal must be withdrawn until this spreadsheet analysis is corrected and the public is more accurately informed.

Some CEs were “connected actions” related to larger projects that clearly needed NEPA analysis. The commodity timber sales mentioned above required NEPA analysis. The slash treatment (fuel reduction) would not be required “but for” the timber sale. NEPA law clearly requires that such “connected actions” be considered together in the same NEPA analysis, so any suggestion to categorically exclude such fuel reduction efforts is clearly contrary to law. The spreadsheet must be corrected to exclude all these “connected action” EAs. (Preservation/Conservation Organization, Montgomery, AL - #1409.25.14120.109)

SOME CE'S WERE NOT IN FIRE REGIMES I AND II

There are several serious problems with the analysis of 3400 prior fuel reduction and rehabilitation projects. This CE proposal must be withdrawn until this spreadsheet analysis is corrected and the public is more accurately informed.

Some CEs were NOT in fire regimes I and II. Science tells us that fuel build-up is most severe in areas that historically were visited by frequent fire (known as fire regimes I and II) as opposed to areas where fire was historically an infrequent visitor. Many of the projects in the spreadsheet are in Coos county Oregon where a combination of climate, vegetation types, and geophysical setting allow for relatively long fire free intervals. Coos County is not among the 190 million acres of federal land at risk from unnaturally intense fire. Fuel reduction projects listed in places like Coos County are probably related to slash treatment from timber sales as opposed to fire risk reduction. The fuel reduction debate should not be confused by mixing apples and oranges. (Preservation/Conservation Organization, Montgomery, AL - #1409.25.14120.109)

SOME CE'S WERE NOT IN FIRE CONDITION CLASS II AND III

There are several serious problems with the analysis of 3400 prior fuel reduction and rehabilitation projects. This CE proposal must be withdrawn until this spreadsheet analysis is corrected and the public is more accurately informed.

Some CEs were NOT in fire condition class II and III. Some of the EAs listed in the spreadsheet are in areas that do not have a dangerous buildup of fuels except in relation to the slash created by a particular timber sale. Again let's not confuse the debate with these issues that are totally unrelated to the issue of fuel reduction to reduce the risks of wildland fire. (Preservation/Conservation Organization, Montgomery, AL - #1409.25.14120.109)

THE REVIEW FAILED TO INCLUDE THE PROJECTS DESIGNED TO IMPLEMENT THE HERGER-FEINSTEIN QUINCY LIBRARY GROUP FOREST RECOVERY ACT PILOT PROJECT

The list of over 3,000 hazardous fuels reduction projects that led to the Team's conclusion of no significant individual or cumulative impact failed to include the projects that are designed to implement the Herger-Feinstein Quincy Library Group Forest Recovery Act pilot project, even though significant controversy surrounds them, and a lawsuit determined that the programmatic environmental analysis was inadequate. Therefore, we question the validity of the list and the conclusions drawn from its study by the Team. (Preservation/Conservation Organization, Eureka, CA - #1248.9.14120.109)

THE REVIEW SHOULD ONLY HAVE INCLUDED TIMBER HARVEST ASSOCIATED WITH "THINNING OVERSTOCKED STANDS"

Underneath all the verbiage associated with the CE proposal is the primary intent to exclude from environmental analysis logging associated with "thinning overstocked stands". Therefore, it would have been far more straightforward and helpful to have included only that sort of project in the data call analysis. If that had been the case then all of the pre-Framework projects in the Sierra would have been found wanting by the standard and post-Framework projects would have been implemented too recently to make impact determinations. (Place-Based Group, Blairsden-Graeagle, CA - #1736.7.14120.103)

Adequacy of Projects Review – Comparability of Reviewed Projects to Proposed Fire Management CE Projects

Public Concern: The USDAFS & DOI should consider the adequacy of the projects review with respect to the comparability of the projects reviewed with those to which the proposed fire management CEs will apply.

IT IS NOT KNOWN WHETHER ACTIONS UNDER THE PROPOSED FIRE MANAGEMENT CE'S WILL BE OF THE SAME SCALE AND NATURE AS THOSE IN THE PROJECTS REVIEW

There is no indication that the categories of actions proposed for categorical exclusion in this rulemaking are of the same scale and nature as those analyzed in the "data call." The broad definition used in the federal register could include a 10-acre brush-clearing project to a 5,000-acre logging project. (Preservation/Conservation Organization, Santa Fe, NM - #1186.21.14120.109)

THE SCOPE OF ACTIVITIES DESCRIBED IN THE PROJECTS REVIEW IS LIKELY NARROWER THAN THOSE ALLOWED IN PROPOSED FIRE MANAGEMENT CE'S

The proposed CEs are so overbroad that they seemingly would authorize fuel reduction projects of a scope far exceeding the types of activities described in the nearly 3,000 projects the federal agencies reviewed in developing the CEs. See 67 Fed. Reg. 77042. The notice in the Federal Register does not explain this discrepancy or, if intended, does not establish why projects which are larger in scope should qualify for CE treatment. Motor Vehicle Manufacturers Assn., 463 U.S. at 43. Failing to substantiate government decision-making with information is arbitrary and capricious. *Sierra Club v. Bosworth*, 199 F. Supp. 2d 971 (N.D. Cal. 2002).

In fact, in the recent past, rehabilitation and fuel reduction activities were exactly the types of activities which required at least an EA and often an EIS. See, e.g., *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1213 (9th Cir. 1998); *Sierra Club v. Bosworth*, 199 F. Supp. 2d 971 (N.D. Cal. 2002); *League of Wilderness Defenders-Blue Mountains Biodiversity Project et al. v. Forsgren* 184 F. Supp. 2d 1058 (D. Or. 2002); *League of wilderness Defenders - Blue Mountains Biodiversity Project et al. v. Zelinski*, 187 F. Supp.2d 1263 (D. Or. 2002); *League of Wilderness Defenders v. Forsgren*, 163 F. Supp. 2d 1222 (D. Or., 2001). The federal agencies have not explained why departing from binding case precedent is appropriate. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.14.14120.100)

THERE ARE DIFFERENT MITIGATION EXPECTATIONS BETWEEN THE REVIEWED PROJECTS AND POTENTIALLY CATEGORICALLY EXCLUDED PROJECTS

Did it ever occur to you that the resource mitigation resulting from the EA and EIS analysis might have reduced the environmental effects of these 3,000 hazardous fuels reduction and rehabilitation/stabilization projects to the point that you concluded that a CE would have been fine? The problem is, under a CE as you are proposing this mitigation would not have been required, or even considered. So this is a classic example of comparing apples and oranges. (Individual, Grangeville, ID - #10.28.14100.104)

THE REVIEW RELIES ON NONCONTROVERSIAL, UNOPPOSED PROJECTS TO JUSTIFY CONTROVERSIAL TIMBER SALES

The federal agencies offer two main rationales for their proposed hazardous fuel categorical exclusion: 1) the Departments' "extensive experience in hazardous fuels management;" and 2) a review of over 3,000 hazardous fuels reduction and rehabilitation/stabilization projects completed between FY 1998-2002. Viewing these rationales together, the agencies have concluded that "the review indicates that hazardous fuels reduction activities and rehabilitation/stabilization activities, absent extraordinary circumstances, do not individually or cumulatively have significant effects on the human environment." 67 Fed. Reg. 77038, 77042.

However, a close analysis of the projects reviewed by the agencies demonstrates that the projects listed are incomplete and inexplicably focused on non-controversial actions, rather than the legions of

controversial timber sales, planned largely by the Forest Service and the Bureau of Land Management, that are falsely justified under the banner of “fuels reduction.” The result is arguably a purposeful deception of the public, as the agencies are relying on projects that do not generally engender public opposition or controversy to justify a categorical exclusion that will clearly be—[per the] USDA Forest Service Content Analysis Team Comments on Proposed “Fuels Hazard Reduction” Categorical Exclusion Page 10—applied to controversial timber sales that result in substantial and significant negative environmental impacts, both individually and cumulatively.

According to the Forest Service’s “Data Request for Fuels Treatment Project Information,” sent by the D.C. Office to all Regional Foresters on September 11, 2002, the approximate 3,000 projects reviewed for the proposal are comprised of fuel hazard reduction project information from the National Fire Plan database for FY 2001 and FY 2002. Additionally, the D.C. Office also requested the Regional Foresters to “identify any additional fuel hazard reduction. (Preservation/Conservation Organization, Tucson, AZ - #1434.18.14000.111)

Adequacy of Projects Review – Adequacy of Data/Analysis

Public Concern: The USDAFS & DOI should consider the adequacy of the projects review with respect to the adequacy of data/analysis.

THE DATA IS MISLEADING

The data used to predict impacts is often misleading, beginning with numerous references in the background materials from which the decision for categorical exclusions was derived. (Preservation/Conservation Organization, Ashland, OR - #501.6.14120.109)

THE REVIEW DOES NOT ADEQUATELY DISCUSS DIRECT, INDIRECT, AND CUMULATIVE EFFECTS

Federal agencies must consider three types of potential environmental impacts or “effects” of their proposed regulations and programs; direct, indirect, and cumulative. 40 C.F.R. S 1508.25(c). The CEQ regulations define “effects” as being synonymous with “impacts.” 40 C.F.R. S 1508.8. Direct effects are those caused by the action which occur at the same time and place. Indirect effects are those caused by the action which are later in time or farther removed in distance, but are still reasonably foreseeable. Id.

Indirect effects include the “growth inducing” effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and natural systems, including ecosystems. Id. For example, court decisions construing NEPA have recognized that federally-assisted projects which contribute to suburban development are required to evaluate the growth inducing effect of additional development. See e.g., *City of Davis v. Coleman*, 521 F.2d 661 (9th Cir. 1995) (highway construction); *Carmel-by-the-Sea v. U.S. Dept. of Transportation* 123 F.3d 1142 (9th Cir. 1997) (highway construction); *Morongo Band of Mission Indians v. FAA*, 161 F.3d 569 (9th Cir. 1998) (airport expansion).

The CEQ regulations define “cumulative impacts” as the impacts on the environment which result from the “incremental impact of the action when added to past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” 40 C.F.R. S 1508.7. Cumulative impacts can result from “individually minor but collectively significant actions taking place over a period of time” Id.

The minimum requirements for analysis and mitigation of cumulative impacts have been extensively described by the Council on Environmental quality in its publication “Considering Cumulative Effects Under the National Environmental Policy Act (1997), by the CEQ regulations implementing NEPA (40 C.F.R. 1508.7; 1508.8), and by the Forest Service’s Environmental Policy and Procedures Handbook (FSH 1909.15.15.1). Specific examples of quantitative information to be addressed by cumulative effects analyses are identified by these sources as well as other regulations or rules for specific resources, such as threatened, endangered, and sensitive wildlife. FSM 2620.3; 2620.44; 2621.3 Additional guidance can be found in the Environmental Protection Agency’s “Consideration of Cumulative Impacts in EAP Review of NEPA Documents.

At minimum, an adequate cumulative effects analysis must:

- (1) identify the past, present, and reasonably foreseeable actions of Forest Service and other parties affecting each particular aspect of the affected environment;
- (2) must provide quantitative information regarding past changes in habitat quality and quantity, water quality, resource values, and other aspects of the affected environment that are likely to be altered by Forest Service actions;
- (3) must estimate incremental changes in these conditions that will result from Forest Service actions in combination with actions of other parties, including synergistic effects;
- (4) must identify any critical thresholds of environmental concern that may be exceeded by Forest Service actions in combination with actions of other parties; and
- (5) must identify specific mitigation measures that will be implemented to reduce or eliminate such effects.

Needless to say, the Forest Service and DOI's analysis falls far short of this mark. In fact, the data call is not an analysis at all. The direct, indirect, and cumulative effects of all past, present, and reasonably foreseeable actions authorized by the proposed categorical exclusions have simply not been addressed in any meaningful fashion. (Preservation/Conservation Organization, Santa Fe, NM - #845.5-6.14120.109)

No cumulative effects analysis of the 3400 projects. The agencies assert in the federal register notice that these fuel reduction projects do not individually or cumulatively cause significant effects, but the agencies failed to perform any cumulative effects analysis. (Preservation/Conservation Organization, Takoma Park, MD - #1591.8.14120.109)

The December 16, 2002 Federal Register Notice at p. 77038 provides inadequate support for its conclusion that the 3,000 hazardous projects do not individually or cumulatively result in significant effects on the human environment.

In a brief sampling of National Forests in California, it is unclear that project specific wildlife biologists were consulted for each of the projects cited. We also question the conclusion that proper cumulative effects analysis, for sensitive and MIS, was completed for fuels reduction projects listed.

We submit for the record one review of fuels reduction projects on a portion of one ranger district on the Eldorado National Forest in the central Sierra Nevada, in region 5. From 1994-2000 the Pacific Ranger District logged 55.25 MMBF in 32 timber sales, 23 of which were completed under the existing categorical exclusion language in FSH 1909.15. The cumulative effects of this extensive logging program were never analyzed under any NEPA document despite significant public concerns raised over the fragmentation of important habitat for the California spotted owl in an area of known low density, mixed ownership and with an extensive harvest history. The abuse of discretion of the existing rule presents a picture of things to come and that clear failure of the Forest Service to complete adequate cumulative effects analysis of a timber program where the "cat.ex." was used to evade adequate NEPA on its head. We are strongly opposed to lessening the level of analysis for fuels reduction projects. We are particularly concerned that this approach will lead to the kind of abuse of the intent of the statute and regulations aimed at assessing the cumulative impacts of federal actions and their potential harm to the human environment. (See 4-page attachment-Table1. and associated maps demonstrating the level of existing habitat conditions and owl activity areas on the Pacific Ranger District). (Preservation/Conservation Organization, Sacramento, CA - #1765.3.13000.109)

THE REVIEW DOES NOT INCLUDE THE RANGE OF ACTIONS THAT MUST BE ADDRESSED TO SUPPORT A FINDING OF NO SIGNIFICANT IMPACT

Council on Environmental Quality Regulations ("CEQ") implementing the National Environmental Policy act and the case law addressing NEPA clearly identify the range of actions that must be considered by the Forest Service and DOI before it can be determined that any particular action or set of actions do not have significant cumulative impacts. From a temporal standpoint, actions must include all "past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions." 40 C.F.R. S 1508.7

Spatially, such actions must include: 1) “connected actions,” which means they are closely related and therefore should be discussed in the same impact statement; 2) “cumulative actions,” which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement; and 3) “similar actions,” which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.” 40 C.F.R. S 1508.25(a)

The simple data call analysis relied upon by the Forest Service and DOI does not even come close to including the range of actions that must be addressed to support a finding of no significant impact for the proposed categorical exclusions. Temporally, the DOI’s list of projects includes 100% of DOI projects from 2002 and a 10% sample of projects implemented since 1998. The Forest Service’s list of projects consists of a 100% sample of projects implemented during 2001 and 2002. The Forest Service and DOI have been implementing activities described by the proposed categorical exclusions for decades, and thus, this small sample of recent projects is facially inadequate for determining the effects of past actions. The Forest Service and DOI’s analyses are utterly silent on the effects of present or “reasonably foreseeable” actions.

Spatially, the Forest Service and DOI’s analyses fail entirely to consider connected, cumulative, or similar actions. In the areas where activities authorized by the proposed categorical exclusion rules will take place, there are dozens and dozens of connected, similar, and cumulative actions that have been and will continue to be implemented by the Forest Service, DOI, other state and local agencies, and private landowners. These actions include commercial timber sales, grazing, wildland-urban interface land development, noxious weed control, fire suppression, road building, brush control, and a wide range of other activities that are similar to, connected to, or which compound effects of activities authorized by the proposed categorical exclusion rules. (Preservation/Conservation Organization, Santa Fe, NM - #845.3-4.14120.109)

IT IS UNCLEAR WHETHER THE MAJORITY OF PROJECTS ACTUALLY RESULTED IN NO SIGNIFICANT ENVIRONMENTAL EFFECTS

The Proposed Categorical Exclusions are Arbitrary and Capricious. The Federal Register notice for the proposed CE states that the Departments of Interior and Agriculture (Departments) examined nearly 3,500 hazardous fuels reduction and fire rehabilitation projects. However:

- a. The agencies have provided very little site-specific evidence for their conclusions.
- b. The Departments seem to have selectively reviewed “hazardous fuels reduction” and “fire rehabilitation” projects in reaching their conclusions.
- c. The Departments concluded after assessing these projects that there would be no significant environmental impact. However, these conclusions were not based on scientific review. Rather, the Departments relied on “personal observation” (48%) and “unknown” sources (20.9%) to arrive at their conclusions.

Because it is unclear whether or not the vast majority of the projects that provide the basis for the Departments’ proposed CE have in fact resulted in no significant environmental effects, the proposed guidance is arbitrary and capricious. (Individual, Indianapolis, IN - #896.2.14120.103)

THERE IS NO INFORMATION ON THE CRITERIA USED TO DETERMINE WHETHER THE PROJECTS RESULTED IN SIGNIFICANT EFFECTS

There is no information on the criteria used to evaluate whether projects resulted in significant effects to the environment other than subjective evaluations based on “visual observations.” This type of project evaluation is completely unscientific, presenting problems in lack of standardization in project evaluation by observers, lack of detail on evaluation methodologies, and absence of scientific literature to back project evaluations. Without this information it is impossible to determine whether such evaluations suffer from observer biases in evaluation of project impacts and whether direct, indirect, and cumulative impacts were sufficiently evaluated by project observers. Moreover, a significant number of previously, categorically-excluded projects (518 of the 3,478 projects in Table 2 of the background materials) lacked information on whether the predicted impacts matched actual impacts. This is particularly problematic when considered together with other projects (312 projects with EAs and EISs) that have no information regarding actual impacts. This kind of analysis raises serious doubts regarding

the accuracy of predictions and the reliability of environmental impact assessments. In addition, a significant percentage (19.2%) of project monitoring results presented in Table 3 were based on personal observation and not formal monitoring (7.9%) with the highest project-monitoring category being "unknown" (14.3%). (Preservation/Conservation Organization, Ashland, OR - #501.6.14120.109)

COUNTING THE NUMBERS OF EA'S AND EIS'S DOES NOT SUBSTANTIATE THE LACK OF SIGNIFICANT EFFECTS

Review of the 3000 Hazardous Fuels Reduction Projects - Your review of these documents was used as proof that there are no significant environmental consequences from performing hazardous fuels reductions over the last several years. I believe this is faulty logic at best, and very poor science at worst, for the following reasons:

*Many of the hazardous fuels environmental assessments most likely included action items in alternatives, and/or specific mitigations, which lowered impacts on the projects and prevented a "Finding of Significant Impact." Did you review the EAs in question to determine if this was the case? What did you find? How many of the EAs included mitigations to lower the threshold of impacts below "significant?" How many of the EISs?

*If you did not read the EAs/EISs, but only counted numbers of documents, your review was not substantial, and has very limited value in this discussion. How does counting numbers of EAs and EISs substantiate the lack of significant and/or substantial impacts?

*The fact that past projects are not significant (as claimed) does not guarantee that future projects also will be non-significant. There will be a trend, based on your history of forest management, to include larger and more controversial projects under the CE category, if you are successful in implementing it. You recommend no limits on the acreage, on the potential cumulative effects of adjacent projects, or on the numbers or acreage of projects within the same watershed? How do you plan on accounting for connected actions, and analyzing cumulative impacts, direct, indirect effects?

EAs often surface negative environmental effects that are not "significant" but are still substantial. Alternatives and mitigations are often designed to minimize these substantial effects in order to design the best project possible. Use of the CE limits this option. (Individual, Canton, KY - #137.2.14120.300)

THE ANALYSIS OVER-COUNTED ENVIRONMENTAL ASSESSMENTS

There are several serious problems with the analysis of 3400 prior fuel reduction and rehabilitation projects. This CE proposal must be withdrawn until this spreadsheet analysis is corrected and the public is more accurately informed.

The analysis over-counted EAs. Many of the fuel reduction EAs listed in the spreadsheet are actually separately listed burn units from the same EA. If these multiple entries were fixed the proportion of categorically excluded fuel reduction CEs would increase providing further evidence that existing authorities are adequate. This proposal must be withdrawn until this analysis is corrected and the public is more accurately informed. (Preservation/Conservation Organization, Saint Paul, MN - #1156.14.14120.108)

RELIANCE ON ENVIRONMENTAL ANALYSES OF REVIEWED PROJECTS TO DISCERN ENVIRONMENTAL EFFECTS IS NOT SUFFICIENT INASMUCH AS SOME ANALYSES UNDERESTIMATE OR IGNORE SUCH EFFECTS

We find it very convenient that the FS uses a supposed study it conducted on 3,000 hazardous fuels reduction and rehabilitation/stabilization projects from FY 1998 to FY 2002 as a way to document insignificant environmental impacts of these types of projects. The fact that the FS admits that it looks at the environmental effects that are revealed in the environmental documentation for these projects casts this study's veracity in doubt. Any environmental documents for projects that came from Sam Houston National Forest or the National Forest and Grasslands of Texas have underestimated or ignored cumulative environmental and other impacts. These deficiencies have been outlined countless times in our comments to the FS on each specific project. Therefore we doubt that your study holds any water. We are suspicious about its self-serving conclusion. (Preservation/Conservation Organization, Houston, TX - #12.9.14100.104)

THE SMALL NUMBER OF PROJECTS PURPORTED TO HAVE SIGNIFICANT ENVIRONMENTAL EFFECTS LIKELY POINTS TO THE BREAKDOWN OF THE SITE-SPECIFIC CUMULATIVE EFFECTS PROCESS

The fact that only twelve projects out of 3,000+ were purported to have possible significant environmental effects points not necessarily to the benign nature of the projects but to the breakdown of the site-specific cumulative effects process. For instance, in project after project we see that it is determined that the project “may affect individuals, but is not likely to result in a trend towards federal listing or loss of viability.” This determination is not possible when there is no overall cumulative effects framework in place at the District, Forest, or Regional level that processes the myriad “may affect individuals” determinations in order to truly assess that there is not “a trend towards federal listing”. The preeminent spotted owl scientist, Jared Verner, explains this fatal flaw in detail in an October, 2000 comment letter on the Sierra Nevada Framework Project (Appendix A - pertinent portion of said letter). The letter refers specifically to spotted owls but the situation is the same with regards to all Forest Service sensitive species.

It can be shown in another way that far more than twelve projects had significant environmental effects. Of the Plumas projects all but one occurred previous to the Sierra Nevada Framework implementation. As part of that process extensive scientific analysis was brought to bear on conditions in the Sierra, the result being that the primary standards and guidelines relative to treating fuels were drastically changed to avoid continued significant environmental effects associated with pre-Framework projects. If the Plumas information is any indication, nearly all of the projects on the data call list in the Sierra are pre-Framework projects. So again, looking at projects on a one-by-one basis does not reveal serious problems that are readily apparent when they are viewed as a whole. (Place-Based Group, Blairsden-Graeagle, CA - #1736.6.14120.001)

THE REVIEW DOES NOT PROVIDE ADEQUATE SITE-SPECIFIC INFORMATION

Gifford Pinchot task Force and Blue Mountains Biodiversity project have several concerns about the information provided as a rationale for the need for the proposed guidance. First, we point out that there is very little site-specific evidence for the conclusion that fuels reduction and fire rehabilitation projects should be categorically excluded from further NEPA documentation. The Federal Register notice for the proposed CEs states that the Department of Interior and Agriculture (Departments) examined nearly 3,500 hazardous fuels reduction and fire rehabilitation projects. 67 Fed. Reg. 77,038 (2002). While we appreciate the additional background material posted on the Forest Service’s web page, we point out that the Departments do not identify by name or location the vast majority of these projects. Indeed, only approximately 25 projects are identified in the background material provided to the public. After contacting the Departments, we were able to obtain a spreadsheet detailing the data call information, but note that this information was not made easily available to the public for review. (Preservation/Conservation Organization, Vancouver, WA - #314.1.14120.103)

The Federal Register notice for the CEs states that the “agencies reviewed over 3,000 hazardous fuels reduction and rehabilitation/stabilization projects completed in FY 1998 through FY 2002.” (67 FR 77038, 77041.) However, the information available to the public on the web page referenced in the Federal Register identified only a fraction of these over 3,000 projects:

<http://www.fs.fed.us/emc/hfi/analysis.pdf>: contains spreadsheets with quantifications of data analysis without actual information about the projects.

<http://www.fs.fed.us/emc/hfi/analysis.pdf>: listed 12 of the projects.

<http://www.fs.fed.us/emc/hfi/unanticipated.pdf>: listed 13 projects.

An available list of all the projects used to reveal the administrative need for such a regulatory change would have allowed the public to see whether the projects were in areas of high fuel loadings or in urban interfaces, thus causing a high risk of fire.

Instead, due to a lack of supporting data, it appears more likely that the primary aim of such proposed regulatory changes is to minimize the risk of public challenges to proposed timber sales. Agencies need to clearly identify exactly which projects were used to justify this administrative change and why they were chosen over other projects. (Preservation/Conservation Organization, No Address - #1724.12.14120.104)

THERE IS NO DATA FOR 25 PERCENT OF THE PROJECTS

The Forest Service and Department of Interior are placing a great deal of importance on a review of 3,000 fuels treatment projects. I have reviewed the Summary tables on Results of Department of the Interior and Forest Service data call on NEPA projects for fuel-treatment projects. Of the 3,478 projects, 830 projects had no information on the actual impact from the NEPA process. Of those 830 projects, 572 were US Fish and Wildlife Service projects. So, there is no data for fully 25% of the projects that were analyzed. I would suspect that there was likely no significant impact, but there is no data to justify those assumptions. (Timber or Wood Products Industry, Eugene, OR - #686.2.14120.109)

FUELS REDUCTION AND REHABILITATION PROJECTS ARE NOT ANALYZED SEPARATELY

There are several serious problems with the analysis of 3400 prior fuel reduction and rehabilitation projects. This CE proposal must be withdrawn until this spreadsheet analysis is corrected and the public is more accurately informed.

The list of fuel reduction and rehab/stabilization projects must be segregated and analyzed separately. These two proposals are easily separable and logically should be considered separately. If the EAs and EISs were disproportionately related to fuel reduction as opposed to rehabilitation, the public and the decision maker have a right to know. (Preservation/Conservation Organization, Saint Paul, MN - #1156.12.14120.108)

THE REVIEW FAILS TO DISCLOSE THE EFFECTS OF APPEALS

The appeals process is the only part of the current public involvement process denied under the proposed categorical exclusion. Therefore, it is unlikely a different project would have been developed under the proposed categorical exclusion than under the EA, unless modifications were made as a result of an appeal. An assessment of the impacts from appeals is missing from the analysis. We believe inclusion of modifications made through appeals would strengthen the analysis and support of categorical exclusions. (Sacramento Regional Council of Rural Counties, Sacramento, CA - #1161.7.17500.739)

THE REVIEW FAILS TO MENTION ANY UNNECESSARY COSTS, DELAYS, OR OTHER MAJOR MANAGEMENT PROBLEMS RESULTING FROM FOLLOWING EXISTING PROCEDURES

“The agencies reviewed over 3,000 hazardous fuels reduction and rehabilitation/stabilization projects completed in FY 1998 through FY 2002; of these, over half were documented with environmental assessments, less than 50 were documented with environmental impact statements, and the remainder were categorically excluded from either of these types of documentation under existing categorical exclusions.” No mention is made in the Notice of any unnecessary costs, delays, or other major management problems resulting from following these existing procedures. The Notice states that “only 12” of the approximately 50 proposed fire management projects during the period from FY 1998 through FY 2002 for which EISs were prepared “contained predictions of significant environmental effects.” This statement itself is an acknowledgement that fire management activities are at least occasionally likely to have environmental impacts that should be subject to prior review and comment, and is sufficient reason not to create a sweeping categorical exclusion for all such activities.

Why, then, does the current process present a problem of such scale and urgency that it calls for revising the rules to exclude prior environmental analysis and documentation for virtually all fire management activities on the public lands? (Individual, Chevy Chase, MD - #1727.7.14120.230)

THE REVIEW DOES NOT MEET OFFICE OF MANAGEMENT AND BUDGET GUIDELINES FOR OBJECTIVITY

The “data call” for the 3,000 projects does not meet the requirements of NEPA nor is it in compliance with the OMB guidelines for objectivity. (Preservation/Conservation Organization, Santa Fe, NM - #1186.21.14120.109)

The information sources for determining actual impacts of a project are not reliable; ranging from personal observation to formal monitoring, with the vast majority being in the first category (48.94%) and nearly none in the second (16.33%). Such a cursory and unscientific measure of impacts is not acceptable and violates the OMB guidelines for information quality.

The Office of Management and Budget has promulgated information quality guidelines for the U.S. Department of Agriculture that apply to NEPA and NFMA. These guidelines establish an objectivity

standard that reads, “to meet the OMB objectivity standard, information disseminated by Federal agencies must be substantively accurate, reliable, and unbiased and be presented in an accurate, clear, complete, and unbiased manner. Data must be generated and analytic results must be developed using sound statistical and research methods. Agencies must identify the sources of the disseminated information, the methods used to produce it, and provide full, accurate, and transparent documentation. Information that agencies deem to be “influential scientific, financial, or statistical information” also must be reproducible to demonstrate its objectivity.”

According to the OMB information quality guidelines the information that the Forest Service disseminates to the public and uses in its decision making process must be of the highest integrity. Obviously the “data call” does not meet these guidelines. In particular, it uses personal observation to determine actual effects of hazardous fuel reduction projects avoiding any outside review or scrutiny. (Preservation/Conservation Organization, Santa Fe, NM - #1186.22.14120.109)

THERE ARE CONTRADICTORY NUMBERS GIVEN REGARDING THE PROJECTS EVALUATED

The document is riddled with contradictory numbers related to the projects evaluated—it is unclear whether 3,000, 4,300, “close to 3,500,” 4,030, or 3,478 projects were evaluated and this number varies throughout the document with no explanation. (Preservation/Conservation Organization, Ashland, OR - #501.6.14120.109)

THE REVIEW FAILED TO ACKNOWLEDGE THE POTENTIAL NATIONAL ENVIRONMENTAL POLICY ACT SIGNIFICANCE OF BENEFICIAL ACTIONS SUCH AS FUELS REDUCTION AND REHABILITATION

The analysis failed to acknowledge the potential NEPA “significance” of beneficial actions such as fuel reduction and rehabilitation. NEPA clearly recognizes that beneficial actions (such as fuel reduction) can cause NEPA significance and trigger the preparation of an EIS. The federal register notice fails to acknowledge this fact. (Preservation/Conservation Organization, Ashland, OR - #1411.12.12100.109)

THE REVIEW DOES NOT INCLUDE DATA ON NET CARBON RETENTION

How will the proposed change affect the carbon cycle of forests and net carbon retention in forest ecosystems? Did the agency’s review of the 3,000 projects find this issue addressed? If so, what is the rigor and scientific basis of the agencies review that there is no significant cumulative effect if the proposal were adopted and that these activities would have no such effects? (Individual, No Address - #309.4.31300.739)

Adequacy of Projects Review – Monitoring

Public Concern: The USDAFS & DOI should consider the adequacy of the projects review with respect to monitoring.

NO CONSISTENT AND SYSTEMATIC METHODOLOGY WAS USED TO MONITOR ENVIRONMENTAL EFFECTS

No consistent and systematic methodology was used to monitor impacts to the environment: The “data” used for this review can only be described as anecdotal, and as such, fails to meet the lowest bar for scientific credibility. (Other, Nevada City, CA - #1832.5.14120.001)

THE REVIEW LACKS QUANTITATIVE POPULATION MONITORING

The National Forest Management Act specifically requires monitoring of wildlife populations (36 CFR [section] 219.19): Each National Forest is to ensure the viability of populations of wildlife throughout the planning area. In order to track the health of wildlife, population monitoring is required to determine the status of Management Indicator Species (MIS). Lacking monitoring data for these species, the agency cannot determine what the effects of its actions are upon the viability of these species. Anecdotal information is not adequate to meet this requirement. The “data” said to be supplied to the agency concerning the 3,000 projects does not exist, and this review cannot be considered accurate without quantitative population monitoring. Decisions also cannot be rendered without consideration of these data in conjunction with the cumulative effects of other projects in the past, present, or foreseeable future (NEPA 40 CFR [section] 1508.7).

Cumulative effects cannot be determined without adequate monitoring: The regulations under the NEPA at 40 CFR [section] 1508.4 limit projects under the CE to those which have no cumulatively significant impact on the environment. The FS consistently fails to address the cumulative effects of its actions. On the Eldorado National Forest, for example, from 1995 to 1999, a total of 55.25 million board feet of lumber were cut on 32 projects that were conducted without a proper cumulative effects analysis. Of these 32 projects, 25 were conducted using the Categorical Exclusion (attached). Based on this history, we see no reason to believe that giving the FS even greater latitude will improve its management activities and decision making process.

Consistent failure to monitor impacts of projects: The FS consistently has failed to monitor the impacts of its actions, and cannot claim there is a basis to determine what the cumulative or long-term impacts are from the projects at issue. A 1997 GAO report, Forest Service Decision-Making: A Framework for Improving Performance determined that the FS continually approves projects without an adequate monitoring component. The Committee of Scientists wrote in 1999 that “monitoring procedures need to be incorporated into planning procedures and should be designed to be part of the information used to inform decisions. Adaptive management and learning are not possible without monitoring of the actual consequences from management activities” (emphasis added). (Other, Nevada City, CA - #1832.5-6.14120.001)

ONLY 16 PERCENT OF THE PROJECTS WERE MONITORED

Only 16 percent of the projects analyzed in this rulemaking process were even monitored. Nearly half of the projects where it was determined that environmental impacts were insignificant were based on “personal observation”. Nearly a quarter of the surveyed projects had no information of any kind (Summary tables on results of DOI and Forest Service data call on NEPA projects for fuel-treatment projects, pp. 3 and 4).

This is unacceptable. The American public has a right to know what effect this proposed experiment on 190 million acres will have on the future of public lands.

The Forest Service has historically had a strong aversion to information gathering. In 1979, the original Committee of Scientists appointed to promulgate regulations implementing the National Forest Management Act (“NFMA”) recognized that existing data was insufficient to meet NFMA goal of informed decisionmaking. As a result, their recommendations that collection of quantitative data become a permanent feature of forest management was adopted in the current NFMA regulations (44 Federal Register, 26,554-599, May 4, 1979). The new Committee of Scientists appointed in 1998 to update the NFMA regulations reaffirmed this goal.

The Forest Service must continually monitor and inventory to test the assumptions upon which its forest management decisions are based. Testing assumptions is integral to the ever-evolving system of scientific progress. It is arbitrary and capricious to assume that national forests can be managed without a systematic and continuing commitment to collect quantitative data. (Preservation/Conservation Organization, Santa Fe, NM - #1766.11.14120.739)

Monitoring and Mitigation

Public Concern: The USDAFS & DOI should clarify monitoring processes for the proposed fire management CEs.

I urge you to adopt the following suggestions from NASF [National Association of State Foresters], which are intended to help the USDA and the Interior Department ensure that the CEs serve as effective tools for forest management.

Clarify Monitoring Process

In addition to the sampling protocol described in the preamble, meaningful monitoring will require easily accessible and quality recordkeeping. Today, the record for CEs can typically be found in district files or notices of National Forest Schedule of Proposed Action. By keeping accurate records of CE work (including what was done, where and when), it would be easier for agencies to do cumulative effects analyses and complete monitoring needed for adaptive management. (National Association of State Foresters, Washington, DC - #1731.4.15111.000)

Monitoring of the CEs undertaken with these new rules is vital, so as to validate the basis for setting up this process and to collect additional information that could increase the scope of projects that could qualify for a CE in the future. (Mike Dunn, Chairperson, Modoc County Board of Supervisors, Alturas, CA - #1833.4.15111.000)

The Guild also strongly supports monitoring project impacts and results. However, it is unclear from the published notice specifically what will be monitored and how it will be incorporated into future fuel reduction and rehabilitation projects so that prescriptions do not become too generalized and simplistic, but remain responsive to specific site conditions. (Preservation/Conservation Organization, Santa Fe, NM - #1406.3.15111.102)

TO ENSURE THAT INTENDED OUTCOMES ARE ACHIEVED

Monitoring is critical to ensure intended outcomes are achieved. The National Fire Plan Operations and Reporting System is being designed to monitor all aspects of the National Fire Plan and may be a logical and efficient means to measure the outcomes of the procedural changes being proposed. To this end, we recommend providing some guidance in the final CE categories detailing how such monitoring should be conducted, who should be collecting and supervising monitoring, when monitoring should occur and how often monitoring should take place. (Multiple Use or Land Rights Organization, No Address - #1729.4.15111.109)

Public Concern: The USDAFS & DOI should monitor the environmental consequences of projects implemented under the proposed fire management CEs.

Due to the sweeping nature of the proposed categorical exclusion, implementation, if it proceeds, should include strong provisions for monitoring. The proposal allows for monitoring effectiveness of fire risk reduction through the National Fire Plan Operations and Reporting System (NFPORS), but does not indicate a mechanism for monitoring environmental consequences. As specified in CEQ regulations, agencies should provide for monitoring in "important cases" (40 C.F.R. [section] 1503.3). Further, upon request they must "make available to the public the results of relevant monitoring" (40 C.F.R. [section] 1505.3(d)). (Individual, Hampstead, MD - #1745.5.17100.315)

We support the monitoring of categorically excluded projects to measure both performance and any environmental impacts. We are pleased the proposal contains procedures for assessing the performance of such projects and that monitoring will also be used to determine the continued scope of the categorical exclusions. Effective monitoring is important to ensure such projects are carried out effectively and efficiently with no significant adverse environmental impacts. (Agriculture Industry, Washington, DC - #371.7.14000.102)

In 1999, the USDA Office of the Inspector General issued an audit report on Forest Service timber sales. The report stated that the Forest Service lacks an effective quality control program for monitoring the environmental effects of timber sales. Given this history, how can the public be assured that the proposed categorical exclusion is based on good science? If the frequency and severity of wildfires remains the same or increases after thinning projects, what contingency plans will be implemented? The proposal must include a binding mechanism to monitor results and prevent actions that are harmful. (Individual, Hampstead, MD - #1745.11.14000.104)

Public Concern: The USDAFS & DOI should ensure that monitoring meets the Office of Management and Budget and USDA information guidelines.

We . . . wish to raise the issue of the OMB and USDA information quality guidelines. The so-called monitoring does not come close to meeting the standards of these guidelines. (Preservation/Conservation Organization, Wood River, IL - #1405.4.15111.103)

Public Concern: The USDAFS & DOI should fully fund the National Fire Plan Operations and Reporting System.**TO ENSURE ADEQUATE MONITORING**

We are concerned with the inadequate sideboards of the proposal: Monitoring. While the National Fire Plan Operations and Reporting System (NFPORS) is viewed as the primary mechanism for monitoring and will collect data in the areas of restoration and rehabilitation, hazardous fuels reduction, community assistance and NEPA compliance, little is said about funding this mechanism. Too often, the criteria of monitoring is subject to budget limitations. NFPORS needs to be fully funded, reporting has to be a requirement and the results made fully accessible to the public. (Preservation/Conservation Organization, Kalispell, MT - #388.9.15111.113)

In the past, National Forests Plans have declared that individual National Forests would be “monitored.” However, the proposed rules do not inspire confidence that monitoring will be improved in the next round of forest plans. Or that USFS science will be peer reviewed. Funding for monitoring should be mandatory in each action by the Forests. And a regulation should make a commitment to peer reviewed science. (Individual, Bigfork, MT - #1295.2.15111.739)

Public Concern: The USDAFS & DOI should incorporate the 10-Year Implementation Plan monitoring guidelines into the proposed fire management CEs.

The 10-year IP provides . . . constructive monitoring guidance and we recommend incorporating that guidance into the procedures. We do believe that simplicity and transparency need to be guiding principles for monitoring and that interested stakeholders should have access and input to the monitoring system. (Multiple Use or Land Rights Organization, No Address - #1729.5.15111.101)

Public Concern: The USDAFS & DOI should provide additional information on the National Fire Plan Operations and Reporting System.**TO BETTER ASSESS THE MONITORING COMPONENT OF THE IMPLEMENTATION PLAN**

Arizona Game and Fish Department did not find any reference to the National Fire Plan Operations and Reporting in the President’s Healthy Forest Initiative (Office of the President 2002). The Arizona Game and Fish Department believes that it would be beneficial to have additional information on the National Fire Plan Operations and Reporting, in order to better assess the monitoring component of the Implementation Plan. (Arizona Game and Fish Department, Phoenix, AZ - #799.15.15111.111)

Public Concern: The USDAFS & DOI should carry out the inventorying and monitoring required by the National Forest Management Act and needed for management indicator species.

Under, Monitoring Performance, the FS conveniently ignores the fact that it has not implemented the inventorying and monitoring required by the National Forest Management Act (NFMA). The so-called performance monitoring proposed will not replace or assist in fulfilling the obligations that the FS has under NFMA. Monitoring currently conducted on a prescribed fire in Sam Houston National Forest focuses on monitoring whether the fire met the objectives set out for the burn. The monitoring does not focus on the environmental impacts and what happens after the fire has burned in future months and years. Without adhering to the inventorying and monitoring required by NFMA and that needed for Management Indicator Species (MIS) the FS cannot say that the monitoring proposed will be sufficient to determine that insignificant impacts will occur when these two CE proposals are implemented. Where is the mandated “in the field” monitoring that is required? We see nothing required by these proposals. We object!!! (Preservation/Conservation Organization, Houston, TX - #12.10.15111.101)

Public Concern: The USDAFS & DOI should not leave monitoring to the discretion of local officials.

Eliminate the requirements that project impacts be monitored, leaving that up to local discretion. How are we to learn from our past mistakes if we don't document it? This makes a mockery of science. (Individual, Arcata, CA - #1283.12.15111.102)

Public Concern: The USDAFS & DOI should not rely on monitoring to determine the effectiveness of the proposed fire management CEs.

Review and monitoring under the National Fire Plan will be too late to gauge effectiveness. (Individual, Bellingham, WA - #1864.13.15111.102)

Chapter 4

Proposed Fire Management Categorical Exclusions General

Use of CEs

Use of CEs General

Public Concern: The USDAFS & DOI should state whether existing CEs are inadequate.

If the “existing categorical exclusions” (i.e., those that have been invoked during the past five years for at least some several hundred of the 3000 hazardous fuel reduction, land stabilization, and rehabilitation projects cited in the Notice) are inadequate, why is this not stated, and if so, what have been the adverse consequences of this inadequacy? (Individual, Chevy Chase, MD - #1727.8.14120.230)

Public Concern: The USDAFS & DOI should not use CEs as a means of expediting projects that have significant and long-term effects.

CEs should not be used as a means of expediting a project that is intended to have a potentially significant and potentially long-term effect on forest resources (i.e. by allegedly decreasing the risk of fires, but with the price of potential herbicide application, and an actual increase in the risk of fire if not properly created or maintained over time). Public involvement is critical to realizing effective fire prevention measures with minimal environmental costs. This is just one example of how categorical exclusions are misused and ineffective. (Preservation/Conservation Organization, Eureka, CA - #1248.5.14120.108)

Public Concern: The USDAFS & DOI should recognize the value of CEs.

“Categorical exclusions” refer to that class of actions “which do not individually or cumulatively have a significant effect on the human environment.” This category of actions is not meant to circumvent NEPA compliance, but to simplify the process under which agencies determine how to comply with NEPA. The class of activities contained in categorical exclusions has already been determined to have minimal impacts on the environment, and therefore those activities do not need to be analyzed further. Both the Forest Service and BLM have conducted extensive studies of fuel reduction and rehabilitation projects similar to the categorical exclusions that are being proposed. Actions that do not have significant impacts on the environment do not need to have environmental assessments or environmental impact statements prepared. NEPA requires the preparation of these documents only when there is a “significant effect on the human environment.” Categorical exclusions provide a bright-line determination when there is no need to prepare further documentation. Rather than weaken environmental protections, the use of categorical exclusions actually enhances environmental protection because it allows the use of scarce resources to be used for on-the-ground management activities instead of completing unnecessary paperwork. (Agriculture Industry, Washington, DC - #371.4.17100.300)

With the Categorical exclusions reinstated, many needed things could happen. The Forest Health issue could be addressed more effectively, Fire hazards could be minimized in a timely fashion in the rural interface, watersheds surrounding municipal water supplies could be protected from burning thru thinning, wildlife habitat could be improved, and rural economies could be given a needed boost from the jobs created by active management. (Business, Clancy, MT - #389.2.17100.001)

Suggestions for Other CEs

Public Concern: The USDAFS & DOI should develop a CE for storm and wind damaged forest areas.

A categorical exclusion should also be made for storm/wind damaged forest areas. Winds from hurricanes and tornadoes can cause major timber damage. Salvage sales in the past have been hampered due to bureaucratic paperwork burdens and legal objections by non-local parties. In the humid Southeast, damaged timber will decompose rapidly and lose value within a short time period. (Agriculture Industry, Jackson, MS - #1759.2.17100.603)

Public Concern: The USDAFS & DOI should develop a CE process for cultural resource documentation.

Consideration needs to be given to developing a similar CE process for cultural resource documentation. Archeological analysis has halted or delayed just as many projects as the environmental studies. Careful work and monitoring could develop a similar class of actions to those environmental ones mentioned previously that require no more analysis. (Agriculture Industry, Alturas, CA - #1427.9.17110.109)

Proposed Fire Management CEs

Proposed Fire Management CEs General

Public Concern: The USDAFS & DOI should consider that the proposed fire management CE does not meet the definition of a CE.

BECAUSE IT INVOLVES A SUBSTANTIAL FEDERAL ACTION

The Federal Register notice acknowledges that the goal of these proposed categories is “restore fire-adapted ecosystems” on millions of acres of Federal lands at risk to severe wildland fires. It is evident from the description of the problem that substantial Federal action will be needed to reduce the risk of catastrophic wildfires. The actions needed to “undo a century of fuels build up” are part of the national plan whose cumulative effects would be significantly beneficial. Therefore, actions under the proposed categories would not meet the definition of a categorical exclusion. (Individual, Meridian, ID - #1432.12.14120.100)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs are overly broad.

The proposed rule change as described within the Federal Register notice is overly broad, and does not comport with the traditionally more limited scope of CEs, which are generally for minor items involving maintenance of existing infrastructure such as trails and campsites or the renewal of short-term (one year or less) special use permits. It is conceivable the rule could be interpreted to allow a commercial or pre-commercial thinning project involving thousands of acres and millions of board feet of timber. To argue such a project meets the definition of categorical exclusion established by NEPA implementing regulations is ludicrous. Congress clearly intended for projects of such large scope to be considered within an EA or EIS prior to implementation. (Preservation/Conservation Organization, Saint Paul, MN - #1156.20.17100.300)

There are concerns about the final CE, which includes “activities (such as reseeding or planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails) necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archeological, and cultural sites and infrastructure impacted by wildfire and/or wildfire suppression.” Again the term permanent is key. What does “permanent” mean and how can a finding of no significant impact be determined for activities which are so broad that they aren’t even defined as to what is and what isn’t

within the category? The list of activities, which include repair of roads and trails, rehabilitation of habitat and watershed, and infrastructure impacted by wildfire and/or wildfire suppression are again so broad that they could include virtually any activity. What kind of boundaries are there on the use of these CEs? (Individual, No Address - #311.4.17120.001)

AND SUBSEQUENTLY INVITE ABUSE OF THE PROCESS

The overly broad definition of hazardous fuel reduction activities and rehabilitation and stabilizing activities would provide the agencies ample opportunities for abuse. It is entirely possible that large-scale green-tree and salvage timber sales could be carried out under these CE provisions. Most timber sales on federal forestlands meet these definitions and include fuel reduction or rehabilitation in their purpose and need statements. Such large-scale and intensive timber projects often have significant impacts and result in cumulative effects.

The Ninth Circuit has explained the standard of “significance” governing whether an agency must prepare an EIS:

An EIS must be prepared if “substantial questions are raised as to whether a project . . . may cause significant degradation of some human environmental factor.” *Idaho Sporting Congress v. Thomas*, 137 F.3d [1146] at 1149 [9th Cir. 1998] (internal quotation omitted). Thus, to prevail on a claim that the Forest Service violated its statutory duty to prepare an EIS, a “plaintiff need not show that significant effects will in fact occur.” *Id.* at 1150. It is enough for the plaintiff to raise “substantial questions whether a project may have a significant effect” on the environment.

Blue Mountains Biodiversity Project v. Blackwood, ___ F.3d ___, 1998 WL 828124 (9th Cir. 1998) at WL *3. (Preservation/Conservation Organization, Chapel Hill, NC - #1730.25.17120.230)

Depending on how one views the purpose and need for projects on national forest land, almost any manipulation of vegetation could be considered a fuel reduction project because cutting, burning, or otherwise treating vegetation reduces the fuel loading. However, there is nothing in the proposed procedural change that would prevent abuse of the discretion to document projects with CEs. Thus if the procedure is adopted as currently written, line officers would be tempted to put a hazardous fuel reduction and/or post-fire rehabilitation component into nearly every project’s purpose and need just to be able to avoid the preparation of an EA or EIS.

Even exceptionally large projects, such as Colorado’s Hayman Fire Salvage Project that proposes to treat between 10,000-50,000 acres, could be approved with a CE. The purpose of this project is to attempt to recover the value of burned trees before they deteriorate. See scoping letter issued by Supervisor’s Office, Pike-San Isabel National Forest, Colorado (Nov. 20, 2002). However, this project could also be considered a post-fire rehabilitation project because it will “provide for erosion control.” *Id.* at 1. This project is very controversial because of the severe soil and watershed impacts that could result from its implementation. Notably, the Forest Service has begun the process for preparing either an EA or EIS for this project.

Another controversial project that could have been approved with a CE under these proposed procedural changes is the Winiger Ridge project, on the Boulder Range District of Colorado’s Arapaho-Roosevelt National Forest. This 2600-acre project has been persistently plagued by proposals to target the largest trees for removal. Through the process of preparing an EA, the Forest Service became more informed of local residents’ concerns and ultimately adopted some beneficial mitigation measures. This cooperative effort could not have happened had the project been approved with a CE. (Preservation/Conservation Organization, Denver, CO - #1403.12-13.17100.739)

The Federal Register notice for the proposed CEs does not indicate how projects utilizing the CEs will be funded and implemented. Given our experience with fuels reduction and fire rehabilitation projects, we believe that the proposed CEs will be abused, and will be used to increase logging of older forests rather than to reduce the threat of life and property loss.

Clearing of brush and thinning of small diameter timber—the types of activities that the Departments are claiming will be implemented with the proposed CEs—generally do not generate appreciable revenue, either for the U.S. Treasury or for the contractor. Consequently, our experience with fuels reduction

projects in particular indicates that commercial timber sales will be bundled with fuels reduction projects. Because the fuels reduction projects cannot pay for themselves, merchantable timber—usually mature and old growth forests—are included as part of the project. Since our members oppose the logging of mature and old growth forests, we must object to any fuels reduction aspects of the project, even if we might not ordinarily oppose such activities. (Preservation/Conservation Organization, Vancouver, WA - #314.11.17120.113)

We strongly recommend that the proposed procedures be withdrawn.

However, if a change in NEPA procedures allowing increased use of CEs is still considered, there must be limitations on its use. Were these proposed CEs to be adopted as currently written they would (1) blatantly violate NEPA and its implementing regulations, (2) encourage Forest Service line officers to abuse their discretion in order to avoid having to prepare EAs and EISs, and (3) reduce or even eliminate public involvement with regard to these projects. Revisions to these proposed CEs should include limitations to projects that are proposed only for fuel reduction and/or post-fire rehabilitation, in order to avoid the temptation of line officers to abuse their new discretion to use CEs. (Preservation/Conservation Organization, Paonia, CO - #1732.22.17120.001)

Two recent examples from National Forest projects in Arizona illustrate well the Forest Service's potential use, and abuse, of the proposed Categorical Exclusion: 1) The "Baca Ecosystem Management Area Project," and 2) The Rodeo-Chediski post-fire salvage sales.

The Baca project, approved by the Forest Service in 1999, proposed several different management actions on approximately 28,000 acres of land within the Black Mesa Ranger District of the Apache-Sitgreaves National Forests, including approximately 8,000 acres of commercial timber harvesting. The Forest Service offered a number of different purposes and needs for the project, including the need to "reduce fuel loading," "thin overly dense stands," and "break up fuel continuity." See Baca Environmental Assessment, prepared by the Apache-Sitgreaves National Forests, USDA Forest Service Content Analysis Team Comments on Proposed "Fuels Hazard Reduction" Categorical Exclusion Page 7, September 1999.

According to the Forest Service's purpose and need statement, therefore, the Baca project would meet the criteria of a "hazardous fuel reduction" project under the proposed rule and Categorical Exclusion. Yet, the project included over 8,000 acres of controversial logging, without constraints on the size of tree to be logged. Despite the fact that the Forest Service's own estimates demonstrated that over 90% of the trees on the analysis area were under 12 inches, findings by the Arizona Game and Fish Department that the northern goshawk, a species largely dependent on mature and old-growth forest for its existence, was steadily declining on the Forest, and ample scientific evidence that logging large trees does nothing to reduce fire danger and in fact elevates such risk, the agency proposed extensive logging of large trees in the name of "fuels reduction." Out of the estimated 18-32 million board feet which would have been logged by the sale (the largest timber sale in Arizona in many years), at least 25% of the volume would have come from ponderosa pine trees over 16 inches, which at that size and age are extremely fire-resistant.

The Center for Biological Diversity vigorously opposed this sale, filed an administrative appeal of the project and eventually litigated against the sale when the appeal was denied. CBD, which has long supported legitimate fuels reduction measures including prescribed burning and thinning of small diameter trees, has repeatedly conveyed to the Forest Service its belief that the agency was using the legitimate need for fuel reduction as little more than a cover for continued logging of rare large and old trees for private economic gain.

Interestingly, the Bush administration and the Forest Service have explicitly chosen the Baca project, and the appeals and litigation against the sale, as an example of the type of project justifying the widespread constraint or elimination of public participation rights that are the hallmark of the so-called Healthy Forests Initiative. Under the category "The Need for Improved and Accelerated Forest Management" of the Initiative, the Baca project is described as:

"This project in Arizona was designed to reduce fuel loading on over 7,000 acres, close 89 miles of unneeded roads, and restore degraded riparian conditions throughout the watershed. A lawsuit was filed

in May, 2000, seeking to stop the removal of trees and citing concerns about wildlife issues. The Forest Service was not able to persuade the court that the short-term effects of forest thinning were acceptable given the threat of catastrophic fire to the long-term health of the watershed. This year, the Rodeo fire burned over 460,000 acres of forested lands and destroyed over 450 homes, as well as more than 90 percent of the Baca project area. Although a settlement of the lawsuit had allowed thinning work to begin on 1,300 acres of land, at the time of the fire only 300 acres had been treated to withstand fire.”

Yet, as noted above, much of the timber to be removed by the Baca project was in fact remnant large, mature and old-growth trees, exactly the most fire resistant trees which must be retained by legitimate fuels reduction projects and which the Bush administration, conservative lawmakers, and the timber industry claim will be retained. Removing such trees not only fails to aid in fuels reduction efforts, but in fact often leads to increased fire danger, a fact acknowledged by a wide variety of sources, including the National Fire Plan and the Forest Service’s own report on the status of the Sierra Nevada range in California. See CBD’s compilation of reports on this issue at <http://www.biologicaldiversity.org/swcbd/Library/library.html#papers> and <http://www.biologicaldiversity.org/swcbd/Programs/fire/index.html>.

The fact that the Bush administration and Forest Service view Baca as the type of project which should be subjected to “streamlined” environmental analysis starkly demonstrates both the disingenuous nature of the “Healthy Forests Initiative” and the type of projects that will likely be considered as “hazardous fuels reduction,” and thus be categorically excluded under the proposed rule. The Baca sale would have removed rare, large trees, negatively impacting wildlife, water quality and soils, and resulting in increased erosion and sedimentation. It would have retained many of the small, currently non-merchantable (because the industry has spent many years complaining about access to large trees instead of adapting to changing realities and developing a viable small products industry), fire-prone trees while removing the largest, most fire-resistant trees.

Opposition to the Baca sale, far from demonstrating that legitimate Forest Service projects are delayed or stopped by “frivolous” appeals and litigation, instead demonstrates the vital role the public continues to play (and has always played) in watchdogging Forest Service management actions. The Forest Service’s main emphasis has long been on removal of timber for economic purposes, not on legitimate restoration or fuel reduction activities. This was the impetus for passage of laws such as the National Forest Management Act, and such oversight remains painfully necessary. The proposed Categorical Exclusion is nothing more than the Forest Service’s latest attempt to remove public oversight so it can continue to cut trees unfettered. This deep and bureaucratic tendency on the part of the agency has not disappeared, and it arguably has not even waned.

For more information on the Baca timber sale, see <http://www.biologicaldiversity.org/swcbd/Programs/fire/r-c-factsheet.html>

The second decision within Arizona which provides insight into the true meaning of the “Healthy Forests Initiative” and “fuels reduction” are three recent Decision Memos issued on various post-fire salvage activities within the Rodeo-Chediski fire area, on the Apache-Sitgreaves and Tonto National Forests. Cumulatively, these decisions will permit the post-fire salvage logging of approximately 25,000 acres burned by the Rodeo-Chediski fire in the summer of 2002. To put this acreage in perspective, the entire island of Manhattan is only 16,000 acres. Amazingly, despite the enormous scale of the project, the lack of a valid salvage sale Categorical Exclusion, the presence of a number of threatened and endangered species, including high concentration sites of wintering Bald Eagles and nearly 15 Mexican spotted owl territories, the lack of any cultural or heritage surveys, and the severely burned and fragile nature of much of the burn area, the Forest Service determined that no NEPA was necessary for the projects.

Like the Baca project, the Rodeo-Chediski salvage proposals were premised on the Forest Service’s assertion that the salvage logging was necessary to reduce fuels (the Forest Service also claimed the sales were necessary to protect public health and safety).

However, the details of the project clearly reveal it to be nothing more than an enormous series of timber sales. In fact, the four contracts offered on the sales contemplate the logging of only trees larger than 12 inches in diameter, once again leaving behind the smallest and most fire-prone forest, and therefore the trees most in need of removal and which contribute most to “hazardous fuels.” In fact, the Forest Service’s own cut tree timber cruises estimate that more than 75,000 trees larger than 16 inches will be

logged under these categorical exclusions, including extensive logging of trees larger than 40 inches. Such trees could never be logged, either legally or politically, in a typical “green tree” sale. Yet, under the fuels reduction banner, the Forest Service is brash enough to offer the sales without any NEPA analysis. Clearly, if the agency is willing to so blatantly offer an illegal CE on these sales without any valid categories, it will not hesitate to use the proposed “fuels reduction” CE for similar projects that focus on the logging of remnant old and large trees, rather than truly implementing projects that will reduce fire risk, such as prescribed burning and thinning of small-diameter trees. (Preservation/Conservation Organization, Tucson, AZ - #1434.13-17.17120.104)

Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs are vague.

The proposed categorical exclusion rules are impermissibly vague.

The proposed categorical exclusions (“CEs”) are blank checks that enable the Forest Service and DOI to cut trees on National Forest and DOI lands with almost unlimited discretion. The Forest Service and DOI fail to indicate how many projects these CEs are expected to cover, nor do they indicate how many acres will be affected or how many board feet of timber they expect to remove from forests under their jurisdiction. There is no discussion of the types of trees to be cut down, there are no limits on tree diameters, road construction length, canopy closure, or any other quantifiable measures that would limit discretion.

The CEs do not define “hazardous,” as in “hazardous fuel reduction activities.” There is no indication of how much “reduction” would be allowed. The only safeguard referenced is that the fuel reduction project should be consistent with “A Collaborative Approach for Reducing Wildfire Risks to Communities and the Environment 10-year Comprehensive Strategy Implementation Plan.” But that document does not provide the required level of specificity either. Similar vagueness problems are present in the CE designed to stabilize and rehabilitate “habitat, watersheds, historical, archaeological, and cultural sites.” In the past, large, multi-million board foot timber sales have been authorized under these pretenses, and the proposed CEs contain no provisions to insure that such abuse will not occur in the future.

The test courts apply in determining whether a regulation is impermissibly vague is “whether the standard is so indefinite that men of common intelligence must necessarily guess at its meaning and differ as to its application.” *Allis Chalmers Corp. v. Occupational Safety and Health Review Commission*, 542 F.2d 27, 30 (7th Cir. 1976) (citing *Ginsberg v. New York*, 390 U.S. 629, 643, 20 L. Ed 2d 195, 88 S. Ct. 1274 (1968)). “All that due process requires is a fair and reasonable warning.” *Faultless Div.*, 674 F.2d at 1185 (citing *Allis-Chalmers Corp.*, 542 F.2d 27 at 30); see also *Maynard*, 486 U.S. at 361 (vagueness challenge may be overcome in a particular case if a reasonable person would know that their conduct is at risk). A regulation must contain minimum guidelines to govern law enforcement and provide a basis for determining what to do in order to comply. See *Kolender v. Lawson*, 461 U.S. 352, 357, 75 L. Ed. 2d 903, 103 S. Ct. 1855 (1983) (holding that courts must determine whether a statute or regulation provides a person of ordinary intelligence a fair and reasonable warning of what conduct it prohibits or requires); see also *Faultless Div.*, 674 F.2d at 1185; *Georgia Pacific Corp. v. Occupational Safety and Health Review Commission*, 25 F.3d 999, 1004 (11th cir. 1994).

The proposed CEs are so vague that it will be impossible for a Forest Service district ranger or supervisor to know with any degree of certainty what is and what is not permitted under them. (Preservation/Conservation Organization, Santa Fe, NM - #845.8-9.17100.109)

It would be helpful if the final rule could put into perspective the scope of the actions anticipated under these new categories. What is the anticipated number of acres treated and dollars spent for actions under these categories? This would help reveal the potential significant cumulative beneficial effects that may occur. (Individual, Meridian, ID - #1432.11.17100.109)

Public Concern: The USDAFS & DOI should ensure that the proposed fire management CEs are used only for their intended purpose.

The proposed categorical exclusion for hazardous fuel treatments, as written, would change agency procedures in a way that could allow projects to stray from their intended purpose. A few key changes to the proposal—adding to the list of extraordinary circumstances and placing limits on ancillary activities such as commercial timber harvest—would provide assurances that the exclusion would only be used for its intended purpose. (Preservation/Conservation Organization, Santa Fe, NM - #308.7.17100.102)

Expanding the use of categorical exclusions will undoubtedly lead to a shift in the primary purpose of many actions, including commercial timber sales and even grazing. Under the overly broad terms of the proposed rule, any action that may lead to a short-term reduction in any flammable material on public lands, including grasses and other plants, could be defined as a “fuel reduction” project. As a result, even grazing could be deemed necessary for fuel reduction in certain areas, resulting in attempts to categorically exclude term grazing permits from environmental analysis. (Preservation/Conservation Organization, Salt Lake City, UT - #396.15.17100.103)

Public Concern: The USDAFS & DOI should apply the proposed fire management CEs to current qualifying projects.

NACo recommends that the categorical exclusion be applied to proposed projects which qualify and for which the agencies are currently preparing an EA or an EIS. (Government Employee/Union, Washington, DC - #1402.3.17100.102)

Public Concern: The USDAFS & DOI should base treatments on data which describes forest structure, fuel conditions, probability of fire, and assets likely damaged by fire.

Treatments designed to improve forest health and reduce risk both to forest ecosystems and to communities should be based on specific data that describes forest structure, fuel conditions, probability of fire, and assets likely damaged by fire. The state already has cooperated with federal scientists and managers to create such an analytical framework, where data drive the selection of areas in most need of treatment, and inform at least at the regional scale and appropriate treatment policies. (Resources Agency, State of California, Sacramento, CA - #1705.14.17300.102)

Analysis/Documentation Requirements for Proposed Fire Management CEs*Analysis/Documentation Requirements for Proposed Fire Management CEs General***Public Concern: The USDAFS & DOI should evaluate the effectiveness of the proposed fire management CEs through written, measurable goals and objectives.**

We also encourage you to use the best science available to help find a good balance between timber harvest and prescribed fire.

The effectiveness of these proposed projects should be evaluated through written, measurable goals and objectives. Once the effectiveness has been determined, modifications should be made, if necessary, with the appropriate public input. (Individual, Twin Falls, ID - #859.5.14000.001)

Public Concern: The USDA & DOI should provide additional guidance on required documentation for categorically excluded projects.

FOR THE DEPARTMENT OF INTERIOR AGENCIES

Each decision by the Forest Service to apply a CE instead of an EA or an EIS will be accompanied by a “Decision Memo.” The information requirements for the Decision Memo are low, however. According to the Forest Service Handbook (“Handbook”), A Decision Memo contains little more than a description of the decision to apply a categorical exception and findings to support the decision. Handbook, section 1909.15.32.3. Brevity is a guiding concern. *Id.* This is a significant departure from NEPA’s emphasis on agency accountability and public participation. See, e.g., *Trout Unlimited v. Morton*, 509 F.2d 1276, 1282 (9th Cir. 1976).

In the case of the Department of Interior (“Department”), there is no specific requirement to document every decision to apply a CE, not even with a document as cursory as a Decision Memo. Apparently, “many” bureaus of the Department prescribe “some formal documentation” for “bureau-specific categorical exemptions,” 67 Fed. Reg. 77040, but this is no substitute for what NEPA requires. The Department concedes that it must issue instructions for documenting and distributing the rationale for applying the CEs, but this must occur before adopting the CEs since any application of the CEs without an explanation would be improper. *Jones v. Gordon*, 792 F. 2d at 828. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.19.17500.230)

Public Concern: The USDAFS & DOI should require the Bureau of Land Management to issue decision memos for categorical exclusions.

TO BE CONSISTENT WITH FOREST SERVICE POLICY

BLM currently does not require written documentation and the Forest Service requires a Decision Memo for this type of categorically excluded projects. The final exclusions should require both agencies to briefly document their categorical exclusion decisions. (Individual, Spearfish, SD - #1805.8.17510.000)

While we support the inclusion of the new categories, we have the following concern about the proposed rule:

The Final Categorical Exclusions Should Provide Additional Guidance on the Documentation Necessary for Categorical Exclusion. BLM currently does not require written documentation and the Forest Service requires a Decision Memo for this type of categorically excluded projects. The final exclusions should require both agencies to briefly document their categorical exclusion decisions.

We support the use of categorical exclusions as a means to more promptly reduce fire hazards in federal forests and to rehabilitate areas following a wildfire. We urge you to adopt the preceding suggestion to strengthen the categorical exclusion implementing procedures. (Timber or Wood Products Industry, Englewood, CO - #1464.9.17510.111)

Public Concern: The USDA & DOI should provide a standard decision memo template for categorically excluded projects.

TO INCREASE LEGAL DEFENSIBILITY

An environmental group reading the Forest Service Handbook 1909.15, Chapter 30—Categorical Exclusion from Documentation would cite Section 31.2—Categories for Actions for which a Project or Case File and Decision Memo are Required. This section lays out a couple of minimal steps that are needed to avoid an EIS or an EA for both timber stand improvement and small scale timber harvest (up to 1 MMB of salvage logging) activities:

Names of interested people contacted

Determination that no extraordinary circumstances exist

Copy of the decision memo

List of people notified by the decision

Copy of notice used to inform interested parties of the decision to proceed or implement an action that has been categorically excluded.

In this day and age of personal computers, a template document file could be used and simply updated. Notices could be sent to the usual suspects and the decision memo could simply be changed from “prescribed burning” to “manual brush disposal” to “precommercial thinning” with a change in the location. There is no reason why those word changes should take more than a couple of hours to implement.

I raise this issue because, from my biased point of view, there are a number of federal judges who apparently have nothing better to do than to routinely shut down Forest Service and BLM forest projects. These federal judges will look for any excuse to shut down the forest projects without any comprehension of the immense impacts to the two agencies.

Our association points out these rules to show the Forest Service that the agency does have an expedited process already available.

If the agency is looking to implement categorical exclusions on hazardous projects with mechanized equipment involving many millions of board feet, I fear that the environmental groups will simply wait for a particularly bad project that comes along which, unknowingly, involves an endangered species or whatever that was not recognized and then file legal action against the agency. (Timber or Wood Products Industry, Eugene, OR - #686.4.17500.102)

Analysis of Environmental Effects

Public Concern: The USDAFS & DOI should substantiate the assertion that the proposed fire management CEs will not have significant effects.

There must be a rational finding that these projects do not have a cumulative impact, and it must be supported by the record. This federal register notice’s conclusory assertions of no impact with vague citations to uncited materials not subject to public scrutiny is inadequate to meet that standard. (Individual, Brookport, IL - #460.3.14120.000)

The Forest Service and DOI have failed to document that the activities authorized by the categorical exclusions will not individually and cumulatively have a significant impact on the quality of the human environment.

The proposed categorical exclusions for hazardous fuels reduction activities and rehabilitation and stabilization of lands and infrastructure will be used to authorize numerous activities that have consistently been shown to cause significant direct, indirect, and cumulative impacts on the quality of the human environment. It is undisputed that at least a portion of the activities analyzed in support of the categorical exclusions did, in fact, result in significant environmental harm. Further, Forest Service and DOI research is replete with studies that clearly indicate that so-called “hazardous fuels reduction activities” have, in fact, increased forest fire risk and generated a host of significant long term environmental problems for wildlife and fish habitat, soils, water quality, cultural and historic resources, and long term forest productivity. (Preservation/Conservation Organization, Santa Fe, NM - #845.1.14120.001)

Because it is unclear whether or not the vast majority of the projects that provide the basis for the Departments’ proposed CEs have in fact resulted in no significant environmental effects, the proposed guidance is arbitrary and capricious. The Administrative Procedure Act prohibits arbitrary and capricious decision making. 5 U.S.C. [section] 706(2)(A). Under the APA, courts must “set aside agency action, findings, and conclusions found to be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” Id. Failing to substantiate government decision-making with information is arbitrary and capricious. *Sierra Club v. Bosworth*, 199 F. Supp. 2 d 971 (D. Or. 2002).

In this case, the Departments have failed to demonstrate that their review of some 3,400 fuels reduction and fire rehabilitation projects will not have significant environmental effects requiring the preparation

of either an EA or EIS. Consequently, the proposed CEs are unlawful and must be withdrawn immediately. (Preservation/Conservation Organization, Bloomington, IN - #1343.7.14120.230)

I object to the proposed expansion of the activities allowed to proceed under categorical exclusions (CEs). I do not believe that the hazardous fuels reduction activities described in the December 16, 2002 Federal Register notice are described in enough detail to make the determination that they will have no significant individual and cumulative effect. (Individual, Columbus, OH - #1542.1.14120.109)

SHOULD PROVIDE CITATIONS FOR REFERENCED FINDINGS IN THE FEDERAL REGISTER NOTICE THAT THE PROPOSED FIRE MANAGEMENT CES WILL NOT RESULT IN SIGNIFICANT EFFECTS

There are conclusory statements in the federal register notice that there will be no impact, and it references some previous findings, but none of this material is cited, it isn't available on the record for public scrutiny, and frankly, it is incredible. The CEQ regulations require that only actions that have no significant impact either individually or cumulatively may be subject to categorical exclusion from NEPA. (Individual, Brookport, IL - #460.1.14120.109)

The federal register notice is filled with conclusory statements that there will be no significant impact, yet makes not one citation of scientific literature to support this view. Of course, this is because no such research exists, and I challenge the Forest Service to produce a single peer-reviewed scientific study to support its assertion. Similar statements in site-specific project CEs have been found to be scientifically false and contrary to recent research. (Individual, Logan, UT - #1179.2.14120.109)

The Federal Register notice concludes that there will be no impact and references previous findings. However, the material is not cited, not available on the record for public scrutiny, nor credible. (Individual, San Jose, CA - #890.2.12100.108)

Public Concern: The USDAFS & DOI should recognize that from the fact that some fire management activities do not result in significant effects, it does not follow that all such activities will not.

Current federal NEPA regulations already provide for the Categorical Exclusion of certain fuel reduction activities, such as thinning or brush control to improve growth or to reduce fire hazard and prescribed burning to reduce natural fuel build-up and improve plant vigor.

The addition of hazardous fuel management and post-fire rehabilitation activities to the list of categories of actions excluded from documentation will not exempt these projects from NEPA. FSH 1909.15-30.3.3 reads: "Scoping is required on all proposed actions, including those that would appear to be categorically excluded. If scoping indicates that extraordinary circumstances are present and it is uncertain that the proposed action may have a significant effect on the environment, prepare an EA (ch.40). If scoping indicates that the proposed action may have a significant environmental effect, prepare an EIS (ch. 20)." As required, the effects of many of these project will still need to be examined in EAs and EISs, not only because of significant controversy, but also because they may have significant environmental effects.

Whereas there is evidence that certain individual hazardous fuels reduction or post-fire rehabilitation projects may not result in significant impacts on the environment, there is no evidence to allow such determinations to be extrapolated to all such projects. (Preservation/Conservation Organization, Eureka, CA - #1248.6.14120.230)

Public Concern: The USDAFS & DOI should consider that activities allowed under the proposed fire management CEs will have significant individual and cumulative effects.

The activities to be covered will have a significant individual and cumulative effect, making them inappropriate for a categorical exclusion.

The proposed CE does not conform to the CEQ regulations which state that “categorical exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment.” 40 C.F.R. 1508.4.

A meaningful analysis of cumulative impacts must identify: (1) the area in which effects of the proposed project will be felt; (2) the impacts that are expected in that area from the proposed project; (3) other actions—past, proposed, and reasonably foreseeable—that have had or are expected to have impact in the same area; (4) the impacts or expected impacts from these other actions; and (5) the overall impact that can be expected if the individual impacts are allowed to accumulate. See, e.g., *Fitiofson v. Alexander*, 772 F.2d 1225, 1245 (5th Cir. 1985) (holding this level of detail is necessary even at the EA stage). The Forest Service’s perfunctory and conclusory references to an alleged lack of cumulative impacts from the actions to be covered by the CE do not even begin to meet these five elements.

To begin with, nowhere in the Federal Register notice does the FS indicate how many projects this CE is expected to cover, nor does it indicate how many acres will be effected or how many board feet of timber it expects to remove from the forests. There is no discussion of the types of trees to be cut down or their age, nor of the effects to the wildlife, soil or watersheds from these projects. (In this regard, the CE is questionable as to whether it violates the Forest Service’s duty to protect water, soil and wildlife. 16 U.S.C. 1604). There is no apparent quantitative or qualitative measure of “significance” used in the promulgation of this CE, and, therefore, it is quintessentially arbitrary and capricious. (Preservation/Conservation Organization, Chapel Hill, NC - #1730.16.14120.109)

The proposed categorical exclusion violates NEPA implementing regulations. The CEQ regulations state in part:

“Categorical Exclusion” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. 40 CFR 1508.4.

There are several factors that lead to the conclusion that the agencies’ fuel reduction program will have individually and cumulatively significant effects.

The scale of the program is significant. The federal register notice says that up to 190 million acres of federal land have an unnatural fuel build up and may contribute to fire risks, then astoundingly the agencies assert that a massive and unprecedented effort to treat these fuels will not cumulatively cause a significant environmental impact. It is simply beyond comprehension how such a huge program will not cause significant environmental effects. “Significant cannot be avoided by terming an action temporary or by breaking it down into small component parts.” 40 CFR 1508.27. The cumulative effects of 190 million acres of potential fuel reduction makes this CE improper. (Preservation/Conservation Organization, Williams, OR - #918.7.14120.230)

We believe that fuels reduction projects that have the potential to involve 190 million acres of Federal forest and rangelands over several years would cumulatively (either in time or space) have significant impacts on the human environment (as defined in 40 CFR section 1508.14). In addition, it is our position that cumulatively, hazardous fuels reduction activities on such a massive scale would likely satisfy at least five of the ten evaluation criteria for significance:

40 CFR section 1508.27

(b) 1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

- (b)2. The degree to which the proposed action affects public health or safety.
- (b)4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
- (b)5. The degree to which the effects on the human environment are highly uncertain or involve unique or unknown risks.
- (b)7. Whether an action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small components. (Arizona Game and Fish Department, Phoenix, AZ - #799.9.14120.230)

The claim that the activities to be covered by this CE will not be significant is also somewhat disingenuous given the avowed purpose of the CE. The purpose of the CE is to have a significant impact on the human environment, by culling untold thousands of acres of national forests, to protect communities at risk. That the agency considers this a net beneficial effect for the communities does not alter the fact that it involves significant harm to the forests. Put another way, the whole purpose of the CE is to work a significant change in the forest, and therefore an EIS is required under NEPA and the CEQ regulations.

The claim made in the Federal Register, that hazardous fuel reduction and rehabilitation/stabilization projects as categories of actions do not “individually or cumulatively result in significant effects on the human environment,” is simply untrue. There are numerous examples of hazardous fuel reduction and rehabilitation projects that have significant impacts as well as cumulative impacts. (Preservation/Conservation Organization, Santa Fe, NM - #1186.17.14120.230)

THERE IS CLEAR DOCUMENTATION OF ENVIRONMENTAL EFFECTS

The proposed categorical exclusions assume no environmental effects for actions where there is clear documentation of environmental effects.

The proposed categorical exclusions allow temporary road and other construction. The scientific literature has numerous documentations of harmful effects from temporary roads to wildlife habitat, water quality, and hydrology. These effects cannot be summarily dismissed without NEPA analysis. The scope of the activities are not limited by the proposed categorical exclusions so that these projects could have huge environmental impacts that would be improperly excluded from NEPA analysis. (Place-Based Group, Asheville, NC - #1418.4.14120.322)

Public Concern: The USDAFS & DOI should retain the environmental review process for hazardous fuels reduction and rehabilitation projects.

The proposal states “These categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archaeological or historic sites.”

How is the public to know whether adverse effects on threatened and endangered species or their designated critical habitat will occur if there is a categorical exclusion decision made and no environmental documents are made public for comments? There is no reason to believe that thinning of large trees as is being proposed for salvage sales will not result in significant impacts on the environment, without an environmental analysis. (Preservation/Conservation Organization, Grass Valley, CA - #459.6.17100.108)

Nearly all of the fuels reduction projects with which we are familiar have one or more of the following characteristics:

- Significant adverse effects on public health or safety;
- Adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains or ecologically significant or critical areas, including those listed on the Department’s National Register of Natural Landmarks;

- Highly controversial environmental effects;
- Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks;
- Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects;
- Directly related to other actions with individually insignificant but cumulatively significant environmental effects;
- Adverse effects on properties listed or eligible for listing on the National Register of Historic Places;
- Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species;
- Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (protection of Wetlands), or the Fish and Wildlife Coordination Act; or
- Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

Indeed, most projects have several of these factors present in their design; consequently, the NEPA regulations and associated case law require the preparation of an EIS. (Preservation/Conservation Organization, Davis, CA - #1767.13.17120.230)

I want to voice my strong opinion that environmental reviews should not be eliminated—everything in life needs a counterbalance and to do away with environmental review opens the doors to widespread abuse, overuse, neglect, and further degradation of this great land we have called the home of the free and the land of the brave. It is also the land of the people—the citizens of this great nation. Pocketbooks should not come before the future of our lands and the health of our nation's national parks. Shame on you if this rule is passed! (Individual, Portage, MI - #232.3.17100.001)

The administration seems to be arguing that by simply adding to the list of projects that can be categorically excluded an agency can avoid unnecessary environmental analysis. Traditionally categories on the list are minor involving maintenance of existing infrastructure such as trails and campsites or the renewal of short-term (one year or less) special use permits. The proposed rule change, as described within the Federal Register notice, is overly broad. It is conceivable the rule could be interpreted to allow a commercial or pre-commercial thinning project involving thousands of acres and millions of board feet of timber. To argue such a project meets the definition of categorical exclusion established by NEPA implementing regulations is ludicrous. Congress clearly intended for projects of such large scope to be considered within an EA or EIS prior to implementation. (Preservation/Conservation Organization, Salt Lake City, UT - #396.12.17100.230)

The Forest Service is not an unbiased entity. If timber sales occur like they did in the late 1980s and 1990s, the Forest Service funding expands. Money is available for retaining and adding new jobs and equipment. This is good for the Forest Service and the Forest Service Staff and the communities which they live in. (Forest Service becomes popular with the community.) A timber sale may or may not be beneficial financially or ecologically. I have witnessed many projects where the Forest was required to fund improvements so that the project could be implemented—no net financial gain from the sale of timber. They offered few local jobs and the timber was shipped overseas. It costs the public money to conduct the timber sales and repair resource damage; the sale cost the public and was environmentally “unrepairable” in our lifetimes. Full environmental review may prevent illegal or inappropriate use and projects within our public lands. (Individual, Oakhurst, CA - #810.7.17100.740)

IN COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

The revised procedures for implementing NEPA and its regulations are arbitrary and capricious and violate the spirit and letter of NEPA.

NEPA requires federal agencies to consider and take a “hard look” at significant environmental impacts of proposed actions. 42 U.S.C. section 4332(2) (c); *Robertson v. Methow Valley Citizen Council*, 490

U.S. 332, 348 (1989); *Kern v. Bureau of Land Management*, 284 F.3d 1062 (9th Cir. 2002). To that end, NEPA demands that federal agencies prepare an EIS for any action that may significantly affect the human environment. See 42 U.S.C. section 4332(C). Because of NEPA, the federal government must “use all practicable means and measures” to protect environmental values. 42 U.S.C. section 4331 (b).

Federal agencies have identified three types of activities receiving varying levels of environmental review: (1) those that require preparation of an EIS; (2) those that require preparation of an EA; and (3) those that are categorically excluded from further analysis in an EA or EIS. A federal agency may adopt a CE for a “category of actions which does not individually or cumulatively have a significant effect on the human environment.” 40 C.F.R. section 1508.4 (2001); *Metcalf v. Daley*, 214 F.3d 1135, 1141 (9th Cir. 2000). Regulations promulgated by the Council on Environmental Quality (“CEQ”) to implement NEPA, 40 C.F.R. sections 1500.4 (p), 1507.3 and 1508.4, direct federal agencies to use CEs only for activities that do not have a significant effect on the environment. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.5.23210.300)

TO ADEQUATELY DETERMINE THE POSSIBILITY OF SIGNIFICANT ENVIRONMENTAL EFFECTS

A serious flaw with the Bush administration’s proposed plans is that it would keep his “fire control policies” away from environmental and scientific analysis (through N.E.P.A. amendments). Again, it shows that his plans are only pro-logging and would be detrimental to everyone and everything else. If his fire control policies are really scientifically sound, like the administration claims, why, I wonder, don’t they want it scientifically/environmentally reviewed? The answer is very obvious: they don’t want it reviewed because it isn’t scientifically or environmentally sound. If I am wrong, why doesn’t the administration prove it by letting his plans be reviewed by scientists? The administration should at least make their intentions a little less obvious. (Individual, Hoboken, NJ - #1173.2.17100.103)

CEQ regulations at 40 CFR [sections] 1500.4(p), 1507.3 and 1508.4 direct agencies to use categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental assessment or an environmental impact statement.

To determine whether the categorically excluded actions would have a significant effect on the environment, the Department reviewed close to 3,500 fire management projects and found that by and large the projects were not predicted to have individually or cumulatively significant effects on the human environment. However, twelve projects were predicted to have significant environmental effects. Upon a detailed review, it was determined that these twelve projects involved extraordinary circumstances, which would preclude the application of a categorical exclusion. With the justification that the projects with extraordinary circumstances would preclude the application of a categorical exclusion, the Departments concluded that these projects would not trigger a determination that the category of proposed fire management activities would have a significant effect on the environment.

The Departments confuse the requirement of the CEQ regulations. Projects that may have a significant impact on the environment individually or cumulatively shall not be selected as a category for a categorical exclusion. The premise that the Departments found that certain projects with predicted significant impacts also had extraordinary circumstances should not accommodate a leap in logic that all fuel reduction and projects with predicted significant impacts would thus have extraordinary circumstances. The Departments are required to determine whether the category of fuel reduction and rehabilitation projects may have a significant impact on the environment. In looking at the spreadsheet for the data call on NEPA records, it is clear that for many of the projects, there is no information as to whether the fire management projects did result in significant impacts to the environment.

The Departments put undue emphasis on the concept of using predictions to determine whether there are significant impacts from fuel reduction and rehabilitation projects on the national forests. Predictions are not conclusions. They are assumptions about anticipated results. The Departments must look to the actual impacts of projects to determine whether there are significant impacts associated with a category of fire management activities. This requires more in depth analysis, appropriately conducted through an environmental assessment or environmental impact statement. (Preservation/Conservation Organization, Montpelier, VT - #808.3-4.17100.109)

The proposed categorical exclusions are supposed to tier to the implementation of the comprehensive ten-year strategy completed by federal, state, local, tribal and non-governmental entities. This strategy was based on class condition mapping (condition 2 and 3); yet, this mapping was never meant for application at the scale of national forests. Moreover, class condition mapping is based on how far removed an area is from historic fire regimes due to suppression history but contains no information on risk factors (e.g., ignition risks from excessive roads were never considered). The coarseness of the mapping results raises questions regarding whether treatments will be applied where risks are highest. Further analysis is required to overlay the location of hazardous fuels and risk factors before widespread treatments can proceed. This would allow the agencies to target specific areas where treatments are needed the most using site mapping rather than class condition mapping that is unreliable at the project level. Such uncertainties trigger the need for NEPA analysis. (Preservation/Conservation Organization, Ashland, OR - #501.17.17100.109)

BECAUSE, TAKEN COLLECTIVELY, ALL MANAGEMENT ACTIONS RESULT IN SIGNIFICANT EFFECTS

The CEQ regulations require that only actions that have no significant impact either individually or cumulatively may be subject to categorical exclusion from NEPA. In the past, every EA I have seen has found all of the projects to have no significant impact. Yet our National Forests are in a degrading state and butchered by roads. These create a tremendous negative impact on wildlife that require large intact areas. In addition trees are stressed from pollution, invasive non-native species are introduced, watersheds are destroyed causing our drinking water to become more polluted, and the list goes on and on. All projects have an accumulative effect on the health of the forest. As an individual project it may not be significant, but together these projects have created land locked forests that lack many of the features of a healthy forest because of our need to over-manage, exploit, and develop. Yes, I will agree that our forest do need some management mainly because we have messed up the natural processes of the forest. (Individual, Clearfield, KY - #1278.2.14120.602)

BECAUSE ELIMINATING ENVIRONMENTAL REVIEW ENCOURAGES ACTS OF GREED

By eliminating NEPA review you allow the temptation of money. Enron, Worldcomm, Global Crossing, and their like were given the opportunity to police themselves. Now overreaching regulation will be enacted to cover these overt acts of greed. NEPA was enacted for the same reasons. I see no reason to allow the forest service (or the white house) any such free reign. (Individual, Steamboat Springs, CO - #504.6.17100.103)

Public Concern: The USDAFS & DOI should not prepare an environmental analysis for activities allowed under the proposed fire management CEs.

The proposed CEs should not be subject to an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) as by definition of a CE as well as your own documented analysis, as they will have no significant impact or cumulative impact on the environment. (Timber or Wood Products Industry, Cleveland, TX - #843.2.17100.300)

Public Concern: The USDAFS & DOI should develop a modified environmental review process.

WITH A COMPLEXITY MATRIX TO IDENTIFY THE LEVEL OF EVALUATION REQUIRED

The environmental process that is presently in place represents one end of the spectrum, while categorical exclusion represents the other end.

Neither of these extremes represents the best natural resource management environmental assessment process.

Probably 3-5% are so straight forward they would need no depth analysis. These estimates leave 90-94% of projects in need of a modified environmental evaluation. A complexity matrix could be developed to identify the level of evaluation required. (Timber or Wood Products Industry, Jacksonville, OR - #398.1.17100.000)

WITH MEASURABLE THRESHOLDS AND GUIDELINES TO IDENTIFY THE LEVEL OF EVALUATION REQUIRED

I am of the belief that lengthy environmental review and administrative appeals processes undertaken on small-scale hazardous fuels reduction and other preventive projects often constitute an unnecessary risk and impediment to good land management. Many projects of limited scale and impact should be categorically excluded, on the basis of the minimal environmental impact and the need to take quick action in order to prevent additional resource damage, or increased risk to human safety. At the same time, measurable thresholds and guidelines should be established to assist land managers in determining whether or not a thorough environmental analysis and administrative appeal period is indeed warranted. Agencies should be careful not to push the margin, at the risk of losing the management flexibility that properly executed categorically excluded projects would provide. (Individual, Silver Spring, MD - #1178.2.17100.100)

Public Concern: The USDAFS & DOI should provide guidance in measuring the effects of projects conducted under the proposed fire management CEs.**TO ENSURE THAT LONG-TERM BENEFITS ARE GIVEN GREATER CONSIDERATION THAN SHORT-TERM EFFECTS**

In evaluating fuels reduction or forest rehabilitation proposals, long-term benefits of a project must be given greater consideration than the short-term impacts. The final categorical exclusions should provide guidance in measuring the effects of a proposed project. (Agriculture Industry, Jefferson City, MO - #1739.6.17100.302)

We suggest that the final categorical exclusions provide some guidance that, in measuring the effects of a proposed project, long-term benefits must be considered instead of just short-term impacts. We believe this direction can be provided through regulations, and does not require legislation. (Agriculture Industry, Susanville, CA - #1808.4.17100.302)

Public Concern: The USDAFS & DOI should evaluate effects on soil prior to considering a project eligible for categorical exclusion.

The FS must manage National Forest System lands without permanent impairment of soil productivity and to maintain or improve soil quality, pursuant to NFMA and other laws, regulations and other guidance and requirements. The FS must adequately analyze impacts to soil pursuant to NEPA. The CE rulemaking must not allow broad (potentially soil-damaging) categories of activities to be categorically excluded from EA or EIS analysis, if warranted. Any CE rules implemented by the FS should ensure that any projects with significant detrimental soil conditions or the risk of permanent impairment of soil productivity would be properly analyzed before they proceed. (Preservation/Conservation Organization, Missoula, MT - #952.22.31210.230)

Public Concern: The USDAFS & DOI should evaluate effects on wildlife prior to considering a project eligible for categorical exclusion.

The document states that “these categorical exclusions would not apply where there are extraordinary circumstances, such as adverse affects on [federally listed] threatened and endangered species or their designated Critical Habitat.” While we support this statement, we believe that impacts from fuels reduction projects and rehabilitation/stabilization projects have the potential to adversely affect non-listed wildlife species. There is no indication within these categorical exclusions that effects from fuels reduction projects and rehabilitation/stabilization projects on non-listed wildlife and their habitats will be evaluated. It is our position that there should be a mechanism by which effects to wildlife resources can be assessed before a project is deemed eligible for categorical exclusion. The Arizona Game and Fish Department supports a collaborative effort in developing proposed projects for fuels reduction or rehabilitation, and would encourage early, informal coordination on these types of projects. (Arizona Game and Fish Department, Phoenix, AZ - #799.8.17100.313)

As private lands are increasingly developed this makes the need for our national forests as refuges for wildlife ever greater. This habitat serves to keep wildlife populations from becoming endangered to the point that private lands are affected by restrictions as more and more species need to be listed as threatened and endangered. (Individual, Mahomet, IL - #743.6.33300.501)

Public Concern: The USDAFS & DOI should prepare biological evaluations for each project under the proposed fire management CEs.

To ensure the absence of cumulatively significant actions while protecting fire endangered communities, aid should be provided in the following ways.

Protect all threatened, endangered, proposed endangered, forest service sensitive and species of concern by preparing biological evaluations for each project. Accurately quantify existing Management Indicator Species (MIS) populations in a way the average person can understand. Do not substitute the presence of suitable habitats as a proxy for actual population numbers. To avoid both controversy and uncertainty and therefore extraordinary circumstances, clearly state sensitive species population numbers for all individuals/pairs that inhabit the planning area. This data is required to be affected by planned hazardous fuel activities. (Individual, Penn Valley, CA - #1155.4.14100.315)

Scope of Proposed Fire Management CEs

Public Concern: The USDAFS & DOI should clearly explain what will be covered under the proposed fire management CEs.

The CE is defective because it is vague and ambiguous as to what will be covered by the CE. It does not define "hazardous," as in "hazardous fuel reduction activities." There is no indication of how much "reduction" would be allowed. (e.g., is a clearcut a valid reduction?) The only check is that the fuel reduction project should be consistent with "A Collaborative Approach for Reducing Wildfire Risks to Communities and the Environment 10-year Comprehensive Strategy Implementation Plan." But that document does not provide this information either. (Preservation/Conservation Organization, Santa Fe, NM - #1186.17.14120.230)

Public Concern: The USDAFS & DOI should limit the scope of the proposed fire management CEs spatially and temporally.

Acreage . . . limitations should be included in these two newly proposed CEs. Currently, the Forest Service NEPA Handbook only allows CEs for timber sales of up to 250,000 board feet and salvage sales up to 1 million board feet, but apparently, the CE for fuel reduction projects would not be bound by these or any other size limits. Contrary to early Administration assurances that the new CE does not apply to salvage logging, Forest Service officials have told congressional staff that CEs can be used for salvage sales if their primary purpose is fuels reduction. For example, if the Forest Service determined that an insect-killed forest posed a fire hazard, a salvage sale of unlimited size could be authorized with no environmental analysis. (Preservation/Conservation Organization, Paradise, CA - #1414.6.17900.104)

We strongly recommend that the proposed procedures be withdrawn.

However, if a change in NEPA procedures allowing increased use of CEs is still considered, there must be limitations on its use. Were these proposed CEs to be adopted as currently written they would (1) blatantly violate NEPA and its implementing regulations, (2) encourage Forest Service line officers to abuse their discretion in order to avoid having to prepare EAs and EISs, and (3) reduce or even eliminate public involvement with regard to these projects. Revisions to these proposed CEs should include: limitations on the size of projects which can be documented with CEs. (Preservation/Conservation Organization, Paonia, CO - #1732.21.17800.001)

The agency has proposed to use categorical exclusions (hereinafter “CE”) to approve a broad list of projects, with no consideration for the size of the projects. Use of CEs should be limited to small projects where environmental risks are minimized. (Individual, Saratoga, CA - #811.3.17100.300)

As stated earlier, the categorical exclusions, as written, do not provide for scope and scale limitations to fuels reduction projects or rehabilitation/stabilization projects. Large-scale fuels reduction projects that do not meet the criteria of having extraordinary circumstances, as defined in the document (Page 77040), would be categorically excluded in the same manner as small scale projects, despite the increased likelihood of significant effects. The Arizona Game and Fish Department believes that the categorical exclusions should contain language that limits the scope and scale of projects to be implemented under these exclusions. (Arizona Game and Fish Department, Phoenix, AZ - #799.12.17100.301)

The proposed two CE categories could cover thousands of acres (indeed the “environmental analysis” you use to state there are no cumulative effects shows that the service approved 1,660 projects with a mean size of 1,314 acres (median size =239 acres) compared to approving 1,769 projects requiring an EA that had a mean size of 917 acres (median size = 103 acres)). The proposed regulation implies [in my mind] these projects are small and similar in scope to the other categories of actions described in 31.2. This is obviously not the case. (Business, Arcata, CA - #860.5.14120.109)

TO REDUCE THE POSSIBILITY OF CUMULATIVE EFFECTS

The proposal concludes that these projects, individually or cumulatively, do not result in significant effects on the human environment. Yet, the proposal neither discusses the potential scale of individual projects nor the potential number of projects that might be categorically excluded as agencies pursue treatment on the cited 190 million acres of federal forest and rangeland at risk of severe wildland fire. We believe that it would be helpful and prudent to set some bounds on scale and number of projects that might be categorically excluded. Once again, this would help build understanding and trust. A limit on the number of projects annually, or total acreage, might also help allay concerns about possibility of cumulative effects, given the extensive land area that might be treated. (Preservation/Conservation Organization, Washington, DC - #1726.6.17810.104)

The Proposed Procedural Changes Fail to Impose Any Acreage Limitations On Projects That Could Be Documented With A Categorical Exclusion.

Projects of any size would be subject to approval pursuant to a CE under these proposed procedures. Given the scope of fires that affected Western states during the 2002 season and with little or no sign of improvement in precipitation in intervening months, there are likely to be any number of large post-fire rehabilitation projects proposed in coming months and years. Two recently proposed post-fire management and fuels reduction projects slated for Colorado alone amply demonstrate the massive scale of upcoming forest projects—with the Trout West Project targeting 20,000 acres and the Hayman Fire Salvage Project targeting anywhere between 10,000-50,000 acres of public lands.

Despite the temptation to believe in the availability of an easy fix for the state of our National Forests, this belief is incorrect for two reasons.

First, given the extreme pressure on federal agencies to reduce fuel loading, agencies are more likely than ever before to propose a greater number of forest projects that target vast expanses at one time in order to get the most fuel reduction for the least amount of money. These large projects are more likely to have potentially significant environmental impacts than are projects that are smaller in scope. However, even projects that treat a smaller number of acres can result in serious environmental impacts (e.g., soil erosion, sedimentation of watersheds) even if they succeed in reducing fuels in the long term. Importantly, all logging projects produce significant quantities of slash that, when left on the ground, actually increases the short-term risk of hazardous fires. All of these problems can be reduced via effective mitigation measures if these proposed projects are carefully considered via preparation of an EA or EIS. (Preservation/Conservation Organization, Paonia, CO - #1732.6.17900.001)

Public Concern: The USDAFS & DOI should provide language to ensure quantitative restrictions on the intensity and scope of projects under the proposed fire management CEs.

We recommend that . . . language must be inserted to ensure that there are quantitative restrictions on the intensity and scope of the projects (acres, board feet, road miles, cumulative impacts). (Preservation/Conservation Organization, Point Arena, CA - #1737.5.10200.109)

Public Concern: The USDAFS & DOI should identify boundaries on the use of the proposed fire management CEs.

There are concerns about the final CE, which includes “activities (such as reseeded or planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails) necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archeological, and cultural sites and infrastructure impacted by wildfire and/or wildfire suppression.” Again the term permanent is key. What does “permanent” mean, and how can a finding of no significant impact be determined for activities which are so broad that they aren’t even defined as to what is and what isn’t within the category? The list of activities, which include repair of roads and trails, rehabilitation of habitat and watershed, and infrastructure impacted by wildfire and/or wildfire suppression are again so broad that they could include virtually any activity. What kind of boundaries are there on the use of these CEs? (Preservation/Conservation Organization, Bloomington, IN - #1371.5.14120.109)

Public Concern: The USDAFS & DOI should not allow specific activities under the proposed fire management CEs.

Should the proposal proceed, we request that a clear criteria be included that stipulates that such a no road building, no entry in unroaded areas, and no cutting or removal of large or old trees will be allowed under the proposed CE rules. This will help ensure such projects will not have significant effects. (Preservation/Conservation Organization, Bellingham, WA - #1410.6.17120.322)

Applicability of Proposed Fire Management CEs to Certain Regions or Areas**Public Concern: The USDAFS & DOI should consider the need for fire management activities on a regional basis.**

Southeastern forests respond to a unique fire regime that is not incorporated into the categorical exclusions.

The Federal Register announcement suggests that the categorical exclusions would be valid on all public lands. This blanket policy ignores regional differences and, accordingly, may provide loopholes for additional timbering activities in the moist, southeastern Appalachian forests in which we live and work, and which are, for the most part, not in grave danger from wildfires. Furthermore, of the 3,000 examples of fuel reduction projects studied, few (at our estimation, perhaps a handful) occurred in the southern Appalachians, and most of those projects were covered under prior categorical exclusions. (Preservation/Conservation Organization, Asheville, NC - #1417.3.14120.303)

This change would result in a nation-wide approach to what should be a site-specific, very local approach. The biological communities in the Holly Springs National Forest are not fire dependent. Most might be considered fire tolerant but only to the rarely occurring natural fire event. Our local USFS uses fire to promote the growth of mono-cultural pine stands and to suppress native hardwood forests from returning to compete with the monoculture. We are concerned that the proposed change would grant our local Forest Service personnel unbridled leeway to expedite their apparent goal of converting native hardwood forest to pine monoculture. (Place-Based Group, Oxford, MS - #1523.3.11120.603)

Catastrophic wildfires are a problem that is associated with a few ecosystems across the country, primarily centered in the western part of the country. However, this proposal will allow fuel reduction and rehabilitation projects to be categorically excluded in every ecosystem. This is a nationwide approach to an ecosystem specific problem. For example, the Blue Ridge eco-region in the Southeastern U.S. is not a fire dependent or tolerant ecosystem. This area receives 50 or 100 inches of rain a year and is too wet to support large wildfires on a frequent basis. However, we consistently see large-scale fuel reduction treatments in wildland urban interfaces. The reason for this is a monetary one. Congress has appropriated funds for fuel reduction treatments across the entire country. In order to get that money, the Forest Service burns the forest, whether it needs it or not. This proposal will allow them to burn the forest without even analyzing the effects, which are and will continue to be negative. Please consider changing the scale of the proposal, or making it more eco-region specific. (Preservation/Conservation Organization, Johnson City, TN - #384.2.64000.303)

The proposal is not suitable for management of the Southern Appalachian forests.

Applying a fuels reduction CE in the Southern Appalachian Forests would have significant effects on the environment and would exclude the public from important decisions. In the Southern Appalachians, the gypsy moth and the southern pine beetle have caused widespread damage. Under this rule, any insect damaged timber which the agency decides is a fire risk could be logged. The rule will be misused by a line officer to conduct large-scale logging and road-building out of proportion to the actual damage inflicted by the insects and unnecessary to protect property and communities. The Forest Service, through NEPA analysis and public involvement, should consider whether it is better to leave insect damaged trees alone to naturally regenerate (gypsy moths creates openings for new growth) or to allow road-building and logging that will disturb and compact soil and lead to erosion and sedimentation and other adverse effects. (Preservation/Conservation Organization, Copper Hill, VA - #816.11.64000.303)

I am concerned that the current proposal for “hazards fuel reduction project treatment” is really a gift of publicly owned forests to timber industries. The proposal treats all forests as if they are the same, yet the forests of the West are varied and require different management. The lodge pole pine, for instance, is a shallow rooted tree that becomes more susceptible to windfall after thinning. Also, we have already learned the lesson that lodge pole are fire dependant for reproduction. Of course I am concerned about fires in the West because most of my family lives there and I consider it my home. However, I think that there are ways to protect communities without destroying the forests that this proposal is supposedly designed to protect. (Individual, State College, PA - #1035.1.64000.104)

Public Concern: The USDAFS & DOI should limit the proposed fire management CEs to western urban interface zones.

The current administrations proposal should be limited to dry areas out west, and then only where the forests are in close proximity to urban areas. (Individual, No Address - #1459.3.10000.710)

Public Concern: The USDAFS & DOI should provide evidence that the proposed fire management CEs are necessary in the eastern United States.

We also are concerned about how this CE will be implemented in eastern forests where fire is not a major ecologically force as it is in many western areas. We would like to see evidence that such a CE is necessary in the east. We don't believe it is. (Preservation/Conservation Organization, Bloomington, IN - #1371.7.14100.303)

Public Concern: The USDAFS & DOI should consider the applicability of the proposed fire management CEs on the Olympic Peninsula.

Here on the Olympic Peninsula in proximity of Olympic National Forest, which I know well, there is an absolute minimum of inholdings and other property for which one can justify tree-cutting as a fire prevention method. Historically, we have very few significant burns due to the high year-round humidity; the same is true for the Washington Cascades within the Mt. Baker-Snoqualmie National

Forest, west of the Cascade Crest. The new regulations may have some applicability east of the Crest, but very little to the west. (Individual, Port Townsend, WA - #763.1.10000.303)

Public Concern: The USDAFS & DOI should consider projects for the proposed fire management CEs in all areas of the United States.

In preparing the final rule, there are several key issues we want to address.

We believe the categorical exclusion proposal is broader than just addressing wildfires. It also applies to projects to address insect, disease and invasive species damage. Healthy forests and rangelands are of national concern, therefore, we hope that projects in other parts of the nation besides western states will be considered. (Agriculture Industry, Jefferson City, MO - #1739.5.17100.602)

The categorical exclusion proposal is broader than just addressing wildfires. It applies also to projects to address insect, disease and invasive species damage. It applies to forests and rangelands. Healthy forests and rangelands are not strictly a Western issue. There are many areas outside of the western United States that can benefit from application of these categorical exclusions. We hope that projects from all areas of the country that deal with invasive species and disease issues as well as wildfires will be given equal consideration. (Agriculture Industry, Washington, DC - #371.6.17110.000)

Public Concern: The USDAFS & DOI should ensure that specific areas are not included in the use of the proposed fire management CEs.

Very careful attention should be given to the following areas, which I believe should NOT be included in any CE activities.

- Roadless areas, or areas with roads that are not currently maintained.
- Endangered species habitat
- Wilderness areas, of course
- Old growth areas, of course
- National monument lands
- Areas with degraded or compromised watersheds
- National Park Lands
- Areas with no or minimal residents in area (these areas to be defined by science, with the usual, desirable public input)
- Other public lands on which there is no immediate or apparent threat to human life (again, science and public input to define). (Individual, Brighton, MI - #986.4.17100.001)

Proposed activities in inventoried roadless areas, special biological areas and sensitive habitats, old growth, and where extraordinary circumstances are present must not be eligible for a categorical exclusion. Extraordinary Circumstances include inventoried Roadless areas, Endangered Species habitats, public drinking water sources, etc. (Individual, Charlottesville, VA - #1762.2.17100.001)

Old growth, unroaded, and important wildlife habitat areas must be excluded from any effort to simplify analysis for fuel reduction efforts. Full NEPA analysis is required for these sensitive areas. If this proposal proceeds, the only purpose should be to proscribe reasonable limits on fuel reduction and rehabilitation/stabilization projects (such as no road building, no entry in unroaded areas, no cutting or removal of large or old trees, etc.) that will help ensure that such projects will not have significant effects. (Preservation/Conservation Organization, Montgomery, AL - #1409.14.17100.230)

NEPA requires analysis of project impacts on areas of unique, ecologically significant, or critical areas. We note that while wilderness areas and Research Natural Areas (RNAs) were not included in the proposed categorical exclusions, many other areas are considered ecologically significant, including:

- mature and old-growth forests;
- unroaded (<5,000 acres) lands;
- areas containing concentrations of rare and endemic plants (e.g., Siskiyou National Forest);
- areas containing species and community types considered rare and globally significant (G1/G2/G3 species and community types recognized in the Natural Heritage database); and
- Riparian areas and critical salmonid watersheds.

Since no analysis is presented, it is impossible to determine if project treatments will impact these unique areas. (Preservation/Conservation Organization, Ashland, OR - #501.15.17100.322)

Old growth forests, must be excluded from any effort to expand CEs for fire risk reduction and restoration projects. Old growth trees are fire resilient, their thick bark protects the tree cambium from damaging heat, and they play an integral role in forest ecosystem processes and byproducts such as clean drinking water. (Preservation/Conservation Organization, Bellingham, WA - #1410.3.17120.602)

Wording of the Proposed Fire Management CEs

Public Concern: The USDAFS & DOI should provide clearer definitions for the proposed fire management CEs.

ECOSYSTEM INTEGRITY

A good clarification to include in the consideration of Decision Notices would be a definition of ecosystem integrity. Like many terms such as vegetation management and multiple uses, ecosystem integrity is understood differently by different disciplines. While the major purpose of this action is to promote human safety and property, the inclusion of this terminology will also be used as a justification of many fire prevention actions. Thus, it is important that it be understood by the public. (Wyoming Game and Fish Department, Cheyenne, WY - #802.2.30200.111)

FUELS REDUCTION PROJECT

The term “fuels-reduction project” is not adequately defined, opening the very real potential for an overly broad interpretation of the term and the type and magnitude of projects which could be categorically excluded under the proposed rule change. We request that “fuels-reduction project” be strictly defined in the guidance for the CEs.

Neither the documentation provided in the federal register notice nor the 10-Year Comprehensive Strategy to which the documentation frequently refers contains a definition of “fuels reduction project.” [There is a] need to know—and we request that you clarify—whether any of the following restrictions are part of the definition:

1. a maximum tree-size restriction
2. a maximum acreage restriction
3. restrictions on logging in roadless or old-growth areas
4. restrictions on the harvest prescriptions and methods that may be used (does clearcutting or regeneration harvest fall within the definition?)
5. specific language restricting the definition to the WUI, as defined by the USFS’s own Jack Cohen, whose research has concluded that thinning to “reduce the threat to human safety and of property loss”—the Department wording regarding the intention of the new CEs—need not exceed a 1/4 to 1/2 buffer around homes and communities.
6. language that specifically excludes a project with a commercial timber sale component from the definition.

In the section of the Federal Register notice, the following statement is made: “Hazardous fuels consist of combustible vegetation (live or dead), such as grass, leaves, ground litter, plants, shrubs, and trees, that contribute to the threat of ignition and high fire intensity and/or high rate of spread. Hazardous fuels reduction involved manipulation, including combustion or removal of fuels, to reduce the likelihood of ignition and/or to lessen potential damage to the ecosystem from intense wildfire and to create conditions where firefighters can safely and effectively control wildfires. (Preservation/Conservation Organization, Republic, WA - #1429.30.64000.102)

HAZARDOUS FUELS

The term hazardous fuels currently could cover literally anything that burns, and is assumed to be something that could cause “potential damage to the ecosystem”. Again, if the purpose of a categorical exclusion is to streamline human safety actions, it would be beneficial to have a more narrowly defined term so that any future potential arguments about ecosystem damage or benefits can be better addressed. (Wyoming Office of Federal Land Policy, Cheyenne, WY - #802.3.64000.111)

PERMANENT

“Activities (such as reseeded or planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails) necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archeological, and cultural sites and infrastructure impacted by wildfire and/or wildfire suppression.” The term permanent is key. What does “permanent” mean, and how can a finding of no significant impact be determined for activities which are so broad that they aren’t even defined as to what is and what isn’t within the category? The list of activities, which include repair of roads and trails, rehabilitation of habitat and watershed, and infrastructure impacted by wildfire and/or wildfire suppression are again so broad that they could include virtually any activity. What kind of boundaries are there on the use of these CEs? (Individual, Mankato, MN - #1532.3.12100.108)

I am concerned because the rule uses the term “permanent” as the major qualifier, yet fails to define it. This leaves the door wide open for all kinds of road building and other development activities that could significantly impact the environment, but could be exempt from environmental studies because the agency labels the activities as temporary. This is unacceptable. I am concerned that the final CE includes activities “necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archeological, and cultural sites and infrastructure impacted by wildfire and/or wildfire suppression.” Again, the term permanent is key. It is impossible to credibly assert a finding of no significant impact for activities that are so broad that they aren’t defined. The list of activities is so broad that virtually any activity could be included. There do not appear to be any discernible boundaries for using these CEs. (Individual, San Jose, CA - #890.5.65000.001)

Concerns with rule are that the term “permanent,” which is the major qualifier in the rule, is not defined. This leaves the door wide open for all kinds of road building and other development activities that could have a significant impact on the environment that is considered by the agency to be temporary and therefore exempt from environmental studies. This is unacceptable to us.

There are concerns about the final CE, which includes “activities (such as reseeded or planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails) necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archeological, and cultural sites and infrastructure impacted by wildfire and/or wildfire suppression.” Again the term permanent is key. What does “permanent” mean, and how can a finding of no significant impact be determined for activities which are so broad that they aren’t even defined as to what is and what isn’t within the category? The list of activities, which include repair of roads and trails, rehabilitation of habitat and watershed, and infrastructure impacted by wildfire and/or wildfire suppression are again so broad that they could include virtually any activity. What kind of boundaries are there on the use of these CEs? (Preservation/Conservation Organization, Spokane, WA - #1610.23.12100.300)

The agency makes wide use of the term “permanent” in this proposal but does not define what permanent means. The FS never explains whether the impacts of roadwork, extractive development, and

the many other “activities” allowable under this policy are likely to be “permanent” and, why a CE would be appropriate in these circumstances. (Preservation/Conservation Organization, Missoula, MT - #952.8.12100.322)

The term “permanent,” which is the major qualifier in the rule, is not defined. This leaves the door wide open for all kinds of road building and other development activities that could have a significant impact on the environment that is considered by the agency to be temporary and therefore exempt from environmental studies. This is unacceptable to us. (Individual, Brookport, IL - #460.4.41200.000)

PRIMARY PURPOSE

The Rule Should Define “Primary Purpose” of Fuel Reduction.

The preamble to the proposed categorical exclusions states that they “would not include activities such as timber sales that do not have hazardous fuels reduction as their primary purpose.” The preamble, or the exclusions themselves, should provide some regulatory guidance to defend against litigation that will challenge categorically excluded projects because they do not have hazardous fuel reduction as their “primary purpose.” The agencies should consider defining “Primary Purpose of Hazardous Fuel Reduction” as follows:

“It is presumed that if trees are cut in an area designated as moderate to high fire intensity and the long-term risk of wildfire is reduced, that the timber cutting is for the primary purpose of hazardous fuel reduction.” (Timber or Wood Products Industry, Ontonagon, MI - #1510.5.64000.230)

While we support the inclusion of the new categories, we have some concerns about the proposed rule and some suggestions regarding the preamble.

The preamble to the rules states that the categorical exclusion “would not include activities such as timber sales that do not have hazardous fuels reduction as their primary purpose.” The preamble or rule should provide some regulatory guidance to defend against litigation that will challenge categorically excluded projects because they do not have hazardous fuel reduction as their “primary purpose”. The Forest Service might consider defining “Primary Purpose of Hazardous Fuel Reduction” as follows:

“It is presumed that if trees are cut in an area designated as moderate to high fire intensity (for example Condition Classes 2 and 3) and the long-term risk of fire is reduced, that the timber cutting is for the primary purpose of hazardous fuel reduction.” (Timber or Wood Products Industry, Cottage Grove, OR - #1603.4.64000.100)

While we support the inclusion of the new categories, we have the following concerns about the proposed rule:

The Rule Should Define “Primary Purpose” of Fuel Reduction.

The preamble to the proposed categorical exclusions states that they “would not include activities such as timber sales that do not have hazardous fuels reduction as their primary purpose.” The preamble, or the exclusions themselves, should provide some regulatory guidance to defend against litigation that will challenge categorically excluded projects because they do not have hazardous fuel reduction as their “primary purpose.” The agencies should consider defining “Primary Purpose of Hazardous Fuel Reduction” as follows:

“It is presumed that if trees are cut in an area designated as moderate to high fire intensity and the long-term risk of wildfire is reduced, that the timber cutting is for primary purpose of hazardous fuel reduction.”

We support the use of categorical exclusions as a means to more promptly reduce fire hazards in federal forests and to rehabilitate areas following a wildfire. We urge you to adopt the preceding suggestions to strengthen the categorical exclusion implementing procedures. (Timber or Wood Products Industry, Englewood, CO - #1464.5.17100.230)

The rule should clearly define either the term “primary purpose” or the term “hazardous fuels reduction” as it pertains to timber sales. In the proposal’s preamble, it is specified that the proposed categorical

exclusions “would not include activities such as timber sales that do not have hazardous fuels reduction as their primary purpose.” Some regulatory guidance should be provided for the agencies administering categorically excluded projects so that they may accurately evaluate and document the “primary purpose” of the project. The agencies could consider defining “Primary Purpose of Hazardous Fuel Reduction” as follows: “It is presumed that if trees are cut in an area designated as moderate to high fire intensity and the long-term risk of wildfire is reduced, that the timber cutting is for the primary purpose of hazardous fuel reduction.” (Timber or Wood Products Industry, Rapid City, SD - #1770.2.17500.001)

SMALL DIAMETER

I want to address the healthy forest initiatives directives. It needs to be established immediately as to what ‘small diameter’ trees are. (Individual, Boulder, CO - #687.2.61400.000)

Public Concern: The USDAFS & DOI should modify language in the proposed fuels reduction CE.

We feel strongly that in order to make these categorical exclusions truly effective the following changes should be made.

Change sentence one, paragraph one of the fire hazard reduction categorical exclusion to read.

“Hazardous fuels reduction activities (prescribed fire, and mechanical or biological methods including, but not limited to, crushing, piling, thinning, pruning, cutting, chipping, mulching, tree removal, grazing, and mowing) when the . . .” (Ron Christensen, Chairperson, Board of Directors, Eastern Arizona Counties Organization, Saint Johns, AZ - #1816.2.64000.100)

Extraordinary Circumstances

Extraordinary Circumstances General

Public Concern: The USDAFS & DOI should improve the extraordinary circumstances description in the Federal Register notice.

TO CORRECT CIRCULAR LOGIC AND POOR WEB DESIGN

The Federal Register Notice refers readers to a website to review definitions of “extraordinary circumstances”. This web site is not intuitive in its layout, but by stroking enough buttons, the menu including the definitions of “extraordinary circumstances” for USFS and BLM do come up. Unfortunately, these links are like a moebius strip, and take the reader right back to the general categorical exclusion screening process the agencies have always used. In other words, for this class of fire related projects, USFS and BLM intend to use categorical exclusions unless there are extraordinary circumstances, and the extraordinary circumstances are defined as being the exemptions in the existing categorical exclusion screening process—more simply, a categorical exclusion will qualify as a categorical exclusion unless it doesn’t. Huh. You needed to publish this in the Federal Register? (Individual, Sandy, UT - #133.4.17700.109)

Public Concern: The USDAFS & DOI should clarify that mitigation of extraordinary circumstances will permit categorical exclusion.

RATHER THAN TRIGGER AN ENVIRONMENTAL ANALYSIS

The Preamble to the Final Categorical Exclusions Should Clarify That Just Because a Project Does Not Qualify for the Categorical Exclusion Does Not Mean the Project Requires an EIS and the Use of Mitigation Should be Allowed to Retain a Project as a Categorical Exclusion. The agencies should more clearly explain in the preamble to the final categorical exclusions that when extraordinary circumstances prevent the use of a categorical exclusion, an environmental impact statement is not automatically required. The preamble or the exclusions should also emphasize that even if there may be an extraordinary circumstance, the decision maker may rely on mitigation measures to avoid an

extraordinary circumstance and retain the project as a categorical exclusion. (Timber or Wood Products Industry, Rapid City, SD - #1770.5.17720.000)

I fully support the inclusion of the new categories. I do however wish to express the following concerns regarding the proposed rule:

There will be extraordinary circumstances where a project may not immediately qualify for a CE. Rather than requiring an EIS, the decision maker for the project must be allowed to use mitigative measures to retain the project as a CE. (Timber or Wood Products Industry, Chadron, NE - #1855.4.17720.100)

While we support the inclusion of the new categories, we have some concerns about the proposed rule and some suggestions regarding the preamble.

The Agency should more clearly explain in the preamble to the categorical exclusion rules that when extraordinary circumstances prevent the use of a categorical exclusion that it does not mean an environmental impact statement is required. The preamble or the rule should also emphasize that even if there may be an extraordinary circumstance that the decision maker may rely on mitigation measures to avoid an extraordinary circumstance and retain the project as a categorical exclusion. (Timber or Wood Products Industry, Cottage Grove, OR - #1603.7.17720.100)

Public Concern: The USDAFS & DOI should recognize that the determining factor for whether a CE is appropriate is not whether the activity “may” be categorically excluded, but whether there are extraordinary circumstances or significant effects.

The Federal Register notice . . . informs us that of the 3,000 FY 1998-2002 projects reviewed, “over half were documented with environmental assessments” and “less than 50 were documented with environmental impact statements” with the remainder categorically excluded. The National Environmental Policy Act’s (NEPA) implementing regulations at 40 CFR [section] 1508.4 defines “Categorical exclusion” as: a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations ([section] 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

Adding the two new proposed categories to the list of potentially excludable projects does not alter the fact that in more than half the cases examined to date, extraordinary circumstances and/or significant impacts were determined to actually or possibly be present necessitating EAs in more than half the cases and an EIS in at least 50 cases.

The proposed rule does not alter the list of extraordinary circumstances or the definition of significant impacts to the human environment. It is precisely these parts of NEPA’s implementing regulations that trigger the need for an EA or EIS, not whether fuel reduction/stabilization and/or restoration are on the list of projects which “may” be categorically excluded. (Preservation/Conservation Organization, Montgomery, AL - #1409.9-10.14120.109)

The fact that in every case where an EA has been prepared over the past four years among the 3,000 cases reviewed no significant impact was determined whether significant impacts existed. The likelihood or actual presence of potentially significant impacts cannot legally be determined through a categorical exclusion when it can be demonstrated extraordinary circumstances are present or an irreversible/irretrievable impact is likely to occur. If the agency could make such a determination through a categorical exclusion; it would not have prepared an EA in the first place in more than half the cases examined. Simply adding two categories to the list of actions that “may” be categorically excluded does not alter the fact extraordinary circumstances and potentially significant impacts to the human environment exist triggering the need for an EA or EIS. Therefore, the Forest Service and BLM cannot argue this rule change would legally “solve” the “problem” of unnecessary environmental assessments

or impact statements. (Preservation/Conservation Organization, Salt Lake City, UT - #396.11.14120.230)

Public Concern: The USDAFS & DOI should recognize that, from the fact that certain projects with predicted significant effects also had extraordinary circumstances, it does not follow that all such projects will also have extraordinary circumstances.

CEQ regulations at 40 CFR [sections] 1500.4(p), 1507.3 and 1508.4 direct agencies to use categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental assessment or an environmental impact statement.

To determine whether the categorically excluded actions would have a significant effect on the environment, the Department reviewed close to 3,500 fire management projects and found that by and large the projects were not predicted to have individually or cumulatively significant effects on the human environment. However, twelve projects were predicted to have significant environmental effects. Upon a detailed review, it was determined that these twelve projects involved extraordinary circumstances, which would preclude the application of a categorical exclusion. With the justification that the projects with extraordinary circumstances would preclude the application of a categorical exclusion, the Departments concluded that these projects would not trigger a determination that the category of proposed fire management activities would have a significant effect on the environment.

The Departments confuse the requirement of the CEQ regulations. Projects that may have a significant impact on the environment individually or cumulatively shall not be selected as a category for a categorical exclusion. The premise that the Departments found that certain projects with predicted significant impacts also had extraordinary circumstances should not accommodate a leap in logic that all fuel reduction and projects with predicted significant impacts would thus have extraordinary circumstances. (Preservation/Conservation Organization, Montpelier, VT - #808.3.14120.109)

Public Concern: The USDA & DOI should develop procedures for evaluating extraordinary circumstances under the proposed fire management CEs.

The Forest Service does not “Provide for Extraordinary Circumstances” as is stated on page 77040 of the Federal Register.

This is so poorly written it’s impossible to tell how the agency will deal with extraordinary circumstances in their decision to categorically exclude a fuels reduction or post-fire rehabilitation project. “Provide” is a verb that means to furnish, supply or make available.

How is the USFS going to furnish, supply or make available extraordinary circumstances on the site?

You should say the USFS will “develop procedures which guide the analysis of extraordinary circumstances, looking for project-derived adverse effects to them.” (Individual, Grangeville, ID - #10.33.17700.104)

We understand the CATEX would not apply where there are extraordinary circumstances, such as adverse effects on threatened or endangered species or their designated habitats, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites. We also assume the Responsible Official would determine whether fuel management activities would have adverse effects on these resources, however, it is not stated how these determinations would be conducted. We do not believe these determinations should be left solely to the discretion of a Forest Supervisor or District Ranger. We recommend the federal agencies responsible for these decisions develop guidelines within the CATEX to assist the Responsible Official in determining “adverse effects”. In addition, we assert that such guidelines should be developed with public input, and that there should be reasonable opportunity for public input to inform the project design. (Preservation/Conservation Organization, Washington, DC - #1419.3.17700.108)

Public Concern: The USDA & DOI should acknowledge that extraordinary circumstances screens are not comparable to environmental effects analysis.

The application of the extraordinary circumstance screens is being touted by the agency as being similar and equally as effective as an environmental effects analysis completed by an Interdisciplinary Team for an EA or EIS. Nothing could be farther from the truth. (Individual, Grangeville, ID - #10.10.17700.103)

Public Concern: The USDAFS & DOI should consider that there is a high likelihood of extraordinary circumstances for most projects.

Existing guidance already covers the variety of fuels-reduction projects discussed in the background documentation, rendering the development of new CEs unnecessary.

NEPA requires that projects proposed in the context of “extraordinary circumstances,” as defined in NEPA, cannot be categorically excluded and an EIS must be prepared. Because many fuels-reduction and fire rehabilitation projects are proposed and implemented in the presence of extraordinary circumstances, an EIS must be prepared. This greatly reduces the number of proposals that would legally fall under the new CEs. This leaves us perplexed as to the exact nature of the projects to which these new CE categories will apply. (Preservation/Conservation Organization, Republic, WA - #1429.26.17700.102)

It appears that the proposed categorical exclusions are far too conditional; they will not apply where there may be “threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archaeological or historic sites.” Those conditions alone relate to three of the ten categories of impact listed in the NEPA implementing regulations. 40 C.F.R. [section] 1508.27(b)(3),(8), and (9). Nor does the proposal indicate on how many occasions these conditions have been encountered in previous projects. To those categories, for purposes of this proposal, several other listed categories of impact may be added, including those found in [section] 1508.27(1), (2), (4), and (7). And, how would the public know whether any conditions listed in [section] 1508.27(b) may exist for projects considered under the new policy? As one court observed, “The spirit of [NEPA] would die aborning if a facile, ex parte decision that the project was minor or did not significantly affect the environment were too well shielded from impartial view.” *Save Our Ten Acres v. Kreger*, 472 F.2d 463, 466 (5th Cir. 1973). (Individual, Baltimore, MD - #114.5.17700.322)

The CEs are not only unnecessary; they are unworkable. Any regulation adopting a CE must “provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.” 40 C.F.R. section 1508.7. In determining whether an action will “significantly” affect the environment, the CEQ regulations identify certain factors that are considered an extraordinary circumstance, including but not limited to: (1) the degree to which the proposed action affects public health or safety, (2) the degree to which the effects will be highly controversial, (3) whether the action establishes a precedent for further action with significant effects, and (4) whether the action is related to other actions which have individually insignificant, but cumulatively significant impacts. 40 C.F.R. section 1508.27(b). The federal agencies have promulgated their own lists of extraordinary circumstances, too. Manual, 516 DM 2 App. 2; Handbook section 1909.15.30.3.2.

Nearly all fuels reduction projects would have one or more of these “extraordinary circumstances,” which would forbid the usage of a CE. Therefore, it is not clear how the proposed CEs will facilitate efficient planning or withstand judicial review when so many of the covered activities trigger exceptions. Indeed, the CEs will not provide the kind of bright-line test that the federal agencies desire. As stated in the background information for the revised procedures, “it is the degree of the potential effect of a proposed action on resource conditions that determines whether extraordinary circumstances exist.” Background for the Proposed Hazardous Fuels and Rehabilitation/Stabilization Categorical Exclusions at 5. Decision-makers will still have to weigh different aspects of a project and make a decision about the potential environmental impacts of the project.

The difference, when using the CEs, is that the analysis will start from the presumption that there will not be significant impacts, when that is not likely to be the case in most circumstances. As a result, the decision-maker must perform the EA and EIS anyway—in which case the CEs only will have made

additional work—or run the risk that the decision not to prepare an EA or EIS will be challenged. Nothing is gained from either outcome. (Deputy Attorney General, California Department of Justice, Sacramento, CA - #798.25.17700.102)

The Federal Register notice informs us that of the 3,000 FY 1998-2002 projects reviewed, “over half were documented with environmental assessments” and “less than 50 were documented with environmental impact statements” with the remainder categorically excluded. The National Environmental Policy Act’s (NEPA) implementing regulations at 40 CFR section 1508.4 defines “Categorical exclusion” as:

A category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (section 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

Adding the two new proposed categories to the list of potentially excludable projects does not alter the fact that in more than half the cases examined to date, extraordinary circumstances and/or significant impacts were determined to actually or possibly be present necessitating EAs in more than half the cases and an EIS in at least 50 cases. The proposed rule does not alter the list of extraordinary circumstances or the definition of significant impacts to the human environment. It is precisely these parts of NEPA’s implementing regulations that trigger the need for an EA or EIS, not whether fuel reduction/stabilization and/or restoration are on the list of projects which “may” be categorically excluded. (Preservation/Conservation Organization, Salt Lake City, UT - #396.10.17700.101)

Public Concern: The USDA & DOI should ensure that no categorically excluded fire management projects will occur in areas where extraordinary circumstances are present.

It is not acceptable to evade environmental review for major intrusions into roadless areas, areas of endangered species habitat, or watershed areas that are already degraded and that might suffer still more from careless logging. (Individual, Boise, ID - #316.2.17700.001)

Proposed activities in inventoried roadless areas, special biological areas and sensitive habitats, old growth, and where extraordinary circumstances are present must not be eligible for a categorical exclusion. Extraordinary Circumstances include inventoried Roadless areas, Endangered Species habitats, public drinking water sources, etc. (Individual, Galax, VA - #1674.2.17700.001)

Areas that must NOT be eligible for a categorical exclusion include proposed activities in inventoried roadless areas, special biological areas and sensitive habitats, old growth, and where extraordinary circumstances are present (i.e. Endangered Species habitats, public drinking water sources, etc.). We are also concerned that the rule, as written, would result in large-scale logging and road building out of proportion to actual damage inflicted by insects. (Individual, West Lebanon, NH - #1771.3.17700.001)

Old growth, unroaded areas, and important wildlife habitat areas must be excluded from any effort to accelerate fuel reduction efforts. Full NEPA analysis is required for these sensitive areas. If this proposal proceeds, the only purpose should be to prescribe reasonable limits on fuel reduction and rehabilitation/stabilization projects (such as no road building, no entry in unroaded areas, no cutting or removal of large or old trees, etc.) that will help ensure that such projects will not have significant effects. (Preservation/Conservation Organization, Williams, OR - #918.4.17700.230)

It is absolutely critical that none of our remaining roadless areas, endangered species habitat or degraded watersheds are subjected to CE for hazardous fuels reduction as nature is best allowed to continue to take care of itself in these wilderness areas, just as it always has. (Individual, Minneapolis, MN - #1203.4.17700.300)

TO OVERRIDE THE 2002 NET BENEFIT GUIDANCE

The Fish and Wildlife Service and National Marine Fisheries Service recently issued guidance to evaluate the effects on threatened and endangered species. The new guidance (68 CFR Part 8) provides for determining the net effect of activities on species by weighing the short-term effects against the long term. This differs from past practices where regulating agencies considered only short-term effects.

Consistent with the new guidance, we recommend a change in the wording describing extraordinary circumstances to: These categorical exclusions will not apply where there are extraordinary circumstances, such as adverse long term net effects on threatened and endangered species. (Government Employee/Union, No Address - #1751.4.30300.315)

Public Concern: The USDAFS & DOI should acknowledge the likelihood that line officers will use the proposed fire management CEs inappropriately when extraordinary circumstances are present.

I have reviewed Forest Projects that have implemented categorical exclusions. Many appear to follow the guidelines given in FSH 1909.15. These were often small and insignificant projects. Unfortunately I have also reviewed large and significant projects which should not have implemented categorical exclusions per the Forest Service Handbook (FSH 1909.15). In my experience, some Forest Service Staff have not been responsive to discussions or more serious challenges of these inappropriate categorical exclusions. In my experience, the immediate Forest Service staff ignore the significant effects of the projects, unless administratively or legally challenged. I have personally witnessed the use (and abuse) of a categorical exclusion for trail maintenance used to construct and reroute an undesignated Off Highway Vehicle Trail in an areas with several different types of "extraordinary circumstances." As I pointed out during discussion with Forest Service staff, a categorical exclusion would have been appropriate according to the Forest Service rules (FSH 1909.15) for maintenance of a designated trail or area without extraordinary circumstances, but this was not the case. The categorical exemption was still used. (Individual, Oakhurst, CA - #810.3.17700.104)

Determination of Extraordinary Circumstances

Public Concern: The USDA & DOI should retain scientific analysis requirements for fire management projects in order to determine whether extraordinary circumstances are present and if potential adverse effects exist.

How would the Departments determine if these extraordinary circumstances exist in areas where fire-suppression activities are proposed? The only way to determine if endangered species exist in an area, for example, is to conduct environmental studies, as commonly done in the form of environmental assessments or environmental impact statements. Will such studies be done in all areas where fire suppression activities are planned? (Individual, Hampstead, MD - #1745.3.17720.109)

RATHER THAN IMPLEMENT THE CE'S

This [notice] states that the CE will not be used for sensitive areas, areas with threatened or endangered species, etc. But this is the Catch-22 of CEs. Without environmental analysis, neither the agency nor the public can know indeed whether you are breaking your own rules. (Preservation/Conservation Organization, Olympia, WA - #1372.5.17710.104)

These proposed categorical exclusions are fundamentally flawed. They should be formally withdrawn by both of the agencies that have proposed them, for the following reason:

The text assures readers that "These categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened or endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites." No explanation is given as to how, in the absence of a site-specific prior environmental evaluation (which is what the proposed exclusions would eliminate), the responsible federal land manager will know with certainty where such areas are located. Perhaps the fact that applying the proposed exclusions under at

least some of these circumstances would be a violation of existing federal laws was the principal reason why they were cited as examples. (Individual, Chevy Chase, MD - #1727.5.17700.109)

RATHER THAN GIVE LINE OFFICERS DISCRETIONARY AUTHORITY

The only exception to the categorical exclusions would be if there are “extraordinary circumstances,” such as when endangered or threatened species, inventoried roadless areas, wilderness areas, or wetlands would be adversely affected” by a thinning project. Under this scenario, agencies could use their discretion rather than scientific assessment to determine whether thinning should be done in a roadless area, for example, based on their own judgment that thinning would not “adversely affect” species populations or habitats. In practice, scientific evaluation must be conducted to assess both the presence of the potential for adverse impacts on endangered species and habitats at a proposed thinning site. (Individual, Topeka, KS - #1451.7.17700.109)

Public Concern: The USDAFS & DOI should consider that without inventory and analysis the presence of extraordinary circumstances cannot be established.

ARCHAEOLOGICAL AND CULTURAL RESOURCES

You indicate that the presence of an archaeological resource (or endangered species habitat) would be an extraordinary experience. The fact of the matter is, that in many places (most certainly here in Utah), that most every project that takes in more than a few acres is likely to have one or more archaeological sites, historical sites, or Traditional Cultural Properties. Unfortunately, the only way to tell if there is a site present or not, is to conduct a complete, professional inventory of the project area. And, the only way to determine the presence or absence of Traditional Cultural Properties is to consult with knowledgeable individuals/communities and with Indian tribes.

Classifying these entire genera of activities as subject to categorical exclusion, except for extraordinary circumstances, is likely to result in archaeological resources receiving less than appropriate consideration in the decision-making process. Technically, each proposed action has to be screened against the list of exemptions, two of which reference cultural resources. However, unless the need for inventory is at least considered prior to the categorical exclusion screening process, projects with important sites which could be impacted by a proposal are more likely to proceed without analysis. (Individual, Sandy, UT - #133.3.17700.709)

Scope and Application of Extraordinary Circumstances

Public Concern: The USDAFS & DOI should clarify whether the proposed fire management CEs will be subject to the list of extraordinary circumstances in USFS Handbook 1909.15 or the list in the Federal Register notice.

The proposed revisions involving the sections pertaining to categorical exclusions that are being made to the United States Forest Service (USFS) and the Department of Interior (DOI) handbooks include two categories of activities that would not individually or cumulatively result in significant effects on the human environment: (1) hazardous fuel reduction; and (2) rehabilitation/stabilization projects.

It is unclear from the language of the proposal whether the USFS section of categorical exclusions will be subject to the current list of extraordinary circumstances or a revised list referenced in the proposal. See 67 Fed. Reg. at 77, 044.

For example, the proposal claims the changes will be made to 1909.15 Chapter 30 of the USFS handbook, which describes categorical exclusions. See *id.* At 77, 043 (“The categorical exclusions which appear in Forest Service Handbook (FSH) 1909.15, section 31.2 and Department of Interior Manual 516DM, Chapter 2, appendix 1, Department Categorical Exclusions.”) This section of the handbook also contains an enumerated list of extraordinary circumstances that will prohibit the use of categorical exclusions.

The list in USFS policy is similar to the list of extraordinary circumstances in the proposal, with one exception (steep slopes or highly erosive soils), which are not included in the proposal. It is unclear

which list of extraordinary circumstances is definitive, the list proposed or the current list found in the USFS's handbook. (Dirk Kempthorne, Governor, State of Idaho, Boise, ID - #805.4.17700.109)

Public Concern: The USDA & DOI should clarify the number of acres that are likely to be excluded from the proposed fire management CEs due to extraordinary circumstances.

Your summary stated these categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their critical habitat, wilderness areas, inventoried roadless areas, wetlands and archeological or historic sites. No analysis was given as to how many acres of the 190 million acres of public forest and rangelands at risk of wildland fire have "extraordinary circumstances" which could preclude hazardous fuels reduction activities. We are very aware that the current SNPA precludes aggressive hazardous fuel reduction projects because of the "uncertainty" of these treatments vis-a-vis threatened and endangered species and even "sensitive" species such as the California Spotted Owl. Surely the National Forests in California are not an anomaly and many other western states have similar "extraordinary circumstances." We request that you determine how many acres of the 190 million acres could be withdrawn from consideration for hazardous fuels reduction projects due to species concerns and critical habitat designations. (Multiple Use or Land Rights Organization, Auberry, CA - #820.2.17700.001)

We in the Sierra Resource Conservation District have serious concerns with some of the proposed exclusion provisions. We as a resource agency have been following the Healthy Forest Initiative and have gone on record supporting the intent. Our primary area of concern is the Central Sierra Nevada Range, in Fresno, Tulare, Madera and Mariposa Counties of California.

We have been working closely with the USDA FS Region 5 on the Sierra Nevada Forest Plan Amendment (SNFPA) since before the notice of intent in 1998. One of our constant comments throughout the process has been the threat of catastrophic fire in the 11.5 million acres covered by the plan amendment.

We applaud the efforts the Forest Service, the Bush Administration and the Council on Environmental Quality to improve the morass of regulatory processes that impede our public agencies' ability to reduce the risk of wild fire, protect lives and property and improve forest health.

Your summary stated "These categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their critical habitat, wilderness areas, inventoried roadless areas, wetlands and archeological or historic sites." No analysis was given as to how many acres of the 190 million acres of public forest and rangelands at risk of wildland fire have "extraordinary circumstances" which could preclude hazardous fuels reduction activities. We are very aware that the current SNFPA precludes aggressive hazardous fuel reduction projects because of the "uncertainty" of these treatments vis-a-vis threatened and endangered species and even "sensitive" species such as the California Spotted Owl. Surely the National Forests in California are not an anomaly and that many other western states have similar "extraordinary circumstances." We request that you determine how many acres of the 190 million acres could be withdrawn from consideration for hazardous fuels reduction projects due to species concerns and critical habitat designations. We as a resource agency are deeply concerned that these exclusions will leave large land areas not able to be managed effectively to control catastrophic fires in our area such as the 2002 150,000 acre McNalley fire in Sequoia National Forest. (Place-Based Group, Tollhouse, CA - #1431.1.17700.315)

Public Concern: The USDAFS & DOI should narrowly define extraordinary circumstances exemptions.**IN ORDER TO REDUCE THE POSSIBILITY OF LITIGATION**

As proposed, categorical exclusions do not apply to fuel reduction or rehabilitation projects where “Extraordinary circumstances” are present. In the current context, it is possible that there could be litigation on whether such “extraordinary circumstance” are present. We strongly recommend that the final category exclusion provide some narrow, distinct guidance to define “extraordinary circumstances” to reduce the possibility of litigation to limit the use of the proposed categorical exclusions. (Agriculture Industry, Sandy, UT - #1347.10.17700.230)

Public Concern: The USDAFS & DOI should allow categorical exclusion of fuel reduction and rehabilitation projects in the presence of extraordinary circumstances in areas of high risk.

We feel strongly that in order to make these categorical exclusions truly effective the following changes should be made.

Add a new concluding paragraph to each categorical exclusion (fire hazard reduction, post fire stabilization and rehabilitation) that reads:

“This categorical exclusion applies even in extraordinary circumstances in either Presidential Disaster Declaration areas, or areas where it is demonstrated that a high risk to human life, safety, property, or infrastructure exists.” (Ron Christensen, Chairperson, Board of Directors, Eastern Arizona Counties Organization, Saint Johns, AZ - #1816.4.17100.100)

Public Concern: The USDAFS & DOI should eliminate the list of extraordinary circumstances for categories under which there is other legal protection.

Subjecting these categorical exclusions to some of the USFS’s “extraordinary circumstances” could completely negate the application of these categorical exclusions in Idaho.

Approximately sixty-seven percent of the land in Idaho is federal land and of this land a significant portion contains at least one of twenty-three federally protected species under the ESA. The expediency of both categorical exclusions should not be mitigated unless significant effects, not merely speculative effects, on a listed species or its critical habitat or an inventoried roadless area are established, given the existence of adequate alternative federal regulatory mechanisms like the Endangered Species Act (ESA).

Under the proposed revisions, neither the USFS nor the DOI are absolved of their duties under the ESA if the categorical exclusions are invoked. Arguable, in any case where the proposed actions are necessary and a threatened or endangered species or its habitat is present, the USFS and DOI will consult informally or formally under the ESA. Requiring NEPA for the protection of the species or their habitats, in addition to consultation, especially when these two categories of activities would not individually or cumulatively result in significant effects on the environment, is unnecessary and redundant.

It is appropriate that the USFS should reexamine and change its existing policy to ensure the maximum benefits of the proposed categorical exclusions. Specifically, the USFS should consider removing extraordinary circumstances, like threatened or endangered species, their habitats, or inventoried roadless areas, where adequate federal regulatory mechanisms already exist. Only then will the provincial benefits of the proposed categorical exclusions under NEPA be relevant. (Dirk Kempthorne, Governor, State of Idaho, Boise, ID - #805.6.17700.102)

September 2002 Mere Presence Interim Directive

Public Concern: The USDAFS & DOI should analyze the cumulative effects of the proposed fire management CEs and the mere presence directive.

It is essential to evaluate the cumulative effect of these numerous rule changes.

Many of the regulatory changes have the cumulative effect of undercutting the proposed CE sideboards that are supposedly intended to safeguard environmental quality. . . .

Like other CEs, these hazardous fuels CEs can not be used for projects that affect inventoried roadless areas, endangered species habitat, and other “extraordinary circumstances.” (Forest Service Handbook 1909.15, section 30.3, part 2). However, a recent interim directive on “extraordinary circumstances” makes such circumstances much more unusual because the directive increases the Forest Service’s discretion to use CEs even if such extraordinary circumstances are present. (Forest Service Interim Directive No. 1909.15-2002-02) This directive, announced in August, 2002, states that “the mere presence of resource conditions of concern does not mean that extraordinary circumstances exist.” With this new directive “it must be determined that there is a possibility of a significant effect upon the resource condition for an extraordinary circumstance to exist.” Thus, the Forest Service has already given much more discretion over what can be considered an “extraordinary circumstance.” These two proposed CEs simply increase the scope of broad agency discretion. Even if one of the following conditions listed in the Forest Service Handbook exists, a resource manager can decide it is not an extraordinary circumstance:

- a. Federal listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;
- b. Flood plains, wetlands, or municipal watersheds.
- c. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.
- d. Inventoried roadless areas.
- e. Research natural areas.
- f. American Indians and Alaska Native religious or cultural sites.
- g. Archaeological sites, or historic properties or areas. (Preservation/Conservation Organization, No Address - #1724.3.17700.001)

It is essential to evaluate the cumulative effect of these numerous rule changes.

Many of the regulatory changes have the cumulative effect of undercutting the proposed CE sideboards that are supposedly intended to safeguard environmental quality.

Under the proposed hazardous fuels CE, only designated wilderness areas would be strictly off-limits to categorically excluded thinning projects. Such discretionary leeway, combined with the current proposed CEs, eliminates proper environmental analysis. (Preservation/Conservation Organization, No Address - #1724.4.17700.001)

Public Concern: The USDA & DOI should clarify that the presence of any extraordinary circumstances precludes the use of the proposed fire management CEs.

Categorical Exclusions were created to address small scale and well-defined needs with no complex or controversial problems. Unfortunately, this proposal will greatly expand the use of CEs and circumvent the extraordinary circumstances that would ordinarily preclude the use of a CE. While the proposal states that the presence of extraordinary circumstances constitutes an exception to the use of one of the proposed CEs (extraordinary circumstances include: the existence of inventoried roadless areas, municipal watersheds, federally listed Threatened and Endangered species, and American Indian and Alaska Native religious and cultural sites), the problem occurs when this proposal is coupled with an interim directive issued by the Forest Service in September 2002, which essentially gives the Forest

Service discretion to determine whether or not a resource condition should be considered an extraordinary circumstance and therefore be exempt from environmental review. It will be the Department officials—not the presence of a resource condition such as an inventoried roadless area or T and E species habitat that will make the determination as to whether the proposed project will have a significant impact on the resource conditions. This discretion will lead to inconsistent decisionmaking and will lead to loss of important wildland habitat and imperiled species. This policy must make it clear that the presence of any of the extraordinary circumstances now defined in federal regulations (inventoried roadless areas, municipal watersheds, federally listed Threatened and Endangered species, and American Indian and Alaska Native religious and cultural sites), precludes the use of a CE in all circumstances. (Preservation/Conservation Organization, Bozeman, MT - #1169.3.17700.001)

The background information for the proposed CEs states that the presence of extraordinary circumstances constitutes an exception to the use of one of the proposed CEs. Background for the Proposed Hazardous Fuels and Rehabilitation/Stabilization Categorical Exclusions (Background Info), 5. The standing interpretation was that extraordinary circumstances include, but are not limited to, the existence of inventoried roadless areas, municipal watersheds, federally listed threatened and endangered species and their critical habitat, and American Indian and Alaska Native religious and cultural sites. (Forest Service Handbook [section] 1909.15. 30.3 part 2).

What the Federal Register notice does not tell the public is that the Forest Service issued an Interim Directive in September 2002 that essentially gives the Forest Service discretion to determine whether or not a resource condition should be considered an extraordinary circumstance and therefore be exempt from environmental review, Interim Directive No. 1909.15-2002-02. The Interim Directive states that “the mere presence of resource conditions of concern (as identified in the Forest Service Handbook section 1909.15 30.3 part 2) does not mean that extraordinary circumstances exist.” Rather “it must be determined that there is a possibility of a significant effect upon the resource condition for an extraordinary circumstance to exist.” The Federal Register notice says that this Interim Directive is meant to be permanent.

The Lands Council is opposed to the creation of this [Fuels Reduction] category because we think it is so broadly worded and leaves so much open to agency interpretation that it is impossible for the agency to determine that there will be no individual or cumulative impact. Combine this with the rule that even if extraordinary circumstances are present the agency can still use a CE, then it is highly likely that most everything the agency does can be fit into this category, and if combined with the new proposal to CE many so-called “small timber sales,” it is a virtual certainty that there will be cumulative impacts. What evidence is available to suggest otherwise? There are conclusory statements in the federal register notice that there will be no impact, and it references some previous findings, but none of this material is cited, it isn't available on the record for public scrutiny, and frankly, it is incredible. The CEQ regulations require that only actions that have no significant impact either individually or cumulatively may be subject to categorical exclusion from NEPA. In addition, the Supreme Court has previously ruled that an agency must consider the cumulative impact of all agency proposals within a geographical region in the same impact statement. (Preservation/Conservation Organization, Spokane, WA - #1610.22.17700.001)

Public Concern: The USDAFS & DOI should ensure that the mere presence interim directive applies to the proposed fire management CEs.

BECAUSE THE FEDERAL REGISTER NOTICE IMPLIES OTHERWISE

Your analysis implies that categorical exclusions will not apply when there are “extraordinary circumstances, such as adverse effects on threatened and endangered species” However, FS 1909.15 specifically states, “The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action . . . that determines whether extraordinary circumstances exist.” We trust that you are not proposing that this policy change. (Place-Based Group, Tollhouse, CA - #1431.3.17700.230)

Public Concern: The USDA & DOI should clarify that the mere presence of extraordinary circumstances will not automatically trigger the need for environmental analysis.

The agencies should more clearly explain in the preamble to the final categorical exclusions that when extraordinary circumstances prevent the use of a categorical exclusion, an environmental impact statement is not automatically required. The preamble or the exclusions should also emphasize that even if there may be an extraordinary circumstance, the decision maker may rely on mitigation measures to avoid extraordinary circumstances and retain the project as a categorical exclusion. (Individual, Spearfish, SD - #1805.7.17700.000)

Public Concern: The USDAFS should clarify that the mere presence interim directive will allow line officers to override the extraordinary circumstances exception language in the proposed fire management CEs.

The Notice indicates that regulations regarding extraordinary circumstances will apply to the proposed hazardous fuel reduction CEs, i.e., that the CE could not be asserted where an extraordinary circumstance exists. The Notices describes such instances as:

For example, where proposed actions would have adverse effects on federally listed threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, wetlands, and archeological or historic sites.

67 Fed. Reg. 77040. However, the Notice fails to reveal that, in September 2002, the Forest Service issued an Interim Directive that gives the agency the discretion to decide whether an extraordinary circumstance exists despite the known presence of one of the resource conditions identified above. FS Interim Directive No 1909.15-2002-02. Under the Interim Directive, an extraordinary circumstance exists only if the Forest Service determines that the proposed project presents “a possibility of a significant effect” upon one of the resource conditions. This increased standard for what constitutes an extraordinary circumstance, being based solely on the discretion of Forest Service personnel, has already opened the door to abuse by Forest Service personnel to conduct projects that may have serious environmental effects, alone or cumulatively, but that the personnel wants to avoid having to environmentally review. The proposed hazardous fuels CEs now present an additional category of projects for which the Interim Directive for extraordinary circumstances can be inappropriately applied.

Coupled together, this project review process will allow hazardous fuel reduction projects with probable serious adverse effects (as discussed elsewhere) to move forward without even minimal environmental review, no public involvement, and based on a Forest Service personnel’s personal, and possibly biased, opinion of whether a project might have a “significant effect.” It is for such reasons that NEPA’s public review process was created. The Departments should at least be honest to the public at this juncture by explaining in the Notice the true extent of the extraordinary circumstance protections. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.19.17700.103)

The issue of extraordinary circumstances deserves closer examination. There are two issues of importance. First, the agency has interpreted this to mean, in spite of its communication to the CEQ to the contrary, that the presence of extraordinary circumstances (see below) does not mean that a CE can’t be prepared. This was not the understanding the agency had with the CEQ, and the court record regarding Forest Service CEs seems to bear this out.

Extraordinary circumstances include, but are not limited to, the existence of inventoried roadless areas, municipal watersheds, federally listed Threatened and Endangered species, and American Indian and Alaska Native religious and cultural sites. What this notice does not tell the public is that the Forest Service issued an Interim Directive in September 2002 that essentially gives the agency the discretion to determine what should be considered an extraordinary circumstance. It is not the presence of a resource condition such as an inventoried roadless area which will make the determination as to whether the proposed project will have a significant impact on the resource conditions, it is what the agency officer decides, pre-analysis. Yet the agency’s own regulations in the Forest Services Manual and Handbook have a clear definition of extraordinary circumstances. That definition does not allow a line-officer to

decide, without the benefit of analysis, that a project won't affect T and E species when they are within the area. (Preservation/Conservation Organization, Moscow, ID - #1752.9.17700.101)

The Federal register asserts that "there can be no extraordinary circumstances ["ECs"] related to actions proposed under either categorical exclusion". This makes it seem as if CEs will not be used when ECs such as ESA listed species or roadless areas or public drinking water sources are involved ("resource conditions that should be considered in determining whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an EA or an EIS").

However, this assertion is deceitful and misleading. The existence of such things as roadless areas and endangered species habitat where a proposed project is to occur certainly means these circumstances are "related to actions proposed". But upon closer reading is found the claim that the "mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist."

This rationale has been rejected by federal courts. It is the epitome of circular logic and as such is an unreasonable basis for decision-making and a clear abuse of discretion. For determining the potential effects of proposed actions is the very reason that a full NEPA analysis is done. (Preservation/Conservation Organization, Staunton, VA - #1493.17.17700.109)

The background information for the proposed CEs states that the presence of extraordinary circumstances constitutes an exception to the use of one of the proposed CEs. Background for the Proposed Hazardous Fuels and Rehabilitation/Stabilization Categorical Exclusions (Background Info), 5. The standing interpretation was that extraordinary circumstances include, but are not limited to, the existence of inventoried roadless areas, municipal watersheds, federally listed threatened and endangered species and their critical habitat, and American Indian and Alaska Native religious and cultural sites. (Forest Service Handbook [section] 1909.15. 30.3 part 2)

What the Federal Register notice does not tell the public is that the Forest Service issued an Interim Directive in September 2002 that essentially gives the Forest Service discretion to determine whether or not a resource condition should be considered an extraordinary circumstance and therefore be exempt from environmental review, Interim Directive No. 1909.15-2002-02. The Interim Directive states that "the mere presence of resource conditions of concern (as identified in the Forest Service Handbook section 1909.15 30.3 part 2) does not mean that extraordinary circumstances exist." Rather "it must be determined that there is a possibility of a significant effect upon the resource condition for an extraordinary circumstance to exist." The Federal Register notice says that this Interim Directive is meant to be permanent.

The net effect of this "clarification" of the initial extraordinary circumstance directive is that it will be the Department officials—not the presence of a resource condition such as an inventoried roadless area—that will make the determination as to whether the proposed project will have a significant impact on the resource conditions. The Forest Service's desire to "streamline" the regulatory process, together with their historical lack of accountability, leads us to believe that this discretion will be abused resulting in projects with significant impacts being conducted under this CE. We believe that conditions and effects will exist for the vast majority of hazardous fuels reduction projects that will trigger extraordinary circumstances. However under the Interim Directive, we are concerned that the agency decision-makers would allow projects to proceed under the new CEs. (Preservation/Conservation Organization, Bloomington, IN - #1343.13.17700.001)

THIS ABILITY TO OVERRIDE MAKES THE EXTRAORDINARY CIRCUMSTANCES SIDEBOARDS INADEQUATE

The proposed CE has several sideboards, but they generally do not provide effective protection, particularly in light of other Bush Administration regulatory changes. For example:

Like other CEs, the hazardous fuels CE could not be used for projects that affect roadless areas, endangered species habitat, and other "extraordinary circumstances." However, the interim directive on extraordinary circumstances increases the Forest Service's discretion to use CEs even if such circumstances are present. For example, a CE could be used for thinning in a roadless area if the agency

determined that the thinning would not “adversely affect” the area. (Preservation/Conservation Organization, Spokane, WA - #1610.18.17700.300)

The proposed expansion of categorical exclusion (CEs) to include hazardous fuels reduction activities is inappropriate under NEPA because these types of projects, both individually and cumulatively would lead to significant environmental impacts. The agency has not shown otherwise. These new regulations should be immediately withdrawn.

The proposed rule will adversely impact federally listed species.

The Federal Register notice provides that categorically excluded projects will still be subjected to evaluation as to effects on threatened and endangered species, as well as undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service. However, agency officials will have tremendous discretion to determine whether the presence of a listed species will constitute an extraordinary circumstance, thus triggering consultation and more in-depth analysis. Because agency officials are prone to avoid consultation over projects whenever possible, the adverse impacts on endangered species will increase. In addition, the segmentation of large projects into many smaller ones will dilute the effects of these projects contributing to a violation of the Endangered Species Act (ESA). (Preservation/Conservation Organization, Tucson, AZ - #1740.8.17700.315)

THIS ABILITY TO OVERRIDE CONSTITUTES AN ILLEGAL DELEGATION OF AUTHORITY

The proposed rule indicates that the presence of extraordinary circumstances constitutes an exception to the use of one of the proposed CEs. Extraordinary circumstances might be, for example, archaeological or historical sites. NEPA requires preparation of more rigorous analysis, even if at first glance the activities appear to have an insignificant impact. However, an Interim Directive issued by the Forest Service in September 2002 contradicts this requirement by giving Forest Service officials the discretion to determine whether or not a resource condition should be considered an extraordinary circumstance and require the preparation of environmental analysis. Agency officials will determine whether the proposed project will have a significant impact on the resource, regardless of whether the action involves an extraordinary circumstance. This type of unconstrained delegation of administration power is illegal under current Supreme Court interpretation. (Preservation/Conservation Organization, Tucson, AZ - #1740.7.17400.100)

Threatened and Endangered Species

Public Concern: The USDAFS & DOI should strike the paragraph on page 77041 explaining the 12 projects that did not qualify for a CE in the projects review.

BECAUSE IT CONFUSES SIGNIFICANT EFFECTS TO THREATENED AND ENDANGERED SPECIES WITH THEIR MERE PRESENCE

On page 77041 under Rationale for the Proposal you state near the bottom of the page that “Had the 12 projects been considered for a categorical exclusion they would not have qualified because of extraordinary circumstances stemming from adverse effects on threatened and endangered species.” In fact, the data analysis you cite does not state what the reason was for any of the EISs where a determination of significance was made. The FR notice states that if a project contains extraordinary circumstances then it most likely contains significant effects when in fact FSH and NEPA do not require the presence of an extraordinary circumstance to have significant effects.

The projects mentioned in the analysis could not possibly have been considered for a CE whether they had steep erosive slopes or adverse effects to T and E species, etc., because they were determined prior to or during scoping to be potentially significant. You should strike this entire paragraph as it really has nothing to do with whether CEs are linked to significant effects (which they can't be) through extraordinary circumstances. (Business, Arcata, CA - #860.2.17700.109)

Public Concern: The USDAFS & DOI should define critical habitat sideboards under which projects will not be allowed under the proposed fire management CEs.**GIVEN NUMEROUS LOCATIONS WHERE THE U.S. FISH AND WILDLIFE SERVICE HAS FAILED TO MAKE DESIGNATIONS**

We are concerned with the inadequate sideboards of the proposal:

Critical habitat. While these CEs will not apply in the critical habitat of endangered species where there are extraordinary circumstances, those circumstances are not defined. In addition, in numerous instances (such as the Cabinet-Yaak Ecosystem) the US Fish and Wildlife Service has refused to identify or designate critical habitat. Would this inaction on the part of the USF and WS constitute an extraordinary circumstance? If not some provision must be made for these types of situations. (Preservation/Conservation Organization, Kalispell, MT - #388.6.17700.100)

Public Concern: The USDA & DOI should ensure that no categorically excluded fire management projects will occur in areas where threatened and endangered species are present.

It is inappropriate to use CEs for any project that may affect threatened or endangered species. The federal register notice indicates that consultation under the Endangered Species Act will mitigate for impacts to listed species and help prevent cumulative impacts, but the presence of listed species or their habitat represents "extraordinary circumstances" and automatically triggers more thorough NEPA analysis. (Preservation/Conservation Organization, Eugene, OR - #846.36.17700.315)

The application of CEs to a project that may affect threatened or endangered species is out of compliance with NEPA, which mandates that an EIS be prepared in such circumstances.

The very presence of a listed species of their designated habitat within the boundaries of a proposed project area created a condition in which the project "may affect" the listed species.

The suggestion in the Federal Register Notice that "constitution under the Endangered Species Act will mitigate for impacts to listed species and help prevent cumulative impacts" meets NEPA analysis requirements for listed species is erroneous. (Preservation/Conservation Organization, Republic, WA - #1429.7.17710.315)

Public Concern: The USDAFS & DOI should clarify that a project may qualify for a proposed fire management CE even if it affects threatened or endangered species.**AS LONG AS AGENCIES CONSULT WITH THE U.S. FISH AND WILDLIFE SERVICE AND NATIONAL MARINE FISHERIES SERVICE AND FOLLOW THE RECOMMENDATIONS OF THE BIOLOGICAL OPINION**

The preamble to the categorical exclusion rule explains that "agencies must continue conducting appropriate consultations with Federal and State agencies such as those required by the Endangered Species Act." Consultation is necessary when the action "may affect" threatened or endangered species. Because most of the fuel reduction projects will occur in areas where there arguably may be adverse effects on threatened or endangered fish species such as salmon, steelhead, and bull trout, it is possible that many projects will not qualify as a categorical exclusion.

It will be important to coordinate with Fish and wildlife Service and NOAA-Fisheries on how they will review categorically excluded projects. Because they apply the "Precautionary Principle," or a similar conservative approach to species impact analysis, these agencies routinely assume adverse effect, which leads to a biological opinion and accompanying incidental take statement with reasonable and prudent measures. Therefore, it is likely that many categorically excluded projects may be found to adversely affect threatened and endangered species or critical habitat and will require consultation. However, the categorical exclusion must be drafted to make it clear that consultation should not by itself automatically declassify the project as categorically excluded. The project should remain a categorically excluded

project if after consultation with FWS or NOAA-Fisheries, the project in any biological opinion resulting from consultation. Thus, a project should qualify for categorical exclusion, in the absence of other factors, even if it may affect threatened or endangered species so long as consultation occurs and the “recommendations” of the biological opinion are followed. (Individual, Spearfish, SD - #1525.3.23240.112)

Public Concern: The USDA & DOI should remove designated critical habitat from the list of extraordinary circumstances.

SO THAT CATEGORICALLY EXCLUDED ACTIVITIES WILL BE POSSIBLE

My most major concern [is] restricting CE eligible activities to exclude critical habitats for threatened and endangered species. It is my experience that critical habitat has been designated over broad areas, such as every acre over the entire Clearwater River drainage in Idaho by National Marine Fisheries in 2000 for steelhead (covering 6 million acres). By the time you add critical habitat for other species, i.e. bull trout, etc., little is left of northern Idaho federal land that hasn't been designated. I believe critical habitat designation is a ploy used by environmental groups to eliminate activities on federal land, one they use very effectively. By eliminating CE eligible activities from designated critical habitat you effectively eliminate all CE eligible activities from taking place in northern Idaho. Either remove this restriction or modify the Endangered Species Act to prevent it from being the political tool of choice for environmental groups. (Timber or Wood Products Industry, Princeton, ID - #1465.5.17700.107)

Public Concern: The USDAFS & DOI should take a proactive approach to preventing risk to species.

RATHER THAN IMPLEMENT THE PROPOSED FIRE MANAGEMENT CE'S

I understand that there is an extreme circumstances exemption; however, we in the natural resources community are trying to shift to a more proactive means of dealing with endangered species. We are trying to protect species before they become endangered because chances of recovery are so much greater before the level of endangerment. The extreme circumstances exemption does not deal with species in a proactive manner. I encourage you to rethink this initiative. The expanding human population is putting so much pressure on natural places that we have to be very careful about our activities in our remaining forests. (Individual, Lexington, KY - #1550.4.17700.312)

Public Concern: The USDAFS & DOI should expand the threatened and endangered species category to include Forest Service- and state-designated sensitive species.

The CE proposal excludes their use if T and E species would be affected. This should be expanded so that they would be excluded if Forest Service or State sensitive species could be adversely affected. (Individual, No Address - #1754.7.17700.315)

Threatened and Endangered Species – Consultation Requirements

Public Concern: The USDAFS & DOI should continue consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

TO ENSURE PROTECTION OF ENDANGERED SPECIES

Section 7 of the Endangered Species Act requires federal agencies to both act and refrain from acting for the benefit of listed species. On the positive side, Section 7(a)(1) mandates that all federal agencies work proactively toward the conservation of listed species. 16 U.S.C. § 1536(a)(1). This affirmative duty to recover and conserve listed species has been upheld by the courts. See *Sierra Club v. Glickman*, 156 F3d 606 (5th Cir. 1998).

In addition, Section 7(1)(2) prohibits federal actions which jeopardize listed species or degrade their habitats. 16 U.S.C. § 1536(a)(2). To avoid jeopardy, federal agencies have a duty to consult with the

FWS or NMFS whenever a listed species will be affected by an agency action. The federal wildlife agencies in turn must prepare a biological opinion and set forth reasonable and prudent alternatives if the proposed action is likely to jeopardize a listed species or degrade its habitat.

The effects of fuels treatment to 35 species protected under the Endangered Species Act were determined in a Biological Opinion for eleven national forests in Arizona and New Mexico. This rulemaking, however, was not submitted to FWS and therefore a Biological Opinion was not completed. If it had, based on experience in the Southwest, hundred of species would likely have been included.

The recovery needs of listed species are not even mentioned in this rulemaking proposal. Instead, "local involvement" will determine "resource allocation" (67 Federal Register 77042). These oversights must be corrected by Section 7 consultation and due consideration given to the paramount needs of listed species. (Preservation/Conservation Organization, Santa Fe, NM - #1766.12.11130.315)

Public Concern: The USDAFS & DOI should require all projects in a watershed to come under the umbrella of one National Marine Fisheries Service and U.S. Fish and Wildlife Service consultation.

Law requires that categorical exclusion projects in the National Fire Plan must be submitted to National Marine and Fisheries Services and Fish and Wildlife for consultation by the Endangered Species Act on Threatened and Endangered species. The effects of successive categorical exclusions in the same watershed might result in the need for multiple consultations with the National Marine and Fisheries Services and Fish and Wildlife. All projects in a watershed should come under the umbrella of one National Marine and Fisheries Services and Fish and Wildlife consultation. This should include all future and past projects. Multiple categorical exclusions in a watershed might not be subject to analysis. This lack of analysis could mean putting Threatened and Endangered Species in jeopardy. The Departments have an obligation under the Endangered Species Act to prevent jeopardy and aid in species recovery. The categorical exclusions as outlined might not do this. (Individual, Rogue River, OR - #1892.10.17710.230)

Public Concern: The USDAFS & DOI should consult with the U.S. Fish and Wildlife Service regarding any project under the proposed fire management CEs which may affect lynx.

Any federal project which may affect lynx must undergo formal consultation with the Fish and Wildlife Service until critical habitat is designated for the lynx. *Defenders of Wildlife v. Norton*, 2002 U.S. Dist. LEXIS 25050. Categorically excluding projects from NEPA can not exempt the agencies from this obligation. Thinning sales, intensive fire prevention and rehabilitation, and temporary road construction are all projects that this proposal seeks to exempt from NEPA analysis that currently require formal consultation if they are undertaken in lynx habitat. Obligations for other threatened and endangered species also can not be avoided by attempting to exempt projects from NEPA requirements. (Preservation/Conservation Organization, Washington, DC - #1501.3.23240.315)

Public Concern: The USDAFS & DOI should analyze the effects of the proposed fire management CEs on endangered species in light of the recent U.S. Fish and Wildlife Service and National Marine Fisheries Service guidance on consultation.

WHICH ALLOWS SHORT TERM NEGATIVE EFFECTS OF FUELS MANAGEMENT ACTIVITIES

These two new categories (1) Hazardous fuels reduction activities (such as thinning overstocked stands and brush); and (2) activities for rehabilitation and stabilizing lands and infrastructure (such as reseeded) impacted by wildland fires or fire suppression, should be considered and analyzed in combination with all the other new categorical exclusions, proposed NEPA and NFMA amendments, and other related regulatory actions being proposed to try to implement President Bush's Healthy Forest Initiative.

By themselves, these two new CEs appear fairly innocuous; but when looked at in context with all the other newly proposed CEs and NEPA and NFMA amendments and other related regulatory actions these two new CEs have the potential to drastically change the way the Forest Service complies with the intent

of NEPA and NFMA, and could have potentially huge cumulative significant effects on the human environment.

Another reported restriction is that “these categorical exclusions will not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat,” but the new guidance on endangered species consultation (“Guidance from U.S. Fish and Wildlife Service and National Marine Fisheries Service concerning endangered species consultations on fuel reduction projects will outweigh any short-term impacts to endangered species, except in “very rare situations.”) How do we know that the Forest Service won’t use the same assumption to justify CEs for such projects in endangered species habitat? (Preservation/Conservation Organization, Paradise, CA - #1414.7.17700.322)

Public Concern: The USDAFS & DOI should clarify that any threatened and endangered species consultation with the U.S. Fish and Wildlife Service will not automatically exempt a project from categorical exclusion.

While we support the inclusion of the new categories, we have the following concerns about the proposed rule:

A better approach is needed to address threatened and endangered species in the context of the categorical exclusions.

The preamble to the categorical exclusion rule explains that “agencies must continue conducting appropriate consultations with Federal and State agencies such as those required by the Endangered Species Act.” Consultation is necessary when the action “may affect” threatened or endangered species. Because most of the fuel reduction projects will occur in areas where there arguably may be adverse effects on threatened or endangered fish species such as salmon, steelhead, and bull trout, it is possible that many projects will not qualify as a categorical exclusion.

It will be important to coordinate with Fish and Wildlife Service and NOAA-Fisheries on how they will review categorically excluded projects. Because they apply the “Precautionary Principle,” or a similar conservative approach to species impact analysis, these agencies routinely assume adverse effect, which leads to a biological opinion and accompanying incidental take statement with reasonable and prudent measures. Therefore, it is likely that many categorically excluded projects may be found to adversely affect threatened and endangered species or critical habitat and will require consultation. However, the categorical exclusion must be drafted to make it clear that consultation should not by itself automatically declassify the project as categorically excluded.

We support the use of categorical exclusions as a means to more promptly reduce fire hazards in federal forests and to rehabilitate areas following a wildfire. We urge you to adopt the preceding suggestions to strengthen the categorical exclusion implementing procedures. (Timber or Wood Products Industry, Englewood, CO - #1464.3.17700.102)

While I support the inclusion of the new categories, I have some concerns about the proposed rule and I have the following suggestions regarding the preamble:

A Better Approach is Needed to Address Threatened and Endangered Species in Context of the Categorical Exclusions

The preamble to the categorical exclusion rule explains, “Agencies must continue conducting appropriate consultations with Federal and State agencies such as those required by the Endangered Species Act.” Consultation is necessary when the action “may affect” threatened or endangered species. Because most of the fuel reduction projects will occur in areas where there arguably may be adverse effects on threatened or endangered fish species such as a salmon, steelhead, and bull trout, it is possible that many projects will not qualify as a categorical exclusion.

It will be important to coordinate with Fish and Wildlife Service and NOAA-Fisheries on how they will review categorically excluded projects. It is rather routine that the regulatory agencies assume adverse effect, a biological opinion is prepared, and the opinion includes reasonable and prudent measures and an incidental take statement. Therefore, it is likely many categorically excluded projects may affect threatened and endangered species or critical habitat and will require consultation. However, the

categorical exclusion must be drafted to make it clear consultation should not automatically declassify the project as categorically excluded. The project should remain a categorically excluded project if after consultation with FWS or NOAA-Fisheries, the project will be consistent with any of the terms and conditions or reasonable and prudent measures in any biological opinion resulting from the consultation. Thus, a project should qualify for categorical exclusion even if it may affect threatened or endangered species as long as consultation occurs and the recommendations of the biological opinion are followed. (Individual, Clarkston, WA - #1608.3.17700.102)

Roadless Areas

Public Concern: The USDA & DOI should clarify guidance to line officers on how to apply extraordinary circumstances exclusions to roadless areas.

We understand that the intended effect of these additional categorical exclusions, as presented in the Federal Register, is “to facilitate efficient planning and timely decisions concerning treatment of hazardous fuels and stabilization and rehabilitation of areas so as to reduce risks to communities. NOLS supports this objective, however, we are concerned that some of the actions proposed to achieve it will negatively affect roadless areas in the long run. We offer the following suggestions in an effort to sharpen the focus of the new categorical exclusions on the intended objective.

Extraordinary Circumstances

Under this proposal, categorical exclusions will not be employed in extraordinary circumstances, when proposed actions would have adverse effects on the environment. NOLS supports the agencies’ efforts to ensure that appropriate analysis be performed when the situation warrants. We are concerned, however, that the proposal does not indicate the process by which the agencies will determine whether extraordinary circumstances exist. We assume that the local agency official will make each decision on a project by project basis. What guidance will shape these decisions? (Special Use Permittee, Lander, WY - #841.4.17700.530)

Public Concern: The USDAFS & DOI should ensure that roadless areas are extraordinary circumstances for the proposed fire management CEs.

TO OVERRIDE THE MERE PRESENCE LANGUAGE

Roadless Areas at Risk—The Yaak Valley and surrounding area contains approximately 175,000 acres of Inventoried Roadless Areas (IRAs) and many thousands of acres of smaller, uninventoried roadless lands. Our organization is opposed to development in roadless and other undeveloped, wild forests in the Kootenai. We support permanent protections for roadless lands. Although the Categorical Exclusion language ostensibly prohibits development in IRAs, there are provisions to allow logging to occur within their borders. As stated in the USDA Forest Service website, (www.fs.fed.us/emc/hfi/background.pdf): “A Regional Forester may approve timber harvest in inventoried roadless areas where the timber is generally small diameter material and the removal of timber is needed to reduce the risk of uncharacteristic wildfire effects.” The Agency acknowledges the importance of such “resource conditions” as IRAs, Wilderness Areas, wetlands, etc., yet also states: “The mere presence of one or more of these resource conditions does not preclude the use of a categorical exclusion. It is the degree of potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist.” This would allow local Forest Service officials to override the presence of Extraordinary Circumstances (i.e. roadless lands) and propose green timber sales, salvage logging or temporary road building in areas that clearly have tremendous habitat and biodiversity values. This discretion would likely be exempt from meaningful environmental review. (Place-Based Group, Troy, MT - #1743.1.53100.312)

Public Concern: The USDAFS & DOI should implement the proposed fire management CEs in inventoried roadless areas.

The initiative [fuel reduction CE] specifies that it does not apply to inventoried roadless areas. While this seems perfectly sensible, many people not familiar with our national forests do not realize that these "roadless areas" frequently contain many miles of roads that already exist and are highly suited for removing hazardous fuels. To exempt all inventoried roadless areas, even through roads already exist, would be inefficient and unreasonable. (R.E. Cope, Chairperson, Lemhi County Board of Commissioners, Salmon, ID - #1370.2.64000.530)

TO REDUCE THE RISK OF FIRE IN THESE AREAS

Categorical Exclusions (CE). The Inventoried Roadless Areas (IRA) that are at a minimum of 5,000 acres are no different from other forested areas that need reduction of hazardous fuel accumulation. By excluding these IRAs they will eventually burn. When they do burn, there will be no way to do the needed rehabilitation or stabilization needed for a wildfire. I request that the IRAs be included in these two CEs. (Timber or Wood Products Industry, Eureka, MT - #847.1.53100.602)

SO LONG AS PERMANENT ROADS DO NOT NEED TO BE CONSTRUCTED

The section on extraordinary circumstances would preclude CEs for inventoried roadless areas. There are many valuable prescriptions for treating hazardous fuels that do not require roads, and it would be unfortunate to preclude their use in roadless areas where the roadless characteristics would not be jeopardized.

We suggest modification of the wording to read: These categorical exclusions will not apply where there are extraordinary circumstances, such as . . . the need to build permanent roads in inventoried roadless areas . . . This would leave open the option to prescribe effective treatments that otherwise might be prohibited. (Government Employee/Union, No Address - #1751.5.64000.530)

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs in roadless areas.

Unroaded Areas must be excluded from any effort to expand CEs. Roadless Areas are healthier and at less risk of wildfire because of three reasons: 1) Roadless Areas have not been subjected to intensive timber management; 2) Areas without roads have been less influenced by fire suppression than intensively managed stands; and 3) Widespread road access associated with intensively managed stands increase the risk of human caused ignitions. (Preservation/Conservation Organization, Bellingham, WA - #1410.4.17700.530)

The Yaak [Valley] contains several thousand acres of smaller roadless lands. Our organization is currently researching and mapping these areas for analysis and inventory. The proposed Categorical Exclusion expansion will severely endanger these lands, which are critical to wildlife such as grizzly bear, lynx, elk, and others. (Place-Based Group, Troy, MT - #1743.3.53100.313)

Our ancient and roadless forests do not need protection from fire; they need protection from the Bush administration's love affair with the timber industry. Keep roadless areas roadless, and keep the loggers out. It has been proven time and time again that roadless forests are at reduced risk of fire and sustain much less damage than do roaded and logged areas. (Individual, Hilo, HI - #679.8.53200.602)

The proposal would give America's still-intact roadless forests away to the timber industry, which does not have the know-how needed to conduct stewardship logging. You might as well just burn money. (Preservation/Conservation Organization, Winthrop, WA - #1184.12.53100.103)

Effect of the Roadless Rule—The 9th Circuit Court of Appeals recently upheld President Clinton's Roadless Rule for the Forest Service. These areas should be included in the areas precluded from

treatment under a CE, and should be analyzed in an EA or EIS. Most of these roadless areas are far from “at risk communities” and are often adjacent to wilderness. (Individual, Canton, KY - #137.1.53100.313)

BECAUSE OF ADVERSE ECOLOGICAL EFFECTS OF THINNING AND ROAD CONSTRUCTION

The potential impact of this rule on inventoried roadless areas is of particular concern. This rule would permit unlimited building of so-called “temporary” roads and unlimited “thinning” in inventoried roadless areas. 67 F.R. 77038 (2002). According to a recent directive from the Forest Service, the “mere presence” of an inventoried roadless area “does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist.” Interim Directive No. 1909.15-2002-2. Under this proposed rule, so long as the Forest Service decides the area will not be affected beyond some unspecified “degree,” they can build “temporary” roads and log in inventoried roadless areas. And “temporary” roads are anything but. The motorized use of a road may be temporary, but the impact is permanent. When a “temporary” road is bulldozed into a forest, the trees are not removed and then put back after the road is finished being used. The trees that were there are gone forever. In the national forests of Virginia and West Virginia we have never seen a “temporary” roadcut that was recontoured, obliterated, and revegetated after the road was “temporarily” used. At most the road bed is disked and seeded with grasses. The scar upon the landscape remains for the rest of our lives. While there is little justification for fuels reduction in roadless areas, the effects of “thinning” and “temporary” road-building are significant. Road-building, whether temporary or permanent, often causes significant adverse effects, including harmful edge effects and loss of habitat, road-killed wildlife, facilitated poaching, ATV trespass, degraded recreation and scenic beauty, soil erosion, stream sedimentation, diminished water quality, and increased fire hazard. (Preservation/Conservation Organization, Staunton, VA - #1493.20.61100.530)

While there is little justification for fuels reduction in roadless areas, the effects of thinning and temporary road-building are significant. Road-building, whether temporary or permanent, often causes significant adverse effects, including soil erosion and stream sedimentation. The scientific literature is full of documentation of the harmful effects from temporary roads to wildlife habitat, water quality, and hydrology. Building even a temporary road in a roadless area forever alters the character of the area. These effects cannot be summarily dismissed without NEPA analysis. In addition, the scope of the activities under this proposal is in no way limited so that these projects could have huge environmental impacts that would be improperly excluded from NEPA analysis. Under CEQ regulations, the context in which an action takes place is a factor in determining whether the effects are significant. 40 C.F.R. [section] 1508.27(a). Logging and temporary road-building in roadless areas will significantly impact these areas. (Preservation/Conservation Organization, Copper Hill, VA - #816.6.41200.300)

Please help in protecting our ancient and unroaded forests from logging and logging roads. Numerous studies demonstrate that roadless forests are at reduced risk of fire and sustain much less damage than do roaded and logged areas. (Individual, Irmo, SC - #1275.5.41000.300)

EXCEPT IN EXCEPTIONAL CIRCUMSTANCES

The 10-year Comprehensive Strategy Implementation Plan identifies the Wildland-urban interface as the area where fuel reduction activities should be focused. In most cases, IRAs and this urban interface have no relation to each other. IRAs should be another area excluded from fuel reduction project consideration in the PHFI, unless there are exceptional circumstances. (Preservation/Conservation Organization, Kalispell, MT - #388.2.17700.530)

TO COMPLY WITH THE ROADLESS AREA CONSERVATION RULE

The proposed rule is contrary to the Roadless Area Conservation Rule. The Roadless Rule prohibits road construction or reconstruction in inventoried roadless areas unless the road “is needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property.” 66 F.R. 3244 (2001). Generally, there is no imminent threat to life or property in roadless areas. We urge the Forest Service to resolve the conflict between the Roadless Rule and the proposed CE in favor of protecting roadless areas. Inventoried

roadless areas should be treated like wilderness and wilderness study areas where fuels reduction activities cannot be categorically excluded from NEPA. 67 F.R. 77043. (Preservation/Conservation Organization, Montgomery, AL - #1409.44.23200.739)

Cultural and Archaeological Sites

Public Concern: The USDA & DOI should remove archaeological resources from the list of extraordinary circumstances.

TO EXPEDITE PROJECT IMPLEMENTATION

Consideration needs to be given for a similar process of CEs for cultural resources. Archaeological analysis has halted or delayed as many projects as environmental studies. Careful work and appropriate monitoring could develop a class of actions that need no more analysis. (Mike Dunn, Chairperson, Modoc County Board of Supervisors, Alturas, CA - #1833.3.17700.709)

Public Concern: The USDAFS & DOI should comply with the National Historic Preservation Act.

Management of cultural resources on USDA Forest Service and Department of Interior (USFS and DOI) projects are conducted in accordance with Section 106 of the National Historic Preservation Act and Advisory Council regulations 36 CFR Part 800. These regulations call for survey, evaluation and protection of significant historic and archeological sites prior to any disturbance. Provided the USFS and DOI follows the procedures established in the regulations, we have no objections to the project. Specific comments on the project's effect on cultural resource sites will be provided to the USFS and DOI when we review the cultural resource documentation called for in 36 CFR Part 800. (Wyoming Department of State Parks and Cultural Resources, Cheyenne, WY - #804.1.23240.709)

Old Growth

Public Concern: The USDA & DOI should add old growth to the list of extraordinary circumstances.

We are concerned with the inadequate sideboards of the proposal:

Old Growth. President's Healthy Forest Initiative identifies areas that will not be subject to the fuel reduction CE, Old Growth (OG) is not one of those category areas. Forest Plan standards dictate that Old Growth be maintained across 10% of the forest. Under some extraordinary circumstances it might be appropriate to conduct such activities in OG, but not nominally. OG should be and needs to be included in a category that allows entry only in extraordinary circumstances. (Preservation/Conservation Organization, Kalispell, MT - #388.8.17700.100)

Old growth forests, must be excluded from any effort to expand CEs for fire risk reduction and restoration projects. Old growth trees are fire resilient, their thick bark protects the tree cambium from damaging heat, and they play an integral role in forest ecosystem processes and byproducts such as clean drinking water. (Preservation/Conservation Organization, Bellingham, WA - #1410.3.17120.602)

Number and Size of Projects in a Given Geographic Area

Public Concern: The USDAFS & DOI should clarify the types and sizes of projects suitable for the proposed fire management CEs.

We do not understand under what conditions the proposed CEs would be appropriate. because the Departments did not clearly explain why some projects were assessed in reaching the conclusion that fuels reduction and fire rehabilitation projects by definition do not have significant effects on the environment, we cannot analyze whether projects that would be covered by the proposed CEs are similar to the types of fuels reduction and fire rehabilitation projects with which we are familiar. As a result, we are left with the impression that the Departments will attempt to use the new CEs in the future for large-scale logging projects, which are wholly inappropriate for the scale of analysis envisioned in the proposed CEs. We request that they clarify the types and sizes of projects suitable for documentation in a CE. (Preservation/Conservation Organization, Bloomington, IN - #1343.15.17900.100)

Public Concern: The USDAFS & DOI should expand the list of extraordinary circumstances to include multiple projects in a given geographic area.

We'd like some more information on how the Departments will handle extraordinary circumstances the Departments would consider "extraordinary". Certainly no one would disagree that the presence of endangered species, important historical or archeological sites, designated wilderness areas, or wetlands would constitute extraordinary circumstances. What are some others? For example, multiple actions in a small area might constitute extraordinary circumstances, when those same actions over a larger area would not. (Individual, Hampstead, MD - #1745.3.17720.109)

We have serious concerns about this proposal. Basically, we think this proposal is so broadly worded that it leaves too much open to arbitrary agency interpretation. The FS has not properly demonstrated that activities such as these cannot produce significant effects, even in normal circumstances. And other NFMA and NEPA rulemaking proposals and interim guidance now approved or under consideration by the FS, especially proposed rulemaking regarding how extraordinary circumstances are defined and used, add to the questionable and arbitrary nature of this proposal. We think these proposals are designed to circumvent NEPA and the ESA and limit the involvement of the public in matters regarding lands that are, after all, publicly owned. The FS ignores the fact that, if several activities are planned or occurring, multiple projects such as these can and undoubtedly will produce cumulative impacts that may be ignored in categorical exclusions analysis. The CEQ regulations require that only actions that have no significant impact either individually or cumulatively may be subject to categorical exclusion from NEPA. The Supreme Court has previously ruled that an agency must consider the cumulative impact of all agency proposals within a geographical region in the same impact statement. (Preservation/Conservation Organization, Missoula, MT - #952.1.17800.103)

Public Concern: The USDAFS & DOI should not segment large projects into smaller ones with the use of multiple CEs.

DUE TO LIKELY CUMULATIVE EFFECTS ON THREATENED AND ENDANGERED SPECIES

A good example of the significant direct and cumulative effects of projects that could be proposed under the Fuels CE regulations is the Storrie Fire rehabilitation and fuels reduction proposed by the Plumas and Lassen National Forests in California. Both forests proposed their own post-fire logging projects to reduce fuels. The two projects were adjacent to each other but on lands managed separately by the two forests. The Plumas proposal included removal of trees from 1,798 acres totaling 5 million board feet or approximately 1250 loaded log trucks. The project decision was turned over on appeal citing sensitive wildlife concerns and failure to consider alternatives to logging for fuels reduction. The Lassen proposal included removal of trees from 3,500 acres for a total of nearly 70 million board feet or 14,000 loaded log trucks to reduce the risk of wildfire. The decision was turned over on appeal citing sensitive wildlife impacts and inadequate analysis of changes in fire behavior. The project was re-analyzed with

significant changes regarding the types and numbers of trees to be removed and is in the implementation phase.

In the case of the Plumas and Lassen National Forests, environmental groups argued that the size and scope of the projects required an EIS be undertaken. Further, because the two projects were nearly identical in purpose and need and spatially adjacent to each other, the Forest Service should have prepared one EIS including a thorough cumulative effects analysis. Under the proposed fuels CE rule, projects such as these could be simply categorically excluded from documentation by the agencies and the environmental impacts might not have been carefully analyzed.

In yet another example of a fuels reduction project that has significant direct and cumulative impacts and would fit under the proposed fuels CE rule, the Forest Service is implementing the Thunderbird Ecosystem Management Project on the Cibola National Forest in New Mexico. With its purpose and need statement being fuels reduction, the Thunderbird project proposed to log 6,706 acres and conduct burns on 1,632 acres resulting in nearly 20 million board feet or 5000 loaded log trucks. The project decision was withdrawn subsequent to an appeal by environmental organizations citing inadequate analysis of impacts on management indicator species, but later reanalyzed and implemented. In addition to concerns over MIS, the forest hydrologist concludes in the Watershed Report that, "there is nearly 100 percent overlap between the Benton Burn project area and the areas included within the three proposed action alternatives for the Thunderbird Project. At the very least, it seems to be an inefficient use of capital expenditures to implement two projects on the same piece of ground that have similar objectives. . . . If both projects are implemented as prescribed in their entirety, adverse impacts to soil and water quality may occur due to similar prescriptions being implemented twice, the extent of the acres treated, and the short time period (5 years) over which both projects are implemented."

In sum, this proposed fuels CE rule would by design cover hundreds or thousands of projects for unlimited years to come. Historically such projects have, in many cases, had EISs performed for them because it was the Forest Service's conclusion that their environmental effects were significant. We refer you to (and incorporate by reference) every Forest Service timber-harvesting project that involved "fuel reduction" as a goal, and which involved an EIS. For thousands of other projects, they were at least subject to EAs, to determine if a full EIS was necessary. In the new CE, however, the Forest Service is acting contrary to its own longstanding findings of "significance" and presumptions of potential significance. We urge you to retain the current system where EISs are done or, if there is some question as to a project's level of significance, where an EA is performed, prior to engaging in the logging, thinning and clearing contemplated by this proposed categorical exclusion. (Preservation/Conservation Organization, Santa Fe, NM - #1186.25.17910.230)

The Federal Register notice states that projects subject to a CE "must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service." 67 Fed. Reg. 77,041. However, we are concerned that segmenting large projects into smaller ones with the use of multiple CEs will dilute potential significant effects of the multiple projects, thus contributing to a violation of the Endangered Species Act (ESA).

To insure against jeopardy, FWS and NMFS must evaluate the current status of the species, the effects of the action, and the cumulative effects on the species. 50 C.F.R. § 402.14(g)(2), (3). The effects of the proposed action itself must be added to the "environmental baseline," which includes all past and present human activities that have impacted the listed species. Id. § 402.402. Because the FWS and NMFS define environmental baseline and cumulative impact without reference to "reasonably foreseeable future activities" as do the NEPA regulations, it is likely that fully realized future projects, such as additional fuels reduction and fire rehabilitation projects in the same watershed or subwatershed, would not be assessed in a single consultation document. As a result, the effects of successive CEs would not be assessed, perhaps resulting in jeopardy to a listed species. We remind the Departments that they have an obligation to prevent the jeopardy, and assist in the recovery, of listed species. 16 U.S.C. § 1536. Implementing CEs that do not meet this expectation violates the ESA. Considering that the new guidance on endangered species consultation assumes that the long-term benefits of fuels reduction projects will outweigh any short-term impacts to endangered species except in "very rare situations", the Departments could use this logic to justify CEs for such projects in endangered species habitat. This, of

course would be a disturbing precedent and is of great concern to us. (Preservation/Conservation Organization, Davis, CA - #1767.20-21.11130.315)

The Federal Register notice states that projects subject to a CE “must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.” 67 Fed. Reg. 77,041. However, we are concerned that segmenting large projects into smaller ones with the use of multiple CEs will dilute potential significant effects of the multiple projects, thus contributing to a violation of the Endangered Species Act (ESA).

We are already concerned about the segmenting of several mineral exploration projects on national forest lands to the north of Yellowstone Park and north of nearby wilderness areas and the failure to consider impacts or cumulative impacts to threatened and endangered species such as the grizzly and the lynx. With the new policy, the agency will flaunt the law even more.

To insure against jeopardy, FWS and NMFS must evaluate the current status of the species, the effects of the action, and the cumulative effects on the species. 50 C.F.R. [section] 402.14(g)(2), (3). The effects of the proposed action itself must be added to the “environmental baseline,” which includes all past and present human activities that have impacted the listed species. *id.* [section] 402.402. Because the FWS and NMFS define environmental baseline and cumulative impact without reference to “reasonably foreseeable future activities” as do the NEPA regulations, it is likely that fully realized future projects—such as additional fuels reduction and fire rehabilitation projects in the same watershed or subwatershed—would not be assessed, perhaps resulting in jeopardy to a listed species.

We remind the Departments that they have an obligation to prevent the jeopardy, and assist in the recovery, of listed species. 16 U.S.C. [section] 1536. Implementing CEs that do not meet this expectation violates the ESA. (Preservation/Conservation Organization, Missoula, MT - #952.17.17800.112)

The Federal Register notice states that projects subject to a CE “must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.” Segmenting large projects into smaller ones with the use of multiple CEs will dilute potential significant effects of the multiple projects, thus contributing to a violation of the Endangered Species Act (ESA). (Preservation/Conservation Organization, Asheville, NC - #1417.11.14120.230)

The Federal Register notice states that projects subject to a CE “must still be evaluated to assess effects on threatened and endangered species, and undergo an appropriate level of consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.” 67 Fed. Reg. 77,041. However, we are concerned that segmenting large projects into smaller ones with the use of multiple CEs will dilute potential significant effects of the multiple projects, thus contributing to a violation of the Endangered Species Act (ESA).

To insure against jeopardy, FWS and NMFS must evaluate the current status of the species, the effects of the action, and the cumulative effects on the species. 50 C.F.R. [section] 402.14(g) (2), (3). The effects of the proposed action itself must be added to the “environmental baseline,” which includes all past and present human activities that have impacted the listed species. *Id.* [section] 402.402. Because the FWS and NMFS define environmental baseline and cumulative impact without reference to “reasonably foreseeable future activities” as do the NEPA regulations, it is likely that fully realized future projects—such as additional fuels reduction and fire rehabilitation projects in the same watershed or sub watershed—would not be assessed in a single consultation document. As a result, the effects of successive CEs would not be assessed, perhaps resulting in jeopardy to a listed species.

We remind the Departments that they have an obligation to prevent the jeopardy, and assist in the recovery, of listed species. 16 U.S.C. [section] 1536. Implementing CEs that do not meet this expectation violates the ESA. (Preservation/Conservation Organization, Bloomington, IN - #1343.21.23240.312)

Public Concern: The USDAFS & DOI should add a maximum acreage treated category to the list of extraordinary circumstances.

The Guild believes that the proposed categorical exclusions must provide for additional extraordinary circumstances that would trigger an environmental assessment to address legitimate concerns. These circumstances include:

Maximum size threshold for treatment areas, perhaps 250 contiguous acres. (Preservation/Conservation Organization, Santa Fe, NM - #1406.1.17700.102)

*Diameter Limits***Public Concern: The USDAFS & DOI should add a maximum diameter category to the list of extraordinary circumstances.**

The Guild believes that the proposed categorical exclusions must provide for additional extraordinary circumstances that would trigger an environmental assessment to address legitimate concerns. These circumstances include maximum diameter or volume thresholds for trees to be removed in treatment areas, determined by the forest type. (Preservation/Conservation Organization, Santa Fe, NM - #1406.1.17700.102)

*Public Controversy***Public Concern: The USDAFS should add a degree of public controversy category to the list of extraordinary circumstances.****MEASURED AS LEVEL OF RESPONSE TO CE SCOPING NOTICE**

Although it is not mentioned in the Federal Register notice, we assume that current agency directives for public involvement when categorical exclusions are used would remain in effect. This means that the agencies would still be required to hold a scoping period to notify the public of the proposed hazardous fuel reduction treatment. The Forest Trust is concerned that if the project responded to the proposed action with strong, negative feedback, the project review should be done with an environmental assessment. Our suggestion is to consider high levels of public comment as an extraordinary circumstance that would trigger an environmental assessment. The public response could be measured as a percentage of the annual average number of extraordinary circumstances would reassure the public that it will not be excluded from forest management decisions. (Preservation/Conservation Organization, Santa Fe, NM - #308.6.17700.108)

The Guild believes that the proposed categorical exclusions must provide for additional extraordinary circumstances that would trigger an environmental assessment to address legitimate concerns. These circumstances include relative level of public concern expressed during proposed project scoping period compared to that for other projects. A significantly greater level of concern over a proposed fuel reduction or rehabilitation project would trigger an environmental assessment, regardless of other conditions. (Preservation/Conservation Organization, Santa Fe, NM - #1406.1.17700.102)

Public Concern: The DOI should acknowledge that fire management activities proposed for categorical exclusion will automatically trigger exemption due to extraordinary circumstances defined in 516 DM.

IN CATEGORY 2.3, PUBLIC CONTROVERSY

Actions proposed under these categories would trigger at least four of the extraordinary circumstances listed in the DOI manual for the following reasons:

516 DM Chapter 2. 2.3 Have highly controversial environmental effects.

Controversy exists as evident by the history of appeals and litigation experienced by the involved agencies. The agencies also anticipate appeals of projects of this type to continue, as evidenced by the related proposed rule to make them full force and effect and accelerate the appeal review process. (Individual, Meridian, ID - #1432.3.17700.300)

Degree of Uncertainty of Effects

Public Concern: The DOI should acknowledge that fire management activities proposed for categorical exclusion will automatically trigger exemption due to extraordinary circumstances defined in 516 DM.

IN CATEGORY 2.4, HIGH UNCERTAINTY

Actions proposed under these categories would trigger at least four of the extraordinary circumstances listed in the DOI manual for the following reasons:

516 DM Chapter 2. 2.4 Have high uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

Uncertain risks exist as evidenced by the differing opinions on the role and effects of fire in the ecosystem. There is a lack of any comprehensive analysis of this role of fire or the effects of management actions in creating, exasperating, or solving the perceived problems. (Individual, Meridian, ID - #1432.4.17700.300)

Establishing Precedent for Future Action

Public Concern: The DOI should acknowledge that fire management activities proposed for categorical exclusion will automatically trigger exemption due to extraordinary circumstances defined in 516 DM.

IN CATEGORY 2.5, PRECEDENT FOR FUTURE ACTION

Actions proposed under these categories would trigger at least four of the extraordinary circumstances listed in the DOI manual for the following reasons:

516 DM Chapter 2. 2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

Progress accomplished under these categories in addressing the described problem, when combined with other future actions, would result in a significant cumulative beneficial effect. (Individual, Meridian, ID - #1432.5.17700.300)

Cumulative Effects

Public Concern: The DOI should acknowledge that fire management activities proposed for categorical exclusion will automatically trigger exemption due to extraordinary circumstances defined in 516 DM.

IN CATEGORY 2.6, CUMULATIVE EFFECTS

Actions proposed under these categories would trigger at least four of the extraordinary circumstances listed in the DOI manual for the following reasons:

516 DM Chapter 2. 2.6 Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.

The goal of projects under the proposed categories is to restore ecosystems on millions of acres of Federal lands. Progress in achieving this goal would result in a significant cumulative beneficial effect. (Individual, Meridian, ID - #1432.6.17700.300)

Chapter 5

Proposed Fuels Reduction and Rehabilitation Categorical Exclusions

Timber Management and Proposed Fuels Reduction CE

Timber Management General

Timber Management – General Considerations

Public Concern: The USDAFS & DOI should allow timber harvest on public lands.

The forests of the west are not being managed; they are left to decay, burn, and blow down in short, total mismanagement. Timber is a renewable resource that provides jobs, shelter, and money in the pockets of individuals and government. We as humans are far less destructive of the environment than Mother Nature. It is a benefit of the forest and of society to harvest the timber; it keeps the forest healthy and puts money into the economy. (Individual, Drummond, MT - #1499.8.61100.001)

INCLUDING GREEN SLIP SALES, POST AND POLE SALES, AND COMMERCIAL FIREWOOD SALES

Out forests are a growing resource, a resource that does not live forever. A maintained harvest helps keep forests better able to fight off the problems of disease and pest, logging being part of this management as well as natural fire.

I have lived in this area approximately 15 years. I arrived here as the logging was on the downhill slide. I still had the opportunity to visit clear-cut areas over most of north central Idaho. Today, most all of these areas are regrowing to the future forest they once were. Forty to fifty years from now, they too will be available for harvest.

In addition to the return to larger logging (small clear-cut and thinning) projects, the local communities need to return to “Green slip” sales (small sales of isolated live trees, post and pole sales as well as commercial firewood sales. These are an added benefit to small communities. (Individual, No Address - #1580.2.61100.001)

Public Concern: The USDAFS & DOI should not allow timber harvest on public lands.

The forest service is in serious need of a new set of priorities. I lived in Roseburg, Oregon for fifteen years and I know how the USFS turned the Umpqua National Forest into an ugly patchwork quilt by pandering to the loggers.

There is plenty of privately owned forest for the logging industry to desecrate. Let’s get them off of our public lands. (Individual, Eden, TX - #149.2.61000.500)

The administration’s proposal would allow the logging of large trees in pristine backcountry of our national forests and other treasured public lands to benefit the timber industry. Although the administration claims that such logging would reduce wildfire risks, the Forest Service’s own scientists have found that logging, including “thinning,” can actually increase the number and intensity of forest fires. So this proposal is not about fire at all. Instead, the proposed rule changes focus on waiving all environmental analysis for timber companies’ plans to log millions of acres in remote backcountry areas,

including vital habitat for threatened and endangered species, prime recreational areas, and municipal watersheds. (Individual, Eugene, OR - #1210.1.61100.103)

Timber Management – Environmental Considerations

Public Concern: The USDAFS & DOI should not allow timber harvest on public lands.

BECAUSE OF INCREASED HABITAT FRAGMENTATION

I object to the forest thinning changes that are being proposed as part of our President's forest fire control plan. The thinning changes would lead to increased logging, which would further fragment the habitat of wide-ranging animals and might even increase the risk of fire. (Individual, Fremont, CA - #1189.7.61100.300)

Let's call the plan what it is: An excuse to allow commercial logging on national forest land. Logging in our national forests endangers existing wildlife habitats, and will irrevocably alter the pristine beauty of these national treasures. (Individual, Mukwonago, WI - #565.2.61100.313)

BECAUSE AREAS OF BIOLOGICAL IMPORTANCE MAY BE HARVESTED

Areas of key biological importance, the logging of which might not withstand the public scrutiny and discussion of environmental impacts required under normal law, may be included under the expanded CEs. In September 2001, the Northwest Ecosystem Office received a letter from several prominent scientists clearly urging the immediate end to logging of all mature and old growth forests on public lands. Because so much of our mature and old growth forests have already been logged, there is a significant environmental impact resulting from the continued logging of any mature and old growth forests. There is no assurance that logging of mature and old growth trees or mature and old growth habitat will not be included under an expanded CE. Additionally, because of the fragmented state of many of our ecosystems, and the heavy impacts to water ways, additional logging in riparian areas could have significant environmental impacts. There is no assurance that logging in riparian areas will not occur under an expanded CE. There may be significant impacts to biodiversity, species variability, stream temperature, water turbidity, soil impacts, etc., from logging in riparian areas and native forest. Additionally, there could be significant impacts to drinking water quality. A third of all Oregonians get their drinking water from sources that originate in the Mt. Hood National Forest. 185,000 Oregonians get their drinking water from the Clackamas River. There is already an impact to the Clackamas River from logging in watersheds such as the Oak Grove Fork and the South Fork, which drain into the Clackamas. That impact should not be increased, particularly without public discussion and environmental impact statements. (Preservation/Conservation Organization, Portland, OR - #1436.8.61100.322)

Timber Management – Forest Health Considerations

Public Concern: The USDAFS & DOI should allow timber harvest on public lands.

TO MAINTAIN FOREST HEALTH

The fires in Colorado during 2002 blackened our skies for weeks. With the amount of Dog Hair Lodge pole around here we could have been next. We need to manage our forests and logging should be a huge part of that, not management by fire. (Individual, Saratoga, WY - #1361.8.61000.602)

Our greatest concern during our life in business and retirement was always of the catastrophic wild fires. My husband has had pack strings taking supplies to fires and he fought in many fires which were disastrous to the country.

We need to harvest the diseased, overgrown and dying timber. Harvesting it will promote more new growth and allow air, sunshine, and moisture for the necessary value of the trees and land. (Individual, Emmett, ID - #1863.1.61100.602)

Public Concern: The USDAFS & DOI should not allow timber harvest on public lands.

BECAUSE OF ADVERSE EFFECTS ON FOREST HEALTH

Logging will . . . have adverse effects on soil compaction, increase spread of forest disease and stress the forest ecosystem and reduce it to much earlier successive species. This in turn affects not only the plants but also the animal life in the forest. Forests are sources of air hygiene, provide fresh, clean water prevent soil erosion, protect streams and runoff and are the last refuge for endangered species. Let's keep the public Forests as pristine as possible since the private ones will become more and more like farms, with early succession trees harvestable in only decades. The public forest should serve the greater needs of all the citizens and these other needs strongly outweigh short term benefits of timber harvest. (Individual, Stockton, CA - #1329.9.61100.001)

Keeping our forests healthy does not mean we should remove all trees from the forest. It is our responsibility to protect these life-giving resources rather than destroying them. I urge you to consider different ways of managing our precious forests. (Individual, Las Cruces, NM - #1474.4.61000.300)

What the forests need of us right now is not "fire protection" but logging protection. We need to preserve the health of forests by stabilizing the initiatives already passed to protect them from human consumption. (Individual, No Address - #1643.1.61000.602)

I have recently learned of the administration's intention to waive logging controls throughout forests in the US. I know, as an environmental biologist, that this will not only harm our forests' equilibrium, but it will take away much of the assets we as citizens have come to love about our wilderness. We as a nation need to lead the world into a sustainable future; logging our forests will not exemplify this. (Individual, No Address - #1046.1.61000.601)

BECAUSE IT WILL NOT COMPENSATE FOR PRIOR FIRE SUPPRESSION

An across the board logging and thinning policy for all forests will not necessarily reduce the likelihood of future forest fires. I believe a policy of aggressive logging and thinning will not prove to be anymore beneficial to the health of our forests than the years of fire suppression in fire prone ecosystems have.

As history has devastated, human attempts to remove the natural variability and unpredictability of complex ecosystems in order to meet human needs has yet to yield favorable results in the long run. (Individual, Chino Valley, AZ - #1775.2.61100.602)

The problem with forest fire is that large amount of fuel that has been built up over the years by fire suppression. Allowing logging to take place will do nothing to eliminate the dead wood that is the biggest risk. In addition logging would mean more roads, and ultimately a less intact habitat for all to enjoy. Please do not open our public lands to logging. (Individual, Boulder, CO - #1251.4.61100.001)

This situation [with] the failure of our fire protection efforts resulted from decades of widespread logging, followed by insufficient thinning and aggressive fire suppression. The Forest Service is largely to blame, along with the large timber companies. The full cost of logging was never paid. To try to pay for it now by logging what remains on national forest lands is short-sighted, and usually ends up being uneconomical. (Individual, Ashland, OR - #850.1.61000.602)

Timber Management – Social Considerations

Public Concern: The USDAFS & DOI should not allow timber harvest on public lands.

BECAUSE IT WILL ADVERSELY AFFECT AMERICA'S HERITAGE

It is important to continue to withhold permission for logging in our government parks and public lands. These were established in trust for all of the people of the US, and to allow cutting and road building will not prevent or control forest fires, but will destroy a heritage that belongs to all of us. (Individual, Laguna Woods, CA - #426.1.61100.709)

BECAUSE THESE AREAS SHOULD BE PRESERVED FOR FUTURE GENERATIONS

Once these stands are cut, they are lost for good. Our children and their children will never know the beauty of the climax forest. (Individual, Olympia, WA - #729.5.61100.705)

Timber Management – Economic Considerations

Public Concern: The USDAFS & DOI should allow timber harvest on public lands.

TO BENEFIT RESOURCE-DEPENDENT COMMUNITIES

We want our forests harvested and managed like a crop. Our mills are closing and our small town is in crisis because of preservationists shutting everything down. (Individual, Naples, ID - #1212.8.61100.732)

TO PROVIDE JOBS

Long ago loggers didn't give a damn about the effects of logging. It was get in, cut down, and get out. The environmental movement grew because of the uncaring attitude "business" had for the environment. Today there are rules and regulations dictating how, when, and where to log. It's true the environmental movement was needed. Now I see less concern for environmental quality—now it's just gaining power and influence. Egos-big-egos now want to throw their weight around. Those who would completely shut down all logging are power hungry egotists.

I earn my living running an edger in the local saw mill—Owens Hurst—for 15 years, a job that has provided me with a living while raising 2 children. It's an honest living. My family is dependent on me to earn a living at Owens-Hurst.

Keep politics out of sound forestry management. President Bush has the "right idea". Please follow his lead. (Individual, Eureka, MT - #959.1.61100.107)

Public Concern: The USDAFS & DOI should not allow timber harvest on public lands.

BECAUSE OF ADVERSE EFFECTS ON LOCAL ECONOMIES

I, along with many other Montanans, make my living off of healthy uncut forests. The arid nature of our climate makes regrowth a long term prospect and [regeneration] failure a sad commonality. Logging efforts assure a short term solution for a bigger problem. We have many opportunities for business development with intact and healthy forests. Any mycologist can remind you the importance of leaving timber stands alone. (Individual, Missoula, MT - #740.5.61100.300)

Besides the ecological devastation uncontrolled and unmonitored logging will cause, these proposed exclusions are opening our forests to increased logging at a time when there is a glut of forest products on the market. It makes no economic sense to flood the market with even more lumber. (Individual, Albuquerque, NM - #943.4.61100.730)

Alternative Wood Products

Public Concern: The USDAFS & DOI should establish an industry for alternative wood products.

As a professional forester I urge the Department of Interior and Agriculture to hasten adoption of the categorical exclusions, and then take steps for a massive rehabilitation program to save what systems can be saved.

Money will obviously be a problem. However, there are technologies that can convert wood residue and forest thinning into value added products (one is fuel, such as 'pyrolysis oils') that not only can make use of wood not suitable for many products—but can do double duty in relieving this nation of petroleum imports on a gallon-to-gallon basis. Establishing such an industry on public lands, now devastated by bark beetles, fire, etc. would result in a win-win situation, for the environment, for the government and for private industry—all beneficial to the general public. (Timber or Wood Products Industry, Anchorage, AK - #1728.3.17110.738)

Fuels Reduction and Proposed Fuels Reduction CE General

Public Concern: The USDAFS & DOI should consider that the Federal Register notice fails to accurately report the 1999 General Accounting Office report findings that the Forest Service is responsible for much of the conflict surrounding implementation of a sound fuels reduction strategy.

Your Federal Register notice of 12/16/02 p. 77039 cites the 1999 GAO Report "A Cohesive Strategy is Needed to Address Catastrophic Wildfire Threats" as a basis for the need to expedite fuels reduction work by greatly restricting the environmental review process and the public's ability to participate in the NEPA process for such projects.

The USDA, DOI presentation is biased by the failure to present the complete discussion presented in the 1999 GAO (GAO/RCED-99-65) regarding the reasons for delays and the failure on the part of the Forest Service to adequately reduce hazardous fuels across the Western landscape.

The 1999 GAO Reports at p. 41 and 44 clearly highlights several key problems with past fuels reduction effects. They include the fact that areas of commercially valuable timber are often not where the highest hazards are located. The use of commercial timber sales to "foot the bill" for treating these high hazard, low merchantable value areas such as brushfields and dense thickets of small 12" trees, is often a source of public conflict and resistance where the trade-off of one ecological value (water quality or wildlife habitat degradation) to pay the way for another (fuels reduction) is socially unacceptable to the interested public.

The other problems cited are that managers are often rewarded for the number of acres treated, "without taking into account the related hazard of those areas." Thus the focus is on treating large numbers of acres at the expense of those with the most serious hazard, with low economic value, that are difficult to access, but that may be the most important acres to treat to reduce risks to public life and property.

Problems impeding fuels reduction is the fact that "the agency relies on timber production to fund many of its programs and activities, and all three of its budget allocation criteria for timber activities [are] related solely to the volume of timber produced or offered. As a result, as forest officials told us, they tend to (1) focus on areas with high-value commercial timber rather than on areas with high fire hazards or (2) include more large, commercially valuable trees in a timber sale than are necessary to reduce the accumulated fuels" (GAO-99-65 at p. 43).

The above disclosure in the 1999 GAO Report suggests the source of much of the responsibility for the conflict around implementation of a sound fuels reduction strategy rests on the shoulders of the Forest Service. The fact that this FR notice fails to present an accurate reporting of the findings in the 1999 GAO Report is arbitrary and fails to focus on the real problems impeding strong public support for a properly focused hazardous fuels reduction strategy. (Preservation/Conservation Organization, Sacramento, CA - #1765.1-2.14000.109)

Public Concern: The USDAFS & DOI should determine the use of the proposed fuels reduction CE according to science and the public interest.

Science and the public interest must be the basis for determining the use of Categorical Exclusions for hazardous fuels reduction. (Individual, Wilson, WY - #673.3.14000.001)

Public Concern: The USDAFS & DOI should determine the use the proposed fuels reduction CE on a case-by-case basis.

I myself have participated in a number of different fuels reduction projects in the Mt. Adams and Mt. Hood area. I believe they can be very helpful in the rehabilitation of the forest. But I've found that every area should be handled in its own way. For me to believe the fuels reduction program is ecological and not commercial, I have to know that each location will be studied before action is taken. (Individual, Trout Lake, WA - #1517.2.17100.001)

Public Concern: The USDAFS & DOI should effectively prioritize projects under the proposed fuels reduction CE.

The fuel reduction projects proposed for Colorado forests in recent months and years have suffered from a number of fundamental flaws in terms of effectiveness on the ground. First, the areas most in need of treatment—those nearest to residences where human lives may be at risk—have not been given the highest priority. Second, forest types in greatest danger of fueling unnaturally hot and destructive fires do not always receive priority. Third, large trees are often targeted for removal, despite the fact that large numbers of small-diameter trees create the highest fire risk. When projects fail to target the foregoing priorities, local residents and activists have spoken out. This public participation has encouraged the most egregious problems to be modified before these projects are implemented. Nevertheless, fire and fuels reduction proposals that disregard these priorities are still being introduced.

The proposed procedures squander a golden opportunity to address these very real problems. In fact, by allowing future projects to proceed under CEs that entirely disregard the public's priorities and comments, these proposed procedures promise to make the situation worse by turning a deaf ear to public concerns and priorities. (Preservation/Conservation Organization, Paonia, CO - #1732.13.64000.108)

DUE TO FUNDING LIMITATIONS

We are concerned about rural communities and in this case the safety provided by forest management activities near those communities. As such, we feel the policies as they now stand are shortsighted and do not provide adequate focus on those forests closest to communities that might actually be in danger of serious forest fire damage. As they now stand, the policies will allow thinning and other projects in backcountry areas which are not close enough to communities to warrant such activities. With limited funds, projects should focus strictly on areas where human life and serious personal property damage is most likely to occur. Federal funds are limited for all forest management activities. Despite how one feels about how our public forests should be used, it should be clear that with limited funds, activities should be focused on areas where there is greatest danger to human life. (Recreational/Conservation Organization, Seattle, WA - #822.2.64000.710)

Public Concern: The USDAFS & DOI should conduct more fuels reduction projects.

Despite whatever happens with these rules, we encourage the two agencies to engage in more on-the-ground fuels projects. The agencies need to put out more contracts and to limit the amount of money spent on administrative and planning costs. There is a woeful lack of hazardous fuels work that is actually being performed on the ground. (Timber or Wood Products Industry, Eugene, OR - #686.8.64000.100)

Adequacy of Analysis

Public Concern: The USDAFS & DOI should prepare an EIS for all significant timber harvest projects.

Environmental impact statements should be prepared for all significant logging operations. (Individual, Crested Butte, CO - #1066.7.17100.000)

Public Concern: The USDAFS & DOI should evaluate the effects of fuels reduction projects in environmental assessments or environmental impact statements.

There are many reasons why this proposed rule is of concern:

Environmental assessments and environmental impact statements are important steps to determine the potential threats to ecosystem health and biodiversity that fuel thinning projects might pose. (Individual, Tuscaloosa, AL - #1454.2.14000.001)

I am a science educator and a graduate researcher in wildlife and fisheries sciences. The current proposal to categorically exclude forest thinning projects from environmental assessments is unacceptable because this proposal is not based on sound science and avoids important safeguards and oversight available through current environmental laws. Environmental assessments and environmental impact statements are important steps to determine the potential threats to ecosystem health and biodiversity that fuel thinning projects might pose. (Individual, Austin, TX - #1452.1.14100.001)

I am opposed to categorical exclusions (CEs) for hazardous fuels reduction and rehabilitation.

There are potentially significant environmental impacts from fuels reduction and fire rehabilitation, and these need to be analyzed and revealed to the public through an EIS or EA. (Individual, Laramie, WY - #1524.2.14120.108)

Public Concern: The USDAFS & DOI should provide adequate data regarding potential adverse effects of fuels reduction activities.

Texas Committee on Natural Resources objects to the proposed categorical exclusion rule. Even a small area of burning or tree removal might cause damage to species of plants and animals.

An example is the Red-cockaded woodpecker which feeds heavily on certain arthropods. Experts have proved that burning reduces arthropods drastically. Even if one burn or cut didn't cause a problem the next night. Data as to potential harmful results must be provided before burns, cuts, etc. (Place-Based Group, Dallas, TX - #665.1.14100.001)

Public Concern: The USDAFS & DOI should acknowledge that the scientific controversy over fuel reduction efforts suggests likely cumulatively significant effects.

There are several factors that lead us to the conclusion that the agencies' fuel reduction program will have individually and cumulatively significant effects: There is serious social and scientific controversy over appropriate means of reducing fuels. (Preservation/Conservation Organization, Bellingham, WA - #1410.20.17730.739)

Public Concern: The USDAFS & DOI should explain how aggressive treatment of fuels will not result in cumulative effects.

The Federal Register notice's statement that 190 million acres of federal land in 48 contiguous states is threatened by wildfire clearly shows the dramatic cumulative effects across the entire nation that make these CEs a violation of the public trust. The notice claims to the contrary and states that agency plans to aggressively treat such fuels will not cumulatively impact the country. How is this possible? (Preservation/Conservation Organization, No Address - #1724.6.14120.104)

Public Concern: The USDAFS & DOI should consider that fewer than 20 empirical studies have been conducted on the effects of hazardous fuels reduction treatments.

The rationale provided for the proposed hazardous fuel reduction categorical exclusion is logical as written, but leaves out the fact that fewer than 20 empirical studies have been conducted on the effects of hazardous fuel reduction treatments so very little is known about the actual effects of the treatments. Furthermore, the agencies have only been treating hazardous fuels since the mid-1990s, so many of the possible effects of the treatments have yet to be observed in the field. (Preservation/Conservation Organization, Santa Fe, NM - #308.2.14000.109)

Public Concern: The USDAFS & DOI should acknowledge that the proposed fuels reduction CE will increase short-term wildfire risks, but reduce long-term risks.**TO FORESTALL LITIGATION**

The preamble to the proposed categorical exclusions discusses that hazardous fuel reduction projects are designed to reduce the risk of future catastrophic wildfire. However, one of the issues raised in recent litigation is that there is a short-term increase in wildfire risk because of the finer fuels created from timber harvest. The final notice should eliminate this potential litigation issue by recognizing that some hazardous fuel reduction projects may increase the short-term risk of wildfire but that this short-term risk is acceptable if the end result is to reduce the long-term risk, has been taken into account in the final decision to adopt the categorical exclusions, and therefore will not disqualify the hazardous fuel reduction project as a categorical exclusion. (Timber or Wood Products Industry, Ontonagon, MI - #1510.6.64000.602)

HLMA believes all agencies should limit litigation risks by acknowledging that hazardous fuel reduction projects may increase short-term wildfire risks. (Timber or Wood Products Industry, Hershey, PA - #1735.5.64000.230)

While we support the new exclusions, we have the following concerns about the proposed rule:

The preamble states that fuel reduction projects are designed to reduce catastrophic fires. In recent litigation one issue raised was that there is a short-term increase in fire risk due to finer fuels generated by timber harvesting. The final notice should eliminate this potential litigation issue by recognizing that some projects may increase the short-term risk of wildfires but is acceptable if the end result will reduce long-term risk. (Jackie Bradford, President, Scott County Board of Supervisors, Forest, MS - #1702.3.10000.000)

Public Concern: The USDAFS & DOI should provide further information about potential adverse effects of categorically excluded fuels reduction activities on municipal watersheds.

State of Wyoming Office of Federal Land Policy would suggest the revised procedures include information pertaining to impacts to watersheds where the watershed supplies a municipal water system. Fuels reduction can result in significant increases in sediment in the runoff from areas burned in a fuel reduction program. (Wyoming Office of Federal Land Policy, Cheyenne, WY - #801.1.31400.109)

Public Concern: The USDAFS & DOI should recognize that proposed fuel reduction activities contribute to fuel loading over the long term.

The first new category proposed for exclusion explicitly describes some "fuel reduction" activities that actually contribute to fuel loading over the long term.

The first categorical exclusion proposed by the USDA Forest Service and the Department of the Interior addresses hazardous fuels reduction projects. Hazardous fuels consist of combustible vegetation (live or dead), such as grass, leaves, ground litter, plants, shrubs, and trees, that contribute to the threat of

ignition and high fire intensity and/or high rate of spread. Hazardous fuels reduction involves manipulation, including combustion or removal of fuels, to reduce the likelihood of ignition and/or to lessen potential damage to the ecosystem from intense wildfire and to create conditions where firefighters can safely and effectively control wildfires. Activities that could be conducted under this proposed categorical exclusion are the thinning of trees (commercial or pre-commercial as identified in the 10-Year Comprehensive Strategy Implementation Plan) and the removal of combustible vegetation through mechanical means, grazing, and the use of prescribed fire.

The Forest Service has long known, and even occasionally acknowledged in scientific reports and other documents the role logging plays in increasing, not decreasing, fire risk. A thinned or clearcut forest has increased exposure to sun and wind, which dries fuels inevitably left behind after these projects are completed. In addition, the Forest Service is aware of the undisputed fact livestock grazing contributes to long-term increased risk of fire by removing the fine fuels (i.e. grasses, plants, etc.) that compete with more woody plants for nutrients, light, and water. Over the long-term grazing has increased the abundance of shrubs and trees thus leading to hotter more intense fires. (Preservation/Conservation Organization, Montgomery, AL - #1409.6.14000.602)

“Timber harvest, through its effects on forest structure, local microclimate and fuels accumulation, has increased fire severity more than any other recent human activity.” (Sierra Nevada Ecosystem Project, 1996 Final Report to Congress) See also, e.g., Forest Service Roadless Area Conservation FEIS at 3-92-93, 96, and 110, and www.fire-ecology.org. The fuels CE rule as published fails to acknowledge that logging, thinning, road building, and grazing may actually increase fire risk and/or severity and thus have significant and cumulative impacts on the human environment. (Individual, Galax, VA - #1674.4.14000.001)

Public Concern: The USDAFS & DOI should consider that large-scale fuel reduction projects may significantly alter stand structure and overall forest structure.

We believe that the effects on the human environment by large-scale fuels reduction projects may be highly uncertain, and should require a formal environmental analysis. They should not be eligible for categorical exclusion. Large-scale fuels reduction projects have the potential to significantly alter not only stand structure, but also entire forest structure. Thinning forests on a large scale and creating expansive, open, park-like forest conditions may alter wildlife habitat elements dramatically. For some wildlife species, such as deer and elk, there may be beneficial effects but other wildlife species that are more old-growth dependent or closed canopy species, such as the Northern goshawk and Abert's squirrel, may experience a reduction in population numbers. Other unknown considerations include exotic species invasion, erosion/sedimentation, water quality, air quality, and wildlife disease transmission. There needs to be a method by which these effects can be evaluated and addressed prior to project implementation. By categorically excluding large-scale fuels reduction projects, there would be no analysis involved and thus there would be no way to identify whether implementation of large-scale projects would have significantly adverse or beneficial, individual or cumulative effects on the environment. (Arizona Game and Fish Department, Phoenix, AZ - #799.10.14120.739)

Implementation of Proposed Fuels Reduction CE

Implementation – General Considerations

Public Concern: The USDAFS & DOI should implement the proposed fuels reduction CE.

I strongly support the Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA).

I urge the Forest Service to approve the proposed streamlining of the "hazardous fuel reduction projects" permitting regulation by issuing this proposed categorical exclusion. (Place-Based Group, Half Moon Bay, CA - #470.1.64000.000)

Categorical Exclusions, as proposed, will allow Federal agencies to implement projects in a more timely manner at a greatly reduced cost to us tax payers. They are also needed to accomplish the smaller, almost insignificant, day-to-day projects that need to be done to maintain the health of the forests.

In light of the 190 million acres of Federal forests that have been classified as at risk of wildfires, there is a need for hazardous fuels reduction projects. I feel the C.E. will accomplish this plus promote community assistance to the timber dependent communities. These CEs will also promote local input for projects that would fall into these categories. (Timber or Wood Products Industry, Eureka, MT - #847.2.64000.001)

Hazardous fuels reduction is key to prevention of catastrophic fires. Such actions will promote forest health, insure protection of listed threatened and endangered species, enhance the delivery of high quality water, provide economic stimulus to our rural economies and assure forest enjoyment and benefit to future generations. (Coalition of Arizona/New Mexico Counties, Glenwood, NM - #1628.2.64000.001)

I live and own a small piece of redwood forest in California, in the Santa Cruz Mountains. We live with high fire danger here and left to our own devices to fight for our rights to maintain our properties against the undue interference from the Forest Service, California Fish and Game and the US Wild Life Service.

Our success in avoiding major and devastating fires has been achieved by sensible forest management. Removing dead trees and brush in spite of opposition from environmental agencies is what kept the fires out of this area.

Unfortunately, adjoining state and federal forests maintained (I should say not maintained) by the forest service represent unacceptable fire risk to us and to species (endangered and others) the forest service is concerned with protecting. The "leave the forest alone" attitude caused millions of acres to burn destroying everything, including protected species, in the fire. In my opinion, and in the opinion of others who love the forest, a disturbed salamander or owl is a lot better than an incinerated one. After all, the disturbed animal is still alive. Finally we have a somewhat more sensible administration in Washington who wants to take a more reasonable approach to managing our forests.

I support the Bush administration's efforts to introduce the proposed new rules and guidelines to forest management. (Individual, No Address - #1302.1.64000.102)

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.

I strongly oppose the Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA). (Individual, Jamaica Plain, MA - #1025.3.64000.000)

I am writing with regard to the National Environmental Policy Act (NEPA). As I understand it, certain amendments to NEPA would exclude hazardous fuel reduction projects from environmental analysis and public review. This proposal would conceivably allow logging to occur anywhere in the national forests! This new proposal would allow the logging in areas with old-growth and mature forests. The point of some of these new proposals is to help communities defend themselves against forest fires. But this new proposal would allow logging in areas far away from communities. The proposal would also, remove the public's right to participate in the decision-making process. For these reasons, I oppose the Forest Service's proposal to exclude hazardous fuel reduction projects from the documentation requirement of NEPA. (Individual, Manlius, NY - #1041.1.64000.001)

I realize you are merely puppets of the timber industry. I realize public outrage over the timber industry's unceasing attempts to gut our national treasures is largely ignored. I also realize there may be somebody in that den of evil and greed with some remnant of a conscience left to them. I therefore write to you with the following opinion and plea:

I strongly oppose the Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA). (Individual, Fort Collins, CO - #1121.5.64000.106)

I strongly oppose the Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA). I urge the Forest Service to withdraw this proposed categorical exclusion. (Individual, Littleton, CO - #1639.1.64000.000)

I strongly suggest that you include hazardous fuel reduction projects in NEPA.

It is time that we use our forests responsibly. We are more than animals such as wilderness groups. We can build, use, and enhance all parts of this world. We should use and replenish our natural resources at the same time providing a habitat for those creatures that enhance and sustain life for our benefit. We who believe this were not indoctrinated by the socialist education system instilling fear and ignorance in our children. (Individual, No Address - #628.1.64000.300)

BECAUSE THE CURRENT PROCESS IS WORKING WELL

I am strongly opposed to the Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA).

This proposal would remove important environmental safeguards that are currently working just fine. NEPA exists for many good reasons, and any significant use of our forests should undergo this review. (Individual, Englewood, CO - #1160.1.64000.001)

The current proposal to categorically exclude forest thinning projects from environmental assessment is unacceptable because this proposal is not based on sound science and avoids important safeguards and oversight available through current environmental laws. These new proposed regulations are very troublesome. There is already a categorical exclusion process under NEPA for hazardous fuels reduction projects. There is no need to expand the exclusions. (Individual, Durham, NH - #1509.1.64000.001)

As Idaho's largest statewide conservation organization, we comment on many fuels reduction projects on public lands throughout Idaho. We actively support fuel reduction activities based within the wildland urban interface that have been properly analyzed through NEPA. By being involved throughout the NEPA process, we are able to raise legitimate concerns about important issues. We have found that the responsible agencies have modified the proposed activities to address our concerns.

Our own experience shows that the existing fuel reduction and rehab programs are working properly and they do not need to be fixed. Some projects are categorically excluded, some are appropriately analyzed as EAs, and some are appropriately analyzed as EISs. This is the way NEPA is designed to work. It gives the proper level of environmental analysis and public involvement to projects that have varying degrees of environmental effect. To propose that all fuel reduction and rehabilitation/stabilization projects can be categorically exempt from NEPA without public involvement and without any environmental analysis runs counter to our experience.

To cite a specific case, the Sixshooter Project in the Boise National Forest was designed in part to modify stand structure to provide a forest condition that is more resistant to wildfire. After reading our concerns that the proposed action would result in a 25% increase in sediment for a 303d listed stream, the Forest Service created another alternative in the EIS. This alternative dropped 11 miles of new road construction, realigned 2 miles of roads outside of riparian habitat conservation areas, reduced the sediment spike from 25% to 16%, and shortened this increase by two years. Our involvement with that process and the level of detail demanded by an Environmental Impact Statement was instrumental in improving this project and reducing the significant environmental effects.

As another example, the Warm Springs Ridge Vegetation Management Project near Idaho City, Idaho underwent extensive environmental analysis under an EIS. Certain provisions were made to protect riparian habitat conservation areas and limit the amount of road construction. We did not appeal this project and currently serve as part of an Evaluation and Monitoring Team for the Stewardship component of this project.

If a fuels reduction project is well-designed and well-located within the wildland-urban interface (WUI), the responsible agency should have little concern about delays due to administrative appeals. (Preservation/Conservation Organization, Boise, ID - #1722.8.64000.001)

BECAUSE IT DOES NOT ADEQUATELY ADDRESS NECESSARY ISSUES

The need to protect people and their homes from forest fires is an important one. Equally important is the need to preserve the resources on this planet, and to maintain healthy ecosystems within forests. I do not feel that the plan Mr. Bush has set forth is adequate nor addresses the necessary issues. I urge you to refuse this proposal and to work with others to create a plan that would take into account the forest itself as well as fire hazards. (Individual, Columbus, OH - #317.9.64000.001)

BECAUSE FUEL REDUCTION IS ALREADY AUTHORIZED

We are writing in very strong objection to the proposed expansion of activities under categorical exclusion, as described in the 12/16/02 Federal Register.

The CE is unnecessary as fuel reduction activities already authorized are more than sufficient. (Individual, Hastings, MI - #1839.1.64000.100)

Existing guidance already covers the variety of fuels-reduction projects discussed in the background documentation, rendering the development of new CEs unnecessary.

A recent GAO report found that appeals and litigation had not stalled or stopped more than 98% of the genuine fuels-reduction projects. It was not until later, when certain parties insisted that projects that included significant commercial timber sales (cutting of large, fire resistant trees) be included in the analysis that this figure was revised downward, highlighting the urgent need to define "fuels reduction project" referenced earlier in this document. (Preservation/Conservation Organization, Republic, WA - #1429.29.64000.230)

Agencies can currently do these types of projects under CEs. Instead of adding these CE projects, the Federal Register provides loopholes in NEPA to exempt other logging from Environmental Assessments.

For instance, this summer the Roseburg BLM implemented hazardous fuels reduction projects in Jim Creek (Little River). With a simple categorical exclusion, the BLM thinned 50 feet on both sides of 15 miles of logging roads, as well as pruned lower limbs from trees and cleared brush. With limited funds, the BLM prioritized this area close to rural residences. They did not need this CE change. The agencies can reduce fuel build-up, do prescribed burning, and thin anywhere in the forest, now, without changing NEPA. The only reason to weaken environmental laws is so that trees can be logged that are currently illegal to log.

Instead, the loopholes being punched in NEPA would allow “thinning” of native and old-growth forests, far from communities at risk. (Place-Based Group, Roseburg, OR - #1249.2.64000.710)

BECAUSE DECISION MAKERS LACK ACCOUNTABILITY WHEN USING CE'S

Decision-makers lack accountability when using Categorical Exclusions. The level of discretion involved in categorical exclusions may be appropriate for some decisions such as whether and when to paint the equipment shed behind the ranger station, but such unilateral decision-making is inappropriate when 190 million acres of public lands are involved. With a fuel reduction program of this magnitude, the agencies simply must involve the public, develop and compare alternatives, and investigate and disclose the environmental consequences of all proposals to treat hazardous fuels. If the agencies begin broadly applying CEs to this important task, the public will protest and the well-founded outrage will only slow needed progress in this task. This was clearly recognized by the Western Governors Association, the National Association of Counties, the National Association of State Foresters, the Intertribal Timber Council, and the Secretaries of the Interior and Agriculture when in August 2001 they agreed that fuel reduction efforts must involve the public and follow existing environmental laws. (Preservation/Conservation Organization, Eugene, OR - #846.3.64000.100)

Implementation – Planning Considerations

Public Concern: The USDAFS & DOI should implement the proposed fuels reduction CE.

TO ALLOW MANAGERS NEEDED FLEXIBILITY

We strongly support the use of categorical exclusions, believing that they will allow the Forest Service and Department of Interior to implement projects designed to reduce the risk of severe wildfires with their accompanying environmental damage. This will provide wildland managers with the flexibility they need to treat hazardous fuel situations when they are identified.

One example of the benefits of the categorical exclusion for hazardous fuel reduction activities is the case of the Megram Fire. There was a major windstorm in 1998 that caused extensive damage to the Six Rivers National Forest. The Forest Supervisor attempted to prepare a salvage sale in the area, but that project was appealed and sued after treatment of a small portion of the damaged forest. In 1999, a wildfire started in the vicinity. When the fire reached the area of the blow down, it exploded eventually consuming approximately 220 square miles of forest. Of note is the fact that the small area that was salvage logged survived the fire. If this categorical exclusion had been available, damage to the forest could have been significantly reduced. (Timber or Wood Products Industry, Redding, CA - #1703.1.64000.300)

Thank you for the opportunity to comment on this proposal to revise procedures for implementing NEPA regulations associated with fire management activities (Federal Register proposed December 16, 2002). Though the fire-adapted ecosystems located on the Chequamegon-Nicolet NF are not as extensive as those located in the western United States, they are similarly susceptible to catastrophic events which could result in devastating resource losses. For that reason, we are highly supportive of any management measures that will improve the flexibility available to us to address these conditions. (Individual, No Address - #500.1.64000.303)

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.

BECAUSE IT IS INCONSISTENT WITH OTHER PLANS

You state that categorical exclusions must be consistent with applicable land and resource management plans. As noted above, the SNFPA will preclude the use of categorical exclusions for hazardous fuel reduction projects from much of the 11.5 million acres in the Sierra Nevada Range and as a consequence is clearly not in line with the National Fire Plan. In October 2001, the Fish and Wildlife Service stated in its biological evaluation of the SNFPA that it was their view that mechanical treatments for fuels reduction posed a greater threat to T and E species and sensitive species than wild fire. We are encouraged by the December 10, 2002 Fish and Wildlife Service guidance that directs the Service to adopt a “long term view” when consulting on fuels treatment projects under section 7 of the ESA. We hope that this appearance of change in direction by the Fish and Wildlife Services will allow a more reasoned approach to fuels reduction in the Sierra Nevada Range. (Conservation District, Tollhouse, CA - #819.4.64000.101)

BECAUSE IT IS NOT BASED ON SOUND SCIENCE

I am writing to you because I am concerned about the Bush administration’s proposal allowing increased logging in remote areas under the guise of reducing wildfire hazards. This logic is not scientifically sound, as the Forest Service’s own studies have demonstrated. In fact, logging large trees may actually increase the risk of fires. It seems more of an attempt to appease large logging companies—not necessarily even a bad thing if we are to invigorate the economy, but in the long term it is incredibly narrow-minded and not worth the hardly noticeable economic gain. (Individual, Denver, CO - #436.1.64000.001)

Implementation – Legal Considerations

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.

BECAUSE DOING SO WILL VIOLATE NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING REGULATIONS

The proposed categorical exclusion violates NEPA implementing regulations. The CEQ regulations state in part:

“Categorical Exclusion” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations ([section] 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. 40 CFR [section 1508.4]

There are several factors which leads us to the conclusion that the agencies’ fuel reduction program will have individually and cumulatively significant effects: The balancing and evaluation of the relative beneficial and adverse consequences of prescribed fire mechanical treatments such as thinning. Beneficial effects include potential benefits to public health and safety, restoration natural fire regimes and the habitat values that go along with it. Adverse effects include: loss of soil productivity, loss of wildlife habitat, impaired water quality, potential counter-productive effects of fuel treatments that increase rather than decrease fire hazards. (Preservation/Conservation Organization, Eugene, OR - #846.8.64000.001)

I do not believe that the hazardous fuels reduction activities described in the Federal Register notice are consistent with the letter or intent of the National Environmental Policy Act (NEPA). The proposed regulations are inadequately supported by evidence from prior projects and would cause significant environmental damage.

I do not feel that the Departments have met the legal requirements necessary to implement these regulations and they should be withdrawn. (Individual, Astoria, NY - #1139.2.64000.001)

Implementation – Trust and Integrity Considerations

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.

BECAUSE OF THE POTENTIAL FOR ABUSE

If this CE proposal is approved, every commercial timber sale will have hazardous fuels reduction as its primary purpose

In the Federal register you say that hazardous fuels reduction activities “would not include activities such as timber sales that do not have hazardous fuels reduction as their primary purpose.” When I read this it took me nearly 10 minutes to quit laughing. What will happen is this:

- 1) In order to achieve the timber target, a commercial timber sale will be scheduled.
- 2) When the sale date starts creeping up, NEPA planning and budgeting will begin.
- 3) Someone will mention these 2 new CE categories now exist, and all will agree that “there is no need to go through all the NEPA hassle” if they can somehow figure out how to use the new CE categories for the sale.
- 4) Someone will visit the ground and declare a fuels overload.
- 5) Fuels reduction will become a primary part of the Purpose and Need and off they go with a CE.

This couldn't happen you say? The USFS still has employees that would fit the category of “timber beast” very well. Some are even in decision-making positions. If they find a dead twig on the ground, the NEPA Purpose and Need primary purpose will instantly include hazardous fuels reduction. Some will justify its use by declaring that “wood burns (even green, live trees), so we'd better remove the wood.”

It is totally inconceivable to me that you did not anticipate this and build in sideboards to the rule to prevent it from happening. If other members of the public read this one as I did, the USFS will lose even more public trust than it has already.

My inescapable conclusion on this? The proposal has a huge potential to be abused. (Individual, Grangeville, ID - #10.26.64000.106)

Here in the Gunnison Basin, there is certainly a bona fide use of CEs for certain projects. High Country Citizens' Alliance has had little objection to CEs being used for small projects on Forest Service and BLM lands, where area and effects are proscribed so as to minimize environmental effects. However, we strongly object to the current proposal because of its failure to limit applicability of CEs, and its failure to define fuels reduction projects themselves. These failures mean the proposal is potentially subject to broad misuse, including causing accelerated environmental damage across large portions of the Western landscape. (Preservation/Conservation Organization, Crested Butte, CO - #1804.3.64000.001)

The Proposed Procedures Allow Nearly All Forest Projects to Evade Environmental Review Because Nearly All Forest Projects Can Be Said to Have a Fuel Reduction And/Or Post-Fire Rehabilitation Component.

Almost any manipulation of forest vegetation could be considered a fuel reduction project because cutting, burning, or otherwise treating vegetation by its very definition reduces the fuel loading. In fact, the proposed procedures include a nearly unlimited definition of hazardous fuels as “vegetation (live or dead), such as . . . plants, shrubs and trees” 67 Fed.Reg. 77040. Despite this, the proposed procedures are devoid of any mechanisms that would prevent abuse of Agency discretion to document all forest projects with CEs. If the proposed procedures are adopted as currently written, line officers would be tempted to insert a hazardous fuel reduction and/or post-fire rehabilitation component into nearly the description of every project's purpose and need just to be able to avoid the preparation of an EA or EIS. (Preservation/Conservation Organization, Paonia, CO - #1732.14.64000.104)

Implementation – Public Involvement Considerations

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.

BECAUSE IT WILL LIMIT PUBLIC INVOLVEMENT

I strongly oppose the expansion of the use of Categorical Exclusions (CE) to include “fuels reduction projects”. Legitimate fuels reduction projects (ones that do not log large diameter trees or remote stands) have not been tied up by citizen appeals or lawsuits (according to a non-partisan analysis by the General Accounting Office). The inescapable conclusion, therefore, is that projects proposed for CE, where the public will be cut out of the process, will be bogus, pork-barrel ones that won’t stand the light of public scrutiny. (Individual, Cave Junction, OR - #1420.1.64000.104)

I wish to be counted among those that oppose the Forest Service’s proposal to exclude “hazardous fuel reduction projects” from the documentation requirements of the National Environmental Policy Act (NEPA).

As a degreed forester, I understand fire, including its benefits as well as risks. It is clear to me that allowing commercial logging throughout our national forest without public review or comment is a dangerous precedent and direction for the Forest Service to take, regardless of the current administration’s desires.

This is not just an effort to save homes and personal property. I have worked for the timber industry. They badly want access to our old-growth timber resources, and would greatly appreciate this decision that would virtually assure them the access they desire.

I am asking to retain my right to influence regulatory outcomes and not be shut out of the process. I am educated and knowledgeable and do not take this change lightly.

I implore the Forest Service to withdraw this proposal. (Individual, Bandera, TX - #639.1.64000.001)

I am writing to comment on the Forest Service’s proposal to categorically exclude hazardous fuel reduction projects from the documentation requirements of the National Environmental Policy Act (NEPA). Very few people in this nation support this exclusion. Americans treasure their forests and do not want them opened to logging without the opportunity for serious scientific assessment and public comment on logging and road-building projects. The idea that large timber sales in old-growth and mature forests could be authorized under this extreme proposal is repelling. (Individual, Amherst, MA - #1244.1.64000.001)

I strongly oppose the Forest Service’s proposal to categorically eliminate “hazardous fuel reduction projects” from the documentation required for The National Environmental Policy Act (NEPA). Presumably to reduce fire risks, this proposal would actually reduce environmental safeguards and allow logging to occur anywhere in our national forests—which legally, should be kept in trust for the American people. Under this proposal, logging could even occur in mature and old growth forests. This and other regulatory proposals weaken Democracy by denying the public the right to comment on forest policies such as logging. I urge the Forest Service to withdraw this proposed categorical exclusion. (Individual, Villa Park, CA - #1355.1.64000.001)

I strongly oppose the expansion of the use of Categorical Exclusions (CE) to include “fuels reduction projects”. Legitimate fuels reduction projects (ones that do not log large diameter trees or remote stands) have not been tied up by citizen appeals or lawsuits (according to a non-partisan analysis by the General Accounting Office). The inescapable conclusion, therefore, is that projects proposed for CE, where the public will be cut out of the process, will be bogus, pork-barrel ones that won’t stand the light of public scrutiny. (Individual, Cave Junction, OR - #1420.1.64000.104)

BECAUSE OLD GROWTH TREES MAY BE HARVESTED WITHOUT PUBLIC REVIEW

I strongly oppose the “Categorical Exclusions” rules the Bush administration proposed on December 13, 2002.

To exclude any expansion of logging in the national forests from public comment or environmental reviews is to squander the important resource in our democracy of public trust.

Few would oppose the goal of reducing the fire load of our forests. But many will distrust a proposal which could open the door to the harvest of large old growth trees in areas far from the public scrutiny. (Individual, No Address - #1069.1.64000.001)

Implementation – Resource Management Considerations**Public Concern: The USDAFS & DOI should implement the proposed fuels reduction CE.****WITH COMMERCIAL TIMBER PRODUCTION**

I totally agree with the proposed expansion of the activities allowed to proceed without an environmental assessment (EA) or an environmental impact statement (EIS) under categorical exclusions (CEs). I believe that the hazardous fuels reduction activities described in the Federal Register notice are consistent with the letter or intent of the National Environmental Policy Act (NEPA). The proposed regulations are indisputably supported by evidence from prior projects and would [not] cause significant environmental damage.

I feel that the departments have met the legal requirements necessary to implement these regulations and they should be congratulated for their hard work. Appropriate hazardous fuels reduction projects should proceed with the added side benefit of commercial timber production. (Individual, Eules, TX - #1290.1.64000.001)

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.**BECAUSE IT WILL ENCOURAGE HARVEST OF GREEN TIMBER**

Economic reality will encourage commercial harvest of green timber.

Clearing of brush and thinning of small diameter timber—the types of activities that the Departments are claiming will be implemented with the proposed CEs—generally do not generate appreciable revenue, either for the U. S. Treasury or for the contractor. Because the fuels reduction projects cannot pay for themselves, merchantable timber—usually mature and old growth forests—are included as part of the project.

This ignores the fact that commercial logging can often exacerbate fire prone conditions by removing fire resistant trees, drying lower fuels by opening the canopy, and leaving slash in the areas that were logged. The CE opens the door to increased logging of mature and old growth forests in the name of “fuels reduction”. (Preservation/Conservation Organization, Lexington, KY - #828.8.64000.602)

BECAUSE IT WILL ALLOW TIMBER HARVEST ANYWHERE IN NATIONAL FORESTS

I am very concerned over the current administration’s continuing attacks on our national forests.

I strongly oppose the Forest Service’s proposal to categorically exclude “hazardous fuel reduction projects” from the documentation requirements of the National Environmental Policy Act (NEPA). Even though this proposal is wearing the guise of fire safety/prevention, in reality all this proposal would do is remove important environmental safeguards and allow logging to occur almost anywhere in the national forests—not just in areas near people’s homes and communities. Even large timber sales in old-growth and mature forests could be authorized under this extreme proposal. Old growth timber is a national treasure which once gone can never be restored and must be protected from the greed rampant in the timber industry and their cronies in Washington. (Individual, Skowhegan, ME - #584.1.64000.001)

Implementation – Environmental Considerations

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.

BECAUSE IT WILL REMOVE ENVIRONMENTAL SAFEGUARDS

I strongly oppose the Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA).

Under the guise of reducing fire risks, this proposal would remove important environmental safeguards and allow logging to occur almost anywhere in the national forests—not just in areas near people's homes and communities.

The overall impact of these and other proposals would be devastating to the national forests. (Individual, New York, NY - #284.1.64000.001)

As a natural area manager myself (at a nature reserve in Missouri), I understand well the need to reduce fire risks through management of fuel levels. However, I strongly oppose the Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA). If instituted in its present form, this proposal would remove important environmental safeguards and allow logging to occur almost anywhere in the national forests—not just in areas near people's homes and communities. Loopholes in the proposal could even be construed to authorize large timber sales in old-growth and mature forests. (Individual, Pacific, MO - #1109.1.64000.100)

BECAUSE IT WILL ALLOW TIMBER SALES WITH NO ENVIRONMENTAL ANALYSIS

The proposal states that the categorical exclusions would not apply to timber sales that do not have hazardous fuels reduction as their primary purpose. However, our experience is that in the Sierra there are no timber sales which do not fall into this category. Therefore, to exclude the targeted Sierran projects from the NEPA environmental analysis process is to remove virtually the entire timber sale program from that process. We are very concerned that the Administration has seen fit to put all of this energy into this ill-conceived, unsupported, and ill-fated proposal to completely cut the public out of its rights under the law and has not looked at alternatives that might have a more reasonable chance of success in what it considers an emergency situation. At best it should be considered reckless negligence. (Place-Based Group, Blairsden-Graeagle, CA - #1736.9.64000.103)

BECAUSE IT WILL SET A POOR PRECEDENT FOR OTHER ENVIRONMENTAL ISSUES

I vehemently oppose any alterations to National Environmental Policy Act (NEPA). The path the USDA FS has embarked upon to potentially and categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA) is clearly irresponsible.

If NEPA is successfully weakened through this ruse of "reducing fire risks," it will set a precedent for weakening this NEPA for other critical environmental issues. I have reviewed the Healthy Forests/Stronger Communities directive issued by the White House. It lacks scientific merit, and is clearly an attempt to "open the doors" to the timber industry. Furthermore, I attended President Bush's talk in Northern Arizona last October. When referring to his Healthy Forests Initiative he equated reducing the fire risk as removing, and I quote "the good wood."

I own a home which abuts National Forest lands and is clearly a dog hair thicket of Ponderosa pine. It is a tinder box. Mindful of this and my potential loss of home and personal effects in the event of a catastrophic wildfire, I still, in no way shape or form, support the Administration's half-baked proposal healthy forests. (Individual, Flagstaff, AZ - #1077.1.64000.001)

BECAUSE THE ECOLOGICAL EFFECTS OF FUEL REDUCTION ARE NOT FULLY UNDERSTOOD

While fuel reduction through prescribed burning or mechanical treatment in the immediate vicinity of homes (several hundreds of meters) may reduce wildfire risk to the homes, larger scale fuel reductions are often economically inefficient and ecologically harmful. As the ecological impacts of fuel reduction are not fully scientifically understood and fire acts on landscapes in a complex mosaic pattern, fuel reduction projects should not be categorically excluded. (Individual, Stanford, CA - #898.2.64000.602)

BECAUSE FUELS REDUCTION PROJECTS WILL HAVE SIGNIFICANT ENVIRONMENTAL EFFECTS

Because CE fuels reduction projects are not limited in size, individual projects area likely to have a significant impact on the environment.

The proposed fuel reduction CE permits activities, including thinning, of unlimited size. The proposed rule also permits unlimited temporary road construction associated with fuels reduction activities. Based on the precedent that harvests of 250,000 board feet may have significant effects on the environment, it is clearly arbitrary for the Forest Service to determine that unlimited logging and temporary road-building will not have significant effects simply because the harvest is conducted for the purpose of fuels reduction. (Preservation/Conservation Organization, Charlottesville, VA - #861.2.64000.300)

Categorical exclusions were intended to allow federal agencies the ability to perform routine maintenance and administrative activities with minimal NEPA documentation. Prior careful consideration goes into deciding whether an activity is to be excluded from more rigorous review. The activities ultimately allowed under CEs are those that have been pre-determined to have an insignificant impact on the environment. The Forest Service Handbook provides examples of activities that may be covered under a categorical exclusion, such as the painting of a building, mowing a lawn around a Forest Service office, or other activities such as closure of a road to protect wildlife.

“Fuels reduction” projects are not routine or administrative tasks. They often are highly controversial, and may impact the environment The Federal Register notice contains no evidence to support a conclusion that the hazardous fuels reduction and fire rehabilitation projects mentioned will in fact have an insignificant impact. The projects seem to have been selectively reviewed and conclusions about their impacts made anecdotally rather than on a scientific basis.

Because the information contained in the federal Register notice, or the lack thereof, does not support a conclusion that hazardous fuels treatments have an insignificant impact, it is arbitrary and capricious to propose that they be included under a categorical exclusion from NEPA. (Preservation/Conservation Organization, Tucson, AZ - #1740.3.64000.001)

The proposed categorical exclusion violates NEPA implementing regulations. The CEQ regulations state in part:

“Categorical Exclusion” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (section 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. 40 CFR (section 1508.4)

There are several factors which lead us to the conclusion that the agencies’ fuel reduction program will have individually and cumulatively significant effects:

Fuel reduction activities will affect historic and cultural sites, threatened and endangered species and their habitat, wild and scenic rivers, or ecologically critical areas, as well as roadless areas. All these effects indicate the individual and cumulative significance of the agencies fuel reduction program. The Rogue River fuel reduction project which is a pilot project of the Healthy Forest Initiative is located almost entirely within a wild and scenic river corridor. (Preservation/Conservation Organization, Eugene, OR - #846.10.64000.001)

Effects will be significant if “it is reasonable to anticipate a cumulatively significant impact on the environment.” Id. At section 1508.27 (b)(7). The proposed CE expedites a nationwide fuels reduction plan which will have a cumulatively significant impact on the environment. Activities carried out under this plan cannot escape NEPA analysis by deeming individual projects insignificant. (Preservation/Conservation Organization, Charlottesville, VA - #861.3.64000.230)

Given the tremendous damage that fire can cause communities surrounded by forests, fire management is necessary within these communities.

American Hiking Society is very concerned the proposed changes and associated fire management techniques will cause greater harm than good to these communities, the environment, and the precious forests enjoyed by the 75 million people who hike regularly or occasionally. (Non-Motorized Recreation Organization, Silver Spring, MD - #1416.2.64000.001)

BECAUSE THERE NEEDS TO BE INCREASED PROTECTION OF WILD AREAS

We strongly oppose the Forest Service’s proposal to categorically exclude “hazardous fuel reduction projects” from the documentation requirements of NEPA. We need more protection of our wild areas, not less. We urge you to withdraw this dangerous proposed categorical exclusion. (Individual, Framingham, MA - #1634.1.64000.300)

BECAUSE IT WILL DECREASE THE EFFICACY OF ECOSYSTEM SERVICES

I wish to register my opposition to the “categorical exclusions” rules proposed by the administration in the name of forest fire protection. These rules will expedite logging in backcountry areas of our national forests and other public lands and do little or nothing to safeguard the residential and commercial property in the suburban-forest interface. Such logging will, on the other hand, do much to denigrate the forest’s ability to provide important ecosystem services such as supplying the community at large with clean water and clean air. It would, of course, also abridge the public’s right to participate in the management of its common property. (Individual, Plainfield, VT - #495.1.64000.001)

Implementation – Forest Health Considerations

Public Concern: The USDAFS & DOI should implement the proposed fuels reduction CE.

TO IMPROVE FOREST HEALTH

While these exclusions would be directed toward small projects, we think it is a step in the right direction to start improving forest health and wildlife habitat. We in Montana have been choking in smoke every fire season in large part due to lack of management on public lands. It has had a devastating affect on state and private lands also and on our rural communities located in and around national forest lands. In addition to the waste of a renewable resource, the damage done to watersheds and wildlife habitat cannot be allowed to continue. (Timber or Wood Products Industry, Helena, MT - #1700.2.64000.001)

TO REDUCE WILDFIRE RISK

I strongly support the Forest Service’s proposal to categorically exclude “hazardous fuel reduction projects” from the documentation requirements of the National Environment Policy Act (NEPA).

The fire risk is way too high in our national forests and something must be done to protect not only our homes but our air as well.

It is high time the timber in these areas went to build homes in stead of polluting our air. (Individual, Logan, UT - #556.1.64000.001)

BECAUSE IT REPRESENTS A TRUE CONSERVATION POLICY

These fuels reduction measures would benefit the long-term environmental interest of all special interests of all living creatures and not just the short-term economic interest of a few large corporations. They represent a true conservation policy and not a thinly-disguised concession to a special interest groups. (Individual, Scarsdale, NY - #97.9.64000.104)

Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.**BECAUSE IT HAS LITTLE TO DO WITH DECREASING WILDFIRE RISK**

I am writing in solid opposition to the proposal by the Forest service to remove the requirement for hazardous fuel reduction projects from NEPA documentation.

This wolf-in-sheep's-clothing proposal is an obvious pay-off to the timber industry, and has little or nothing to do with fire reduction. Case in point: the language of the proposal would allow timber sales of old-growth forests.

The Forest Service should immediately withdraw this proposal. (Individual, Marblehead, MA - #1059.1.64000.103)

Please allow me to voice my opposition to the "Categorical Exclusions" rules proposed by the Bush administration in December of last year. Rather than reduce fire risk, this proposal will mostly be a boon to the timber industry while degrading the environment. (Individual, Pueblo, CO - #296.1.64000.106)

I am writing in regards to the disastrous and misguided proposal for fire management in our National Forests. The proposal as it stands will not only not help the situation at hand, but is a thinly veiled attempt to extract large trees while creating worse future forest fire conditions. (Individual, Davis, CA - #373.1.64000.100)

These rules would allow the timber industry to expedite destructive logging projects in pristine backcountry areas of our national forests and other public lands while sacrificing essential safeguards and Americans' right to a say in the management of their public lands.

This proposal has nothing to do with reducing fire risk and everyone knows it. It could actually increase the risk of fires by increasing the logging of large and medium-size trees. Cutting anything larger than small trees and brush can have serious environmental consequences.

I urge you to uphold our fundamental environmental laws and our rights as Americans, and to withdraw the proposed rule immediately. (Individual, No Address - #185.2.64000.602)

Implementation – Social Considerations**Public Concern: The USDAFS & DOI should not implement the proposed fuels reduction CE.****BECAUSE IT FAILS TO ADEQUATELY CONSIDER FUTURE GENERATIONS**

I cannot believe how shortsighted the bush administration is. It is not rocket science. This Forest Service's proposal to categorically exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy act (NEPA) is all bad. How can you not be aware and greatly concerned about the effects this will have? War and oil on others' soil and deforestation on your own soil. I am not even American and I care more about your physical environment than you do. It is obscene. Most of what your government is doing is obscene. You obviously don't care about this planet being here for your grandchildren and their children, do you?

I urge the Forest Service to withdraw this proposed categorical exclusion. (Individual, No Address - #978.1.64000.001)

BECAUSE IT DOES NOT CONSIDER HUMAN CAUSED WILDFIRE

Decades of data from the George Washington and other southern Appalachian National Forests indicate that around 85 percent of fires are human-caused (see, e.g., the Southern Appalachian Assessment Terrestrial Report at pg 96). The proposal to apply this permissive rule to such an extreme land base does nothing to address human carelessness, stupidity, or arson. In fact, it rewards it. (Individual, Galax, VA - #1674.5.64100.000)

*Implementation – Economic Considerations***Public Concern: The USDAFS & DOI should implement the proposed fuels reduction CE.****TO SUPPORT LOCAL ECONOMIES**

I strongly support the Forest Service's proposal to exclude "hazardous fuel reduction projects" from the documentation requirements of the National Environmental Policy Act (NEPA).

I strongly support the Forest Service's efforts to manage our nation's forests for all Americans. The National Forests are important to local economies and the Forest Service should be supported to manage the forests with sound management principles exclusion. (Individual, Amherst, OH - #486.1.64000.001)

While walking through parts of the Kootenai National Forest and seeing the dead and dying trees, one tends to wonder why? Then look at the fires from the 2000 fires season.

The Categorical Exclusions will speed the process up, and get the timber where it will do the most good for the community. To the mill.

I support the proposed Categorical Exclusion. (Individual, Eureka, MT - #849.1.64000.734)

The categorical exclusion was a tool until 3 years ago that allowed local level forests to pursue small forest health projects (the kind that support our small family owned logging business) without the financial burden of a full blown NEPA statement which made them economically unviable. In reality, as of today these projects are mostly unpursued. All effort is expended on larger corporate timber companies' projects. (Individual, Fortine, MT - #966.8.64000.734)

Maintenance Following Fuel Reduction Projects**Public Concern: The USDAFS & DOI should analyze methods used to maintain areas following fuel reduction.**

The construction of hazardous fuels reduction projects is directly related to other actions, i.e. maintenance, with cumulatively significant effects. If hazardous fuels reduction projects are to be exempted from environmental analysis, the agencies would fail to consider the connected action of maintaining these fuel reduction areas. The analysis of maintenance methods and of the environmental effects of maintenance must be considered during the analysis of the construction of hazardous fuels reduction projects, and must not be left to be addressed in later, separate NEPA analyses. Because the issue of maintenance of fuel levels after initial fuel reduction has not been considered in the proposed implementing procedures, it would be arbitrary and capricious to determine that hazardous fuels reduction projects will not result in significant impacts on the environment. Therefore, we urge you to withdraw the proposed implementing procedures. (Preservation/Conservation Organization, Eureka, CA - #1248.10.64000.739)

Public Concern: The USDAFS & DOI should maintain fuel levels following timber harvest under the proposed fuels reduction CE.

The analysis of hazardous fuels reduction projects must consider the maintenance of fuel levels after fuel reduction activities have been completed. This maintenance is essential to ensure the effectiveness of the initial fuel reduction. (Preservation/Conservation Organization, Eureka, CA - #1248.8.64000.001)

Pilot Fuel Reduction Projects**Public Concern: The USDAFS & DOI should implement the proposed fuels reduction pilot projects.****TO DEMONSTRATE THE BENEFICIAL EFFECTS**

I am strongly in favor of the proposed "pilot projects." I think these should be done as soon as possible so that they can be used to show the skeptics that it can be done in a way that does not adversely affect the environment. Thinning and fuel reduction activities couldn't possibly damage wildlife habitat as much as a fire. (Individual, Springfield, OR - #1224.9.64000.300)

Public Concern: The USDAFS & DOI should explain how the proposed fuels reduction pilot projects were chosen.

I understand that 10 future fuels reduction pilot projects have been selected nationwide to test the 2 CE category additions. How were these pilot projects chosen? Since the outcome of these pilot projects is already predetermined, I would guess that the selection process for pilot projects wasn't an unbiased sample either. (Individual, Grangeville, ID - #10.29.14100.104)

Funding**Public Concern: The USDAFS & DOI should explain how projects under the proposed fuels reduction CE will be funded.**

Economic analysis is incomplete and misleading

The information in the federal register notice does not address the means by which the projects proposed for categorical exclusion will be funded. Genuine fuels-reduction projects focus on trees 4 to 6 inches in diameter with an absolute maximum of 12 inches. The commercial value of the resulting logs is low.

1. How will the revenues for these projects be generated?
2. Will "goods for service" contracts be part of the revenue generation? If so, to what extent will logging of large, fire-resistant trees be utilized as the "goods"? Removing such trees is counter to the objective of reducing fire risk and intensity.
3. Will fuels-reduction proposals be combined with commercial sales in order that the latter may finance the former? If so, such projects would not fall under the proposed CEs, so the new CEs could not legally be used in such cases. Or is that the purpose of the CEs for small green timber sales and salvage sales proposed under a separate proposal: Is this the first of a one-two punch to bundle fuel-reduction projects with the removal of large trees in commercial sales? (Preservation/Conservation Organization, Republic, WA - #1429.18.64000.113)

Public Concern: The USDAFS & DOI should seek the required funding to support fuel reduction projects.

The Forest Service has a perfectly acceptable thinning plan for the wilderness-urban interface that has simply not been implemented for lack of funds and spending money on putting out yet more fires. (Individual, Washington, DC - #483.5.64000.710)

FROM CONGRESS

Congress should appropriate the required funding to support fuel reduction projects. (Individual, Twin Falls, ID - #859.3.64000.113)

I would like to add that I think the Forest Service has done a remarkable job this year in preventing fire. It would help if Congress/the President made it a priority to just fund the Service so it can do regular maintenance. Perhaps some of the drastic fires of this summer could have been prevented or contained earlier if this funding had been there.

Funding for care and preservation and personnel over money for the logging industry. (Individual, Philadelphia, PA - #1331.6.11120.102)

FROM INCREASED PRICES FOR TIMBER HARVEST AND PARK ENTRY FEES

If the forest agency is looking for more revenue to service these parks, I would suggest increasing the price of logging for corporations and increasing the price of park entry. As an American citizen who frequents both local and national parks, I would pay more to preserve the nature and beauty of earth. (Individual, Lake Bluff, IL - #186.4.73000.602)

Public Concern: The USDAFS & DOI should reallocate fire money to do true thinning.**RATHER THAN FINANCE EXPENSIVE FIRE CAMPS**

Assistance needs to be provided to communities in these areas. Following are some suggestions to take pre-emptive action, while maintaining old-growth and other aspects of forest health.

Reallocate fire money to do true thinning, rather than financing the boondoggles of many fire camps.

This is a measure which could provide prompt and effective assistance to the communities the “Healthy Forests Initiative” purports to be designed to aid. In addition, it would begin to restore the natural fire cycles in the backcountry science has shown maintains forest health and reduces risk of catastrophic fire, all without suspending the environmental safeguards we so need to honor if we hope to have a healthy planet to pass on to future generations. (Individual, La Grande, OR - #383.5.64500.001)

Commercial Timber Sales**Public Concern: The USDAFS & DOI should allow timber companies to harvest mature trees as compensation for removing underbrush.**

I certainly feel that it would be fair if logging companies that remove the underbrush that has been allowed to accumulate and is the cause of the very destructive wildfires that we have seen over the past few years, are allowed to harvest an appropriate amount of mature trees to compensate them for their effort. (Individual, Santa Monica, CA - #1009.5.61000.730)

Public Concern: The USDAFS & DOI should include provisions for the sale of salvaged products.**TO REDUCE COSTS**

In an effort to reduce costs, these regulations must include provisions for selling any products that may be salvaged from the area including saw logs. The primary purpose of the project would still be to reduce the hazardous fuel in the area. (Business, Columbia Falls, MT - #1617.2.64000.736)

Public Concern: The USDAFS & DOI should limit timber removal for fire management to non-commercial projects.

In the case of very small areas where fire management is needed, these areas should be identified and treated as a part of an overall management program. I am not in favor of categorical exemptions at all,

but if they are to be used in special situations, I recommend the following: Only non-commercial fuels removal is allowed. (Individual, Springfield, MO - #661.3.61400.000)

Public Concern: The USDAFS & DOI should not allow commercial timber production under the proposed fuels reduction CE.

Appropriate hazardous fuels reduction projects should proceed without commercial timber production, involve the public and independent fire scientists, and be part of a complete Fire Management Plan that promotes natural fire regimes rather than suppression. (Individual, Astoria, NY - #1139.3.64000.001)

BECAUSE IT INCREASES WILDFIRE RISK

The first new category proposed for exclusion, explicitly describes some “fuel reduction” activities that actually contribute to fuel loading over the long term.

The first categorical exclusion proposed by the USDA Forest Service and the Department of the Interior addresses hazardous fuels reduction projects. Hazardous fuels consist of combustible vegetation (live or dead), such as grass, leaves, ground litter, plants, shrubs, and trees, that contribute to the threat of ignition and high fire intensity and/or high rate of spread. Hazardous fuels reduction involves manipulation, including combustion or removal of fuels, to reduce the likelihood of ignition and/or to lessen potential damage to the ecosystem from intense wildfire and to create conditions where firefighters can safely and effectively control wildfires. Activities that could be conducted under this proposed categorical exclusion are the thinning of trees (commercial or pre-commercial as identified in the 10-Year Comprehensive) mechanical means, grazing, and the use of prescribed fire.

The Forest Service has long known, and even occasionally acknowledged in scientific reports and other documents, the role logging plays in increasing, not decreasing, fire risk. A thinned or clearcut forest has increased exposure to sun and wind, which dries fuels inevitably left behind after these projects are completed. (Preservation/Conservation Organization, Salt Lake City, UT - #396.6.64000.602)

Scientific assessment by the Forest Service, GAO, Congressional Research Service and many forest experts conclude that commercial logging increases the risk and severity of fires. (Preservation/Conservation Organization, No Address - #1682.2.61100.602)

The proposed expansion for Categorical Exclusions seems to ignore the current significant scientific controversy surrounding the use of thinning for fire risk reduction. Slash left behind after logging operations can increase the severity and speed of forest fires for up to 30 years. Additionally, commercial logging often increases the fuel load on the forest floor, both by the slash, needles and branches left behind by logging operations, and through changes to forest structures. Thinning decreases the canopy coverage, allowing heat and light more access to the forest floor and drying up bushes, branches and small trees. This accumulation of dried fuel results in faster fire spread, greater flame length, and more erratic shifts in the speed and direction of fires. According to the Sierra Nevada Project, in a report commissioned and funded by Congress: “Timber harvest, through its effects on forest structures, local microclimate, and fuels accumulation, has increased fire severity more than any other human activity.” Many of our nation’s leading forest biologists have consistently found that commercially logged and roaded areas are far more likely to burn than unlogged areas. (Preservation/Conservation Organization, Portland, OR - #1436.9.61100.602)

BECAUSE MOST FUELS REDUCTION PROJECTS WILL ENCOUNTER EXTRAORDINARY CIRCUMSTANCES

Many of the fuels reduction projects with which we are familiar have one or more of the following characteristics:

- Adverse effects on such unique geographic characteristics as historic or cultural resources, roadless areas, sole or principal drinking water aquifers, wetlands (Protection of Wetlands), floodplains (Floodplain Management) or ecologically significant or critical areas;
- Highly controversial environmental effects;
- Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks;

- Represent a decision in principle about future actions with potentially significant environmental effects;
- Directly related to other actions with individually insignificant but cumulatively significant environmental effects; or
- Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.

Indeed, most projects have several of these factors present in their design; consequently, the NEPA regulations and associated case law require the preparation of an EIS or EA.

Given this situation, we do not understand under what conditions the proposed CEs would be appropriate. As a result, we are left with the impression that the Departments will attempt to use the new CEs in the future for standing timber harvesting actions, inappropriate for the scale of analysis envisioned in the proposed CEs. (Preservation/Conservation Organization, Hyrum, UT - #1647.5.17700.001)

BECAUSE IT INHIBITS SOME FUEL REDUCTION PROJECTS

The real problem that inhibits some fuel reduction projects is the agencies' insistence on mixing commercial logging and other more credible hazard reduction efforts. Conservationists June 12, 2002 press release responding the Forest Service's "Process Predicament" report: Environmental Safeguards Under Attack By The Bush Administration - Conservationists Defend The "Environmental Bill-of-Rights". (Preservation/Conservation Organization, Montgomery, AL - #1409.32.61000.001)

Public Concern: The USDAFS & DOI should limit the amount of commercial timber that can be sold under the proposed fuels reduction CE.

Commercial timber is barely mentioned in the federal register notice. In the summary, the notice says the hazardous fuel reduction categorical exclusion will not apply to "Timber sales that do not have hazardous fuels reduction as their primary purpose." Later on, the notice acknowledges that the "thinning of trees (commercial or pre-commercial)" is considered to be a hazardous fuel reduction activity. Finally, the notice says that "products generated by use of mechanical methods under the proposed hazardous fuel reduction categorical exclusion" will be sold or disposed of according to the existing agency procedures.

Many of the appeals that have hindered hazardous fuel reduction have centered on removal of commercial-size trees. We are concerned that, with the exception of National Park Service lands, the new categorical exclusion could be used to implement projects that use commercial timber sales to implement a hazardous fuel reduction goal with little public review. Scientists agree that preserving large, fire resistant trees is important to reestablish natural fire regime, which is the basis for our concern that commercial sales could allow large trees to be cut. This factor could be addressed in several different ways, for example, by limiting the amount of commercial timber that can be sold under a categorical exclusion, or by establishing a diameter limit for the size of tree that can be cut. (Preservation/Conservation Organization, Santa Fe, NM - #308.4.61000.602)

Public Concern: The USDAFS & DOI should require timber companies to replace all harvested trees.

TO ENSURE FOREST CONTINUANCE

I personally believe that any logging outfit or company should be required to plant a new tree to replace every tree that they cut down. This would ensure the continuing existence of our forests as well as providing trees for these companies to utilize in the future. (Individual, Kuningan, CO - #523.5.61000.001)

Public Concern: The USDAFS & DOI should require timber companies to pay market value for harvested trees.

The categorical exclusions cause me to wonder whether their real purpose is for the protection of the forest or for the expansion of logging. I believe that logging our national forests should be limited at best, and those allowed to be logged should be held to a strict quota of trees (with restrictions as to

which and where) as well as pay market value for those trees logged. (Individual, Lake Bluff, IL - #186.3.61100.001)

I used to work for the USFS as a biological technician and most of what my ranger district did was THPs (timber harvest plans). I object to the forests being cut at all if the timber companies aren't willing to pay a fair price for the timber and all other costs involved. I know that we the people pay for the roads, maintenance, etc., that the timber companies use to clear cut our forests. (Individual, Marina, CA - #1058.1.61100.704)

Public Concern: The USDAFS & DOI should encourage the planting of tree farms.

Stop the giveaway of our national old-growth forest treasures to timber companies and encourage the planting of tree farms on some of the 97 percent of our original forests which are gone. Those farms can be easily planted for fire safety. [There is an] endless abundance on over-farmed and subsidized idle farmland across the country. (Individual, Los Angeles, CA - #771.7.61000.106)

The logging industry needs to develop managed forests of their own and not log old growth trees. (Individual, Pittsburgh, PA - #202.5.61100.106)

Allowable Sale Quantity

Public Concern: The USDAFS & DOI should require any commercial timber volume resulting from projects conducted under the proposed fire management CEs to be subtracted from the local unit's allowable sale quantity.

Since the categorical exclusions would apply to trees and include mechanical removal, the possibility exists to use this process to back-door timber sales in the name of fire prevention or to use it to add to the Allowable Sale Quantity (ASQ) without the benefit of public comment. In order to assure the public that this is not an intention or a feasible result of this action, we suggest including a statement that any commercial timber harvested under a categorical exclusion would result in an in-kind decrease in the current ASQ. (Wyoming Game and Fish Department, Cheyenne, WY - #802.4.61300.103)

Stewardship Contracts

Public Concern: The USDAFS & DOI should use service contracts to reduce the fuel loading from Condition Class 3 to Condition Class 1.

RATHER THAN SELL STUMPAGE

Utilize service contracts for hazardous fuel reductions to reduce the fuel loading from Condition Class 3 to Condition Class 1, rather than selling stumpage. This would remove any incentives to over cut. Wood fiber generated incidental to hazardous fuel treatments could then be sold separately as a byproduct of the restoration activity. (Preservation/Conservation Organization, Washington, DC - #1419.9.64000.113)

Silvicultural Methods

Even-Aged Harvest

Public Concern: The USDAFS & DOI should not allow clear-cutting.

The wildfire problem is a man-made problem—we have stopped wildfires for over a century now. The solution is not to cut down all the trees.

It's been known for years that older forests burn less hot, and can burn more frequently without significant damage to the trees and wildlife. Clear-cutting these old forests in the name of fire prevention will only lead to:

1. brush piles form limbing the trees
2. lots of shrubby growth that in dry season is prime for wildfires

I have personally seen the differences between forests that have burned more recently (and less catastrophically) and those that haven't. Clearcuts don't solve the problem—they make it worse. (Individual, Somerville, MA - #915.2.61100.602)

The American people have said many times that they don't want their national forest clearcut and turned into tree farms. They don't want their wildlife endangered; their water polluted and special interests running or abusing their public lands. (Individual, Clawson, MI - #1159.2.61100.322)

When you clear cut areas, they are more prone to mudslides and more diseases popping up in our communities. Trees protect us from the UV rays of the sun. Also they keep under control our contaminants we put in to our world. Please help us protect our natural resources like the air, water and our trees. (Individual, Ingram, TX - #1483.9.61100.322)

BECAUSE CLEAR-CUTTING DEPLETES MOISTURE IN THE FOREST

I think that logging is the wrong approach to take for wildfire management. Clearing trees, especially in clearcut practices, ultimately contributes to dryer soil conditions due to the faster evaporation of water from sun baked clearcuts. Leaving healthy forests in place will help keep the forest environments full of moisture and our streams running clean and full. I believe that centuries of logging our National Forests is the cause of all the high intensity, uncontrollable wildfires of the past summer. It is definitely not a solution to the problem, and will probably create more disastrous wildfires in the future. (Individual, Roseburg, OR - #767.2.64000.602)

Arguably, clearcutting in National Forests has done as much damage to ecological regimes as fire suppression. Although clearcutting may imitate severe wildfires in some forest systems, biomass removal associated with logging operations limits any remote ecological function that may have been associated with such activities (Spies and Turner 1999). Removing biomass from a forest ecosystem—especially in the form of trees—removes crucial moisture from a forest. This moisture can help to reduce the intensity of forest fires and helps a forest to regenerate after a fire (see US Forest Service Draft publication at: <http://domino.thisinc.com/dev%5CUSForest%5CShashi%5CDecAIDSashi.nsf/HomePageLinks/F2D470EA4C328EF488256BF4006D5284OpenDocument>). In other words, the issues contributing to the forest fires of 2000 and 2002 are much more complicated than “excess fuels”. Before issuing categorical exclusions designed to reduce the frequency and intensity of forest fires, we ask that the Forest Service take into account the removal of soil moisture through logging. (Preservation/Conservation Organization, Asheville, NC - #1417.1-2.14100.602)

Uneven-Aged Harvest

Public Concern: The USDAFS & DOI should allow selective timber harvest.

We need selective logging for the health of our Forest and game and for our own health. (Individual, Grangeville, ID - #1777.2.61100.001)

Public Concern: The USDAFS & DOI should not allow selective timber harvest.

While I completely respect your position, I have a couple things to express about my position as an American and owner, in part with millions of other Americans, of our national forests. Read my lips—the idea of selective logging to protect a select few foolish enough to live where forest fires happen whether by God or man, is a bad idea. There is no way this will happen without major and unneeded damage and I know this first hand.

On our tiny 100 and change acre farm here in Iowa, we burnt wood for heat for two decades. We used one truck, one tractor and sometimes a wooden grain wagon or a hay rack to get the wood.

This was four people and we tried hard not to cut healthy trees or brush in the way but sometimes we did. As a God fearing, hard working, tax payer at 44, my back hurts in part from carrying felled logs around healthy trees and undergrowth so we could spare them because they had purpose.

I've lived in a trailer for twelve years and there's virtually no 'real' wood in it except for the 2 x 3's in the walls and roof and now I'm looking for a new home but I can promise you, Mr. Bosworth, it won't be new wood.

Short and sweet. We simply can't allow selective logging because it's not. Don't know about you but I like to breathe and trees help a lot whether here or in other areas of the world. For the loggers, I'm sorry, change happens and [it's] time to learn a new craft, as I have more then once. For the timber CEOs, stockholders and political appointments—I have no doubt you'll find another industry to fill your rice bowl.

Read my lips again. Selective logging is a bad idea. Nature will prevail, we might not. (Individual, Huxley, IA - #251.4.61100.001)

Intermediate Harvest

Public Concern: The USDAFS & DOI should provide data regarding thinning allowed under the proposed fuels reduction CE.

The proposed categorical exclusions lack specificity on the type of treatments proposed (e.g., the full range of treatments will be used?). There are no data on:

- (1) the spatial arrangement of thinning units across the landscape and whether thinning will primarily target the interface and heavily stocked tree plantations (where it is needed the most);
 - (2) the type of thinning treatments (e.g., uniform spacings vs. variable spaced thinning grids) employed;
 - (3) whether thinning will result in bulk crown density reduction or "below-crown" thinning; and
 - (4) what diameter size class distribution will be removed (are there diameter limits?).
- (Preservation/Conservation Organization, Ashland, OR - #501.16.12100.602)

Public Concern: The USDAFS & DOI should not increase thinning for fire management.

BECAUSE IT WILL INCREASE WILDLIFE HABITAT FRAGMENTATION

I . . . to strongly oppose increased logging and forest thinning as a response to forest fires.

Further fragmentation of wildlife habitat is completely unacceptable. This is especially so since there are other ways to deal with the threat of fire to populated areas. (Individual, Roanoke, VA - #128.2.64000.322)

Public Concern: The USDAFS & DOI should harvest diseased trees.

It is time for reversal of the policies of “management” of the National Forests that have caused fires of temperatures often as high as 1000 degrees with millions of acres of wildlife destroyed and the environment gravely damaged, soil sterilized; left lakes, rivers and reservoirs contaminated with ash-like soil runoff; caused the loss of billions of board-feet of timber that will otherwise have to be harvested, perhaps from abroad, because of the undiminished commerce and local communities of the fruits of the productive forests on the lands that the People have set aside for the purpose of timber production.

Lack of removal of diseased trees causes the spread of disease and the loss of assets on government and private land, as well as the corollary damage to wildlife and the environment. (Multiple Use or Land Rights Organization, Stony Creek, NY - #1707.3.61100.001)

TO CREATE FORESTS RESISTANT TO GYPSY MOTH DEFOLIATION

I am disturbed by extensive gypsy moth mortality in Appalachian national forests. I would like to see more timber salvage harvest to remove dead and dying trees and to create vigorous young forests resistant to gypsy moth defoliation. (Individual, Bend, OR - #645.4.61530.602)

Public Concern: The USDAFS & DOI should encourage firewood cutters to remove dead wood.

To correct the present situation, small targeted projects will not be enough. I believe that the following should be implemented.

All options for treatment should be considered and in areas such as the Red River drainage, firewood cutters should be encouraged to remove as much dead material as possible. They should not have to buy a permit and they should be allowed to take as much as they want. This will only remove some of the vast volume of dead standing timber; it is a good public relations tool that could be taken advantage of. (Individual, Grangeville, ID - #1669.3.61110.108)

Public Concern: The USDAFS & DOI should recognize that salvage timber harvest may do more harm than good.

A report recently authored by eight scientists states that they “are aware of no evidence supporting the contention that leaving large dead wood material significantly increases the probability of reburn.” (Beschta et al 1995) And a 2000 Forest Service report reviewing the results of studies of post-fire logging states “we found no studies documenting a reduction in fire intensity in a stand that had previously burned and then been logged.” The Beschta report further states that while “there is little reason to believe that post-fire salvage logging has any positive ecological benefits . . . there is considerable evidence that persistent, significant adverse environmental impacts are likely to result from salvage logging.” In addition, post-fire logging has few, if any, economic benefits. (Individual, Galax, VA - #1674.4.14000.001)

Scope of Proposed Fuels Reduction CE*Scope of Proposed Fuels Reduction CE General***Public Concern: The USDAFS & DOI should consider that the proposed fuels reduction CE is vague and ambiguous regarding what it covers.**

The activities to be covered will have a significant individual and cumulative effect, making them inappropriate for a categorical exclusion. The CE is defective because it is vague and ambiguous as to what will be covered by the CE. It does not define “hazardous,” as in “hazardous fuel reduction activities.” There is no indication of how much “reduction” would be allowed. The only check is that the fuel reduction project should be consistent with “A Collaborative Approach for Reducing Wildfire Risks to Communities and the Environment 10-year Comprehensive Strategy Implementation Plan.” But that document does not provide this information either. (Individual, Salt Lake City, UT - #1659.4.14120.000)

Public Concern: The USDAFS & DOI should consider that nearly any activity can fit under the proposed fuels reduction CE.**BECAUSE OF ITS BROAD WORDING AND FAILURE TO RULE OUT PROJECTS WITH EXTRAORDINARY CIRCUMSTANCES**

I am opposed to the creation of this category because we think it is so broadly worded and leaves so much open to agency interpretation that it is impossible for the agency to determine that there will be no individual or cumulative impact. Combine this with the rule that even if extraordinary circumstances are present the agency can still use a CE, then it is highly likely that most everything the agency does can be fit into this category, and if combined with the new proposal to CE many so-called “small timber sales,” it is a virtual certainty that there will be cumulative impacts. What evidence is available to suggest otherwise? (Individual, Brookport, IL - #460.1.14120.109)

Public Concern: The USDAFS & DOI should limit the activities allowed under the proposed fuels reduction CE.

SEDG supports necessary activities to minimize fire risk in the wildland-urban interface. However, this proposed rule categorically excludes activities which are likely to “individually or cumulatively have a significant effect on the human environment.” 40 C.F.R. [section] 1508.4. It must be revised to limit the size of excluded activities, place absolute priority on the wildland-urban interface, completely protect special biological areas and unroaded areas, and completely protect inventoried roadless areas and other “extraordinary circumstances”. (Preservation/Conservation Organization, Staunton, VA - #1493.2.64000.001)

I would argue that the forest service promulgate regulations allowing only for select harvesting, prohibiting removal of more than 25 percent of the canopy of any and every square acre per time period based on 1/4 to 1/3 of the timber stand’s natural life expectancy. (Individual, Waterville, OH - #264.1.61100.602)

*Spatial and Temporal Limitations***Public Concern: The USDAFS & DOI should limit the scope of the proposed fuels reduction CE spatially and temporally.****TO REDUCE THE POSSIBILITY OF CUMULATIVE EFFECTS**

The categorical exclusion as proposed has no spatial or temporal boundaries. CEQ regulations (40 CFR 1508.4) define categorical exclusions as “categories of actions that do not individually or cumulatively have a significant effect on the human environment.” to meet this definition, the proposed categorical exclusion must be defined and constrained. For example, the categorical exclusion should limit: 1) distance from communities, 2) maximum diameter of trees “thinned”, 3) maximum acreage treated. (Individual, Hampstead, MD - #1745.12.17810.300)

A major problem with the proposal is that it fails to limit the size or type of CE projects. Currently, the Forest Service NEPA Handbook only allows CEs for timber sales of up to 250,000 board feet and salvage sales up to 1 million board feet. Apparently, the CE for fuel reduction projects would not be bound by these or any other size limits. Contrary to early Administration assurances that the new CE does not apply to salvage logging, Forest Service officials have told congressional staff that CEs can be used for salvage sales if their primary purpose is fuels reduction. For example, if the Forest Service determined that an insect-killed forest posed a fire hazard, a salvage sale of unlimited size could be authorized with no environmental analysis. Even a massive post-fire salvage sale, like the Bitterroot Burn Area Recovery Project, might qualify for a CE on the theory that salvage logging will prevent the potential for catastrophic re-burn. In any event, the proposed CE would essentially do away with any existing size limits, since almost any logging activity could be labeled a fuel reduction project. (Preservation/Conservation Organization, Spokane, WA - #1610.20.17900.000)

The proposal concludes that these projects, individually or cumulatively, do not result in significant effects on the human environment. Yet, the proposal neither discusses the potential scale of individual projects nor the potential number of projects that might be categorically excluded as agencies pursue treatment on the cited 190 million acres of federal forest and rangeland at risk of severe wildland fire. We believe that it would be helpful and prudent to set some bounds on scale and number of projects that might be categorically excluded. Once again, this would help build understanding and trust. A limit on the number of projects annually, or total acreage, might also help allay concerns about the possibility of cumulative effects, given the extensive land area that might be treated. (Preservation/Conservation Organization, Washington, DC - #1726.6.17810.104)

If the Forest Service proceeds with this proposal, which we strongly discourage, additional programmatic “sideboards” should be imposed to sufficiently limit the location, size, and severity (size and percentage of trees cut) of categorically excluded hazardous fuels reduction treatments in order to minimize adverse effects. Effects avoidance should determine what these limitations are and should be specific to different forest types. In the case of the Coconino National Forest, for example, categorically excluded projects should be limited to the Urban Rural Influence Zone-a .5 mile buffer around private property that, according to new forest plan direction, is to be managed with an emphasis for protecting lives and property from catastrophic fire. (Preservation/Conservation Organization, Flagstaff, AZ - #1738.8.17900.001)

The proposal does not adequately define fuel reduction projects. Unlimited thinning consistent with the forest plans is essentially implementation of the forest plans without public input. We recommend that projects be limited in size, for example, no greater than the prior exemption for small, green timber sales, i.e., 250,000 board feet, and that tree diameter limits be specified by forest type and bio-region. Late seral areas should be added to the areas where the proposal would not apply. (Resources Agency, State of California, Sacramento, CA - #1705.13.64000.001)

Public Concern: The USDAFS & DOI should limit the scope of the proposed fuels reduction CE to lands identified as Condition Class 3 in the 10-Year Comprehensive Strategy Implementation Plan.

The Ruffed Grouse Society supports the proposal as outlined with two caveats:

Hazardous fuels reduction activities should be limited to lands identified as Condition Class 3 (extreme fire risk) in the 10-Year Comprehensive Strategy Implementation Plan. Although treatment of Condition Class 2 lands may be appropriate to minimize the likelihood that fire risk conditions will intensify on these lands, current resources are limited and are, therefore, best employed on Class 3 lands. (Preservation/Conservation Organization, Rice Lake, WI - #179.1.64300.101)

Public Concern: The USDAFS & DOI should not restrict the proposed fuels reduction CE by acreage, volume, diameter, species, or time period.

I agree that hazardous fuel reduction projects implemented under categorical exclusions should not: 1) be conducted in existing wilderness area; 2) use herbicides or pesticides; 3) involve the construction of new permanent roads or infrastructures and; 4) include timber sales that do not have hazardous fuels reduction as the primary purpose. However, in order to be efficient, timely and effective, hazardous fuel reduction CEs must not be unduly restricted by acreage, volume, diameter, species or time period limitations. We have an extremely volatile fuel problem throughout the western states and local resource professionals must not have their hands tied by “politically correct” barriers. (Place-Based Group, Chico, CA - #1373.4.64000.102)

Limitation to Specific Board Foot Amounts

Public Concern: The USDAFS & DOI should limit the volume of timber that can be harvested under the proposed fuels reduction CE.

The Forest Service has proposed other categorical exclusions that will allow for “small timber” harvests. Between these two CE categories, the Forest Service will likely be able to exclude a volume of timber sales reaching the historical highs of the late 1980s and early 1990s which resulted in some of the most severe ecosystem destruction in the latter half of the 20th century. To attempt to place a label of “no significant impact” on this agenda is absolutely bizarre and asinine. (Individual, Logan, UT - #1179.3.61000.322)

250,000 BOARD FEET FOR TIMBER SALES AND UP TO ONE MILLION BOARD FEET FOR SALVAGE SALES

[The proposal] does not follow current guidelines up 250,000 board feet and salvage sales up to 1 million board feet. An insect killed forest that poses a fire hazard or massive post fire salvage sale might qualify without environmental analysis. (Individual, Stillwater, MN - #1068.4.61200.102)

The increased administrative leeway to make unsubstantiated management decisions is not hindered by any acreage limitations. Currently, the Forest Service NEPA Handbook only allows CEs for timber sales of up to 250,000 board feet and salvage sales up to 1 million board feet. The CE for fuel reduction projects does not appear to be bound by any such size limits. Thus, the agencies conceivably could use the proposed hazardous fuels CE to conduct multi-million board foot timber sales with no environmental analysis or public involvement. (Preservation/Conservation Organization, No Address - #1724.17.61200.104)

LESS THAN ONE MILLION BOARD FEET FOR TIMBER SALES

[Limitations] would promote the propriety of scale necessary to prevent the plundering of our forests, while ensuring sustainability and equitably distributing the resources of the people. (More stringent regulations would likely attend the harvesting of old-growth forest.) Timber sales should be limited in size to less than 1 million board feet (subject to [additional canopy closure and harvest method] guidelines). (Individual, Waterville, OH - #264.3.61270.000)

Limitation to Specific Diameter Vegetation

Public Concern: The USDAFS & DOI should restrict timber harvest under the proposed fuels reduction CE to small diameter trees.

Please don't even talk about “sweetening the pot” with large trees for the timber industry, to make it economical for them to log trees in the 10” to 14” DBH range. (Individual, Grangeville, ID - #10.22.61400.001)

Specify that categorically excluded hazardous fuel reduction projects be limited to those fuels creating the greatest hazard, i.e., small-to-medium diameter trees and brush, unless removal of larger trees also is compatible with established wildlife habitat goals. (Preservation/Conservation Organization, Washington, DC - #1419.10.61400.313)

LIMIT TO UNDER 18” IN DIAMETER

I am not sure as to the extent to which the Forest Service and BLM will be using the proposed categorical exclusions for salvage logging. The language typically refers to hazardous fuels reduction which could literally include harvesting of 36” DBH ponderosa pines. The two agencies may wish to include some language in the proposed rules that hazardous fuels projects that are categorically excluded will not include any 18” to 24” DBH trees. It appears to me that some of the more rational environmental groups will tolerate the cutting of small trees. Of course, such an arbitrary 18” to 24” DBH maximum would end up protecting targeted western juniper trees that should be removed.

However, an arbitrary figure might alleviate the concerns or at least blunt the opposition of the more rational environmental groups. (Timber or Wood Products Industry, Eugene, OR - #686.6.61400.107)

BECAUSE REMOVAL OF LARGE TREES WILL INCREASE FIRE DANGER

These intended rules would not lessen the risks of forest fire. Indeed, the proposal would raise the danger of fires by promoting logging of large trees. Small, not large, trees are the fuel of forest fires. The elimination of anything but small trees and brush can detrimentally affect the forest environment in the long term. Cutting large trees will benefit the timber companies in the short term though will not promote forest safety. (Individual, Juneau, AK - #393.2.61400.001)

This proposal would increase rather than reduce the fire risk by increasing the logging of the large and the medium size trees which stabilize the forest floor and provide needed habitat to wildlife. (Individual, Stevensville, MT - #672.2.61400.001)

The HFI proposal would do nothing to reduce fire risk and could actually increase the risk of fires by increasing the logging of large and medium-size trees. Cutting anything larger than small trees and brush can have serious environmental consequences, including increased fire risks, and should be subject to careful environmental review.

The proposal is not bounded by any limits on the size of the trees that could be thinned. The Forest Service's recently released draft management plan for the Giant Sequoia National Monument proposes to cut trees as large as 30 inches in diameter for the purpose of hazardous fuel reduction. Potentially, these logging projects could be conducted as CEs if this regulatory proposal is adopted. (Preservation/Conservation Organization, No Address - #1724.18.61400.104)

Clearing of brush and thinning of small diameter timber—the types of activities that the Departments are claiming will be implemented with the proposed CEs—generally do not generate appreciable revenue, either for the U.S. Treasury or for the contractor. Because the fuels reduction projects cannot pay for themselves, merchantable timber—usually mature and old growth forests—are included as part of the project.

This ignores the fact that commercial logging can often exacerbate fire prone conditions by removing fire resistant trees, drying lower fuels by opening the canopy, and leaving slash in the areas that were logged. The CE opens the door to increased logging of mature and old growth forest in the name of “fuels reduction”. (Individual, Seattle, WA - #1138.7.61400.113)

It's also come to my attention that your very own scientists have found that logging, including “thinning,” may actually increase the risk for wildfires, both in number and intensity, despite the argument by the administration that says this new rule would “reduce” the risk of forest fires. If this is one of their main reasons behind enacting this new rule and waiving the logging reviews, then why is it they your service plans to cut scarce large, fire resistant trees in California's Giant Sequoia National Monument? (Individual, Mount Horeb, WI - #827.3.61400.001)

Public Concern: The USDAFS & DOI should allow timber harvest under the proposed fuels reduction CE to include large diameter trees.

We need to stop choking on the word “timber harvest.” It is a legitimate concept. To simply “thin” the young trees is not forestry. We must harvest the large old green trees as well as some of the small green trees, dead trees and burned trees. We will never solve the forest health problem and catastrophic wildfire problem unless we provide access roads into the old-growth firetrap forests and make these trees part of the harvest plan, thereby creating healthy more fire resistant forests. And we must come back to realize again, as we did in the past, that our public forests have commercial value, that they are the source of our paper, plastic and building products.

We have sufficient old-growth timber in the millions of protected acres of designated wilderness. We do not need to make old-growth off-limits on our multiple use federal lands. (Individual, Townsend, MT - #1204.8.61400.001)

Limitation to Specific Structural Components

Public Concern: The USDAFS & DOI should not allow timber harvest under the proposed fuels reduction CE to include old growth.

Please avoid touching old growth forests where possible. (Individual, Bellingham, MA - #1273.2.34120.603)

I am greatly dismayed that the Bush administration is considering increased logging of what I consider one of America's greatest treasures. When mistakes like these are made, there is no easy fix. There is no way to bring back an ancient forest—we will not get a second chance to preserve our heritage. We will not get a second chance to show this generation and following generations that we care for America and its unique treasures. It is hard to understand why the Bush administration is systematically destroying the things that make America. (Individual, San Francisco, CA - #417.3.61000.709)

There are so few giant trees left, trees that once dominated our forests; each one should be a national landmark. I've heard BS phrases like "over-mature" (read "vener") used to rationalize destroying 250 year old trees, the few that made it through the timber holocaust of last century and this one. Maybe you think I'm some environmental idealist because I don't want to see any more politically and economically motivated over-harvest and pillage of our public lands. I am not against the timber industry, and coming from a state with a large timber industry I know that the lumber companies own more land than the forest service and state forests. Yet they still always voice the need to go in and cut our public forests, with little of the money reinvested into our national and state forests. (Individual, Marlinton, WV - #790.7.61100.707)

Some areas this proposal wants to log are the large, fire-resistant trees in California's Giant Sequoia National Monument. I previously lived in California, hiked among the redwoods and sequoias and know for a fact that these trees are fire-resistant. You can see where lightning has struck them and they have survived with the fire not claiming much before it is put out. So, why would the rules not address those elements that can cause fire, such as small trees and brush rather than focus on trees specifically the timber industry wants to log? (Individual, Thornton, CO - #541.4.64000.106)

The answer is not clear-cutting ancient trees. A sound fire prevention plan would recognize that old growth forests are key to preventing catastrophic fires. What is required is the simple thinning of brush around communities that are most susceptible and a cessation to building communities near those forests. (Individual, Cleveland Heights, OH - #1070.2.64000.710)

BECAUSE OLD GROWTH IS AT REDUCED RISK OF FIRE

The present CE rules are adequate for true fuel reduction projects. I fear that the "Healthy Forest Initiative" would simply make it easier to log the few big trees, the anchors of the forest ecosystem that remain. Anyone who has read the literature knows that if large trees are cut fire danger would actually increase, due to increased sunlight drying out the forest and stimulating brush growth. A healthy old growth forest is like a sponge conserving moisture and life. With the near drought like conditions we are experiencing this year, we can hardly take such risks. (Individual, No Address - #1654.2.34120.602)

BECAUSE LARGE TREES SERVE AS FIRE BREAKS

We are apposed to the “Categorical Exclusions” rules the Bush Admin. proposed on Dec. 13, 02. This expediting of cutting big trees which serve as fire breaks, even in Sequoia Nat’l. Forest is unconscionable!

More protection is likely with cleaning up the brush and smoke vegetation near homes and communities. This is a way of preserving our grand old forests for generations. (Individual, Torrance, CA - #1140.1.64000.001)

BECAUSE OLD GROWTH IS NECESSARY TO PRESERVE ECOSYSTEMS

Once the old trees are gone, there is no going back. The eco-systems that live in the shelter of the old growth are a precious resource that is not to be squandered for profit. It belongs to the future generations of this country and is sacred. I urge you to acknowledge this. (Individual, Harrisburg, PA - #1595.4.34120.001)

I realize that this has been tucked away from the public’s eye for the most part because it is clear that our interests to thin the forests have nothing to do with minimizing fires or “maintaining” forests; this is all about logging. Many documented studies have shown that thinning forests actually stresses the forest equilibrium and can lead to both larger forest fires as well as insect infestation. These forests have reached a natural state of balance over thousands of years; we don’t need to interfere with this. Don’t you think we do enough of harming our environment without logging? Please take action now to think of the grave consequences this administration and this bill have on our environment. Logging is not the answer. (Individual, No Address - #1046.2.61000.602)

Logging and its accompanying road-building—even temporary road-building—disturbs the soil of a forest, and opens up the way for invasive plant species that can crowd out native plant species. This in turn can affect the food supply of the animals in the forest. Cutting large trees creates more space for brush and small trees, and lets in more sunlight, which can dry out the forest. Both these conditions contribute to forest fires. (Individual, Eugene, OR - #1718.3.61100.001)

Having been a wood worker for 25 years I understand our nation’s need for wood and wood products. The time for unlimited use of our wood resources is no longer viable. Though I love the beauty of old growth wood in homes it is best to leave this craftsmanship as a historic period and move on. The little old growth wood we have left in this nation is needed for wildlife, recreation and environmental health. (Individual, Bellingham, WA - #424.1.61000.001)

We need forests healthy in order to have our water. And if you continue to take our old growth from our lands and let private logging companies clear cut our lands, we will not only be without our forests, we will be without the very waters we drink. This does not even take into [account] the rivers and streams that sustain our fish. (Individual, No Address - #1279.5.61100.304)

BECAUSE OLD GROWTH COUNTERACTS THE EFFECTS OF GLOBAL WARMING

There is one main issue behind the threat of fire to forests around the world, isn’t being addressed thoroughly in my opinion. That is the continuation of the heavy use of fossil fuels that make the green house gases that cause global warming.

The threat of forest fires has much to do with the changing climate of the earth, caused from this global warming. For example, many of the fires that wiped out areas like the Bitterroot Forest in Montana were because of a continuous low snow pack in the mountains. These drought conditions continue, as do other climate changes like “el Nino” that are affecting the Northwest Cascades and Olympics this winter. Both areas are already in drought conditions where the water reserves are very low. And the forests are going to be in even larger danger of fires again this season.

Drought conditions and low snow pack will continue to threaten the forests and get worse as the effects of global warming increase. And we will eventually have to address what we can do to help calm or reverse these effects.

Having large trees and mature, healthy forests will only be to our advantage to help calm these global weather changes. (Individual, Seattle, WA - #273.2.31600.602)

BECAUSE OLD GROWTH IS NECESSARY TO PRESERVE WATER RESOURCES

It is so important to protect the old growth forests. Did you know that they are an essential part of the system that maintains our freshwater sources? Adequate water supplies will probably be the issue of the 21st century and this isn't the time to weaken protection on the source of clean water from underground aquifers. (Individual, Birmingham, MI - #211.1.34120.305)

BECAUSE OLD GROWTH IS NECESSARY TO PRESERVE HABITAT FOR ENDANGERED SPECIES

The best habitat for our threatened and endangered fish is in old growth forests and roadless areas. Please stop using fuels reduction as a way to cut more trees in these areas. Please stop pitting the forest industry against the fishing industry. Please save the remaining old growth forests and roadless areas for the many non-timber uses that they have. (Individual, Grants Pass, OR - #930.4.33200.300)

BECAUSE OLD GROWTH WILL BENEFIT FUTURE GENERATIONS

We must preserve the old growth forest and the wild life that depends on it for future generations. (Individual, Owensboro, KY - #212.1.34120.705)

Public Concern: The USDAFS & DOI should place stand type cover reduction percentage limits on timber harvest under the proposed fuels reduction CE.

As currently stated, the first proposed CATEX (hazardous fuels reduction) could be misapplied to the clear cutting of an unlimited number of forest acres. The first proposed CATEX (hazardous fuels reduction) should limit the extent of fuels reduction, such as reduce hazardous fuels to stand health requirements (i.e., cover percentage for each stand type). This limitation would prohibit clear cutting and ensure that a healthy and viable stand remains after the proposed project is completed. (Individual, Mount Airy, MD - #1388.2.17900.603)

NO MORE THAN 25 PERCENT OF THE CANOPY

[Limitations] would promote the propriety of scale necessary to prevent the plundering of our forests, while ensuring sustainability and equitably distributing the resources of the people. (More stringent regulations would likely attend the harvesting of old-growth forest.) I would argue that the Forest Service promulgate regulations allowing only for select harvesting, prohibiting removal of more than 25% of the canopy of any and every square acre per time period based on 1/4 to 1/3 of the timber stand's natural life expectancy. (Individual, Waterville, OH - #264.1.61100.602)

Public Concern: The USDAFS & DOI should not require timber harvest under the proposed fuels reduction CE to maintain 50 percent canopy closure.

The rules from the Sierra Framework also should be over ridden by HFI. Specifically the requirement of maintaining a 50% or greater canopy closure. A 50% canopy closure is too restrictive for fuelbreaks and will diminish the proper functioning of fuelbreaks. HFI projects should be exempt from maintaining a 50% canopy closure. (Individual, Oroville, CA - #8.4.64120.100)

Limitation to Specific Acreage Amounts

Public Concern: The USDAFS & DOI should place acreage limits on timber harvest under the proposed fuels reduction CE.

The first proposed CATEX (hazardous fuels reduction) should also have a physical size limitation (i.e., number of acres) over which the CATEX cannot be used and an Environmental Assessment or Environmental Impact Statement would be required. This is because for every project there is always a threshold over which proposed projects would become significant (i.e., the point at which the area of influence of the hazardous fuels/ignition potential ends). As currently stated, the new CATEX would allow a single hazardous fuels reduction project covering an entire BLM District or National Forest. (Individual, Mount Airy, MD - #1388.3.17910.322)

I am opposed to the categorical exclusions because there is no size limit to the areas that can be logged for hazardous fuels. I believe that our forests are dwindling as the demand for wood stays at a steady rate. I would like future generations to be able to experience the National Forests of our country as I have. (Individual, Prescott, AZ - #1782.2.17900.705)

I urge you to adopt the following suggestions from NASF, which are intended to help the USDA and the Interior Department ensure that the CEs serve as effective tools for forest management.

Maximum Acreage Limit Needed

In order to avoid the potential for abuse of hazardous fuels reduction projects, the fuels reduction CE should have a maximum acreage size limit established through a careful analysis of the 3,000 projects and which reflects regional variability. There is no size limit on CE thinning projects as proposed in the Federal Register notice, nor are there size limits in the 10-Year Comprehensive Strategy Implementation Plan. Although most managers will be cautious in using such a CE, some could try to shoehorn exceptionally large projects that may be difficult to justify as having no significant impact. (National Association of State Foresters, Washington, DC - #1731.2.17900.000)

250 ACRES

The proposal concludes that these projects, individually or cumulatively, do not result in significant effects on the human environment. Yet, the proposal neither discusses the potential scale of individual projects nor the potential number of projects that might be categorically excluded as agencies pursue treatment on the cited 190 million acres of federal forest and rangeland at risk of severe wildland fire. We believe that it would be helpful and prudent to set some bounds on scale and number of projects that might be categorically excluded. Once again, this would help build understanding and trust. Much of the research that we have seen on hazardous fuels reduction through mechanical treatments has focused on relatively small acreages, usually tens to hundreds of acres. As a suggestion, categorical exclusions might be limited to projects that use mechanical treatments on up to 250 contiguous acres. (Preservation/Conservation Organization, Washington, DC - #1726.5.61200.108)

2500 ACRES

Treatment of fuels where they are piled and burned or mechanically chopped and left in place are of relatively minimal impact, and I do support their inclusion in the CE category. Still, an upper limit should be placed in the category, perhaps 2,500 acres or no more than 30% of a sub-watershed. (Individual, No Address - #1754.3.64000.602)

Public Concern: The USDAFS & DOI should allow flexible acreage limitations on timber harvest under the proposed fuels reduction CE.

I fully support the inclusion of the new categories. I do however wish to express the following concerns regarding the proposed rule:

The acreage limitations in the proposed CE are too small. There are presently areas of great fire risk which exceed the acreage limitations. Having more flexible acreage limitations would allow more potential projects to move forward. (Timber or Wood Products Industry, Chadron, NE - #1855.5.17900.602)

*Limitation to Number of Projects within a Geographic Area***Public Concern: The USDAFS & DOI should limit the number of proposed fuels reduction CE projects within a given geographic area.**

We are concerned with the inadequate sideboards of the proposal:

The lack of criteria determining how many such ongoing projects would be allowed in drainage or other geographical area at any one time. The ability to categorically exclude projects was judicially withdrawn from the Forest Service because of its previous penchant to abuse the principle. Without some sort of criteria, it is easily conceivable and possible that history will repeat itself. It would be best to get ahead of this possibility, by putting in place sideboards that could constrain the agencies' predilection. (Preservation/Conservation Organization, Kalispell, MT - #388.5.17900.322)

TO PROTECT WATER QUALITY

There is no restriction on the number of projects that can occur in one watershed at the same time. Therefore, several ground disturbing projects, although small in size, could cumulatively result in violation of state water quality standards for sedimentation and other parameters. (Preservation/Conservation Organization, Santa Fe, NM - #1766.7.17900.305)

*Limitation to Urban-Wildland Interface Areas***Public Concern: The USDAFS & DOI should limit application of the proposed fuels reduction CE to urban-wildland interface areas.**

We point out that there are no restrictions regarding where the fuels reduction CE may be used. The Departments' stated intention with this categorical exclusion is to reduce the threat to human safety and of property loss. 67 Fed. Reg. 77,039. The Departments have failed to demonstrate how the fuels reduction CE will meet this purpose and need.

It is well established through research by Jack Cohen and others that clearing ignitable materials such as brush and shrubs, and thinning small diameter trees from within 1/4 to 1/2 of a mile around homes and communities creates a defensible space great enough to greatly reduce the risk to lives and property. See generally, Jack D. Cohen, U.S. Department of Agriculture, 'What is the Wildland Fire Threat to Homes?' (2000).

There is no indication that the Departments have incorporated this valuable scientific research into the design of the hazardous fuels reduction CE. The best available science counsels that in order to reduce threats to human life and property, a 1/4 to 1/2 mile buffer should be created around homes and communities. Failing to include this restriction in the proposed CE suggests that the Departments are merely using the CE in an effort to increase logging of merchantable (i.e., large diameter) timber, rather than as a tool to reduce potential loss of property and lives. Consequently, we recommend that the Departments include such a restriction in the final categorical exclusion. (Preservation/Conservation Organization, Fossil, OR - #314.15.64000.602)

Exclusions from NEPA documentation should be narrowly defined and supported by compelling reasons. The Forest Service proposed to exempt fuels reduction activities from NEPA documentation to “better protect lives, communities, and ecosystems from the risk of high-intensity wildland fire.” 67 F.R. 77039 (2002). This justification, however, applies primarily in the wildland-urban interface, where communities are actually at risk. In wild areas outside the interface, where fuels reduction may be unnecessary, full NEPA analysis must continue. (Preservation/Conservation Organization, Charlottesville, VA - #861.4.17800.710)

A major flaw in the proposal is that it does not focus on reducing fuel loads in forest areas most likely to protect communities and homes from fire—that is, in the wildland urban interface, where the best methods available are selective thinning of small-diameter trees and carefully conducted prescribed burns. Instead, the proposed exemption from NEPA Documentation applies equally to fuel reduction projects almost anywhere in the National Forest System. It is possible, then, that an unnecessary amount of “thinning” could be done in the remote backcountry, where fires are not a direct threat to property or lives but where the trees are the most commercially valuable. (Individual, Topeka, KS - #1451.5.64000.001)

We believe that if categorical exemptions are to be used for hazardous fuels reduction projects, the location, type, and size of projects will need to be clarified and limited to within the wildland-urban interface. Hazardous fuels reduction projects should proceed without commercial timber production, need to involve the public and independent fire scientists, and should be integrated with a complete Fire Management Plan that reestablishes natural fire regimes. (Preservation/Conservation Organization, Boise, ID - #1722.2.64000.001)

As a resident of the forest/urban interface (I live in a small town in SE Colorado, not a city). I want to urge you that any thinning of forests to reduce the treat of wildfires should concentrate on the actual interface of human communities and overgrown forests. Cutting should not be done in remote areas, wild areas, and roadless areas. Thinning operations should also focus on non-commercial cutting—brush and small trees. As a person who works in a Mountain Park and is involved in the implementation of our own thinning program, I know that the most important vegetation to remove to reduce fuel load and ladder fuels are small trees and brush—there is little if any justification for removing large trees that will be used to make lumber. Care must also be taken in regards to nesting of birds (both common and endangered or species of concern) and other wildlife habitat issues. Science, not hysterical attitudes or politics, must be the guiding forces of such projects. (Preservation/Conservation Organization, Beulah, CO - #909.1.64000.001)

WITHIN ONE-FOURTH TO ONE-HALF MILE OF HOMES

In the case of very small areas where fire management is needed, these areas should be identified and treated as a part of an overall management program. I am not in favor of categorical exemptions at all, but if they are to be used in special situations, I recommend the following: Treatment area is no more than ¼ to ½ mile of homes, in forest habitats useful for thinning. (Individual, Springfield, MO - #661.2.61200.000)

WITHIN 150-200 FEET OF STRUCTURES.

What we need to do is stop fires from destroying people’s house and other structures. For that, fire research shows that all we need to do is thin forests within 150-200 feet of buildings. This result comes from research by the Forest Service into what makes wildfires damaging. See, for instance, these articles:

Jack Cohen and Jim Saveland. 1997 Structure ignition assessment can help reduce fire damages in the W-UI. Fire Management Notes 57 (4) :19-23.

Jack D. Cohen. 2000. Preventing disaster: Home ignitability in the wildland-urban interface. Journal of Forestry 98(3) :15-21.

This research has been summarized as follows (New York Times, 8/27/02):

The Forest Service's Fire Science Laboratory in Missoula, Mont., the premier laboratory to study fire behavior, recently found that the only thinning needed to protect houses—even in the most tinder-dry forest—was within a “red zone” of 150 to 200 feet around the building. Jack D. Cohen (a research scientist at the lab) said that from the standpoint of protecting the houses, it does not matter what happens to the forest 200 feet away.

We don't need massive amounts of logging to thin the National Forests; we need only a bit of thinning, targeted at areas very close to homes and other structures. (Individual, Corvallis, OR - #1243.2.64000.710)

WITHIN 500 YARDS OF COMMUNITIES

Rather than increasing the logging of healthy trees throughout our forests, I feel that the government should implement a plan which would focus on fuel reduction for 500 yards around communities. This seems to be a better alternative to the proposed plan which could increase environmental damage, and could actually increase the risk of fire, due to the loss of cooling shade trees. (Individual, No Address - #1534.2.61200.001)

Forest fire prevention to protect buildings is not accomplished by cutting down large trees. Forest fire prevention to protect buildings is accomplished by clearing brush within 500 or so yards of “civilization”.

You do not need me to tell you the above. What you need to hear from concerned taxpayers and voters like me is that the UDSFS is by charter charged to manage the forests for citizens—not for logging interests. (Individual, Spokane, WA - #1558.2.64000.710)

WITH 40 ACRE LIMITS ON SIZE

I think that moderate habitat manipulation in the vicinity of habitable structures should be considered and if not too substantial (say thinning in less than 1/4 of 1/4 section - 40 acre areas) could be considered without full NEPA protections. (Individual, Rock Springs, WY - #1021.2.61220.710)

Public Concern: The USDAFS & DOI should not limit application of the proposed fuels reduction CE to urban-wildland interface areas.

The hazardous fuels reduction C.E. should not be limited to urban areas. While these areas may be a priority, wildfires usually start outside these areas and burn toward private lands. There is a need to reduce the hazardous fuels from the higher elevation areas outside the urban interface. (Timber or Wood Products Industry, Eureka, MT - #847.3.64000.710)

Public Concern: The USDAFS & DOI should adopt an adaptive management approach for categorically excluded fire management projects.

WHICH PRIORITIZES URBAN-WILDLAND INTERFACE PROJECTS AND EVALUATES THE RESULTS SCIENTIFICALLY TO GAIN PUBLIC ACCEPTANCE

We recommend the FS and BLM adopt an adaptive management (AM) approach to categorically excluded hazardous fuel reduction projects. Begin the AM approach by selecting the highest priority projects in each region that are within one mile of the urban/wildland interface or other area of high conservation importance; build an evaluation procedure (scientific sampling design, etc.) in the CATEX; conduct an evaluation of the effectiveness of the CATEX option for this type of activity to verify that the CATEX activities have no significant effects on the human environment; involve the public in the evaluation; and adapt future uses of the CATEX based on the efficacy of the treatments and public acceptance of the process. (Preservation/Conservation Organization, Washington, DC - #1419.11.60000.739)

We urge you to consider a more adaptive management approach to hazardous fuels reduction. This is the approach that your agencies and the Council on Environmental Quality are employing for expedited environmental assessments, for example. Relative to hazardous fuels reduction, you should begin with a

limited number of projects per region, conduct an evaluation of the effectiveness of the CATEX option for this type of activity, involve the public in the evaluation, and adapt future uses of the CATEX based on the efficacy of the treatments and public acceptance of the process. (Recreational/Conservation Organization, Boulder, CO - #1435.12.60200.739)

Public Concern: The USDAFS & DOI should construct fire buffers between trees and residences.

I think we should take more steps toward building fire buffers between trees and people's residences and find ways for them to live harmoniously with nature. You must ask yourself, what was here first, the tree or the house? But that is another story. For now we must try and do all we can to protect all interests while still preserving the sanctity of our natural resources. (Individual, No Address - #997.2.64000.710)

Public Concern: The USDAFS & DOI should use their expertise to genuinely reduce fire risk to communities.

WITHOUT CATERING TO THE TIMBER INDUSTRY

Please use the Forest Service's combined brain power and expertise to figure out ways to genuinely reduce fire risk to homes and other structures, without capitulating to the timber industry's whining about lack of freedom to remove trees from our pristine lands. (Individual, Charlottesville, VA - #1001.4.64000.710)

Public Concern: The USDAFS & DOI should protect rural communities from wildfire that originates on federal land.

I must emphasize the important point that rural people deserve protection from fires originating on lands owned by the U.S. Government. Communities should be extended the normal legal and human relationship that any neighbor would be forced to abide by. No person is allowed to create an extreme fire hazard to the homes, property and lives of his neighbors! It is the duty of the United States Government to eliminate fire hazards to neighboring properties that originate on the Government-owned land. (Multiple Use or Land Rights Organization, Stony Creek, NY - #1707.6.64000.710)

Public Concern: The USDAFS & DOI should implement projects similar to the one implemented in Roslyn, Washington.

A Wildland Urban Interface project that was implemented in Roslyn, WA is a good example of a collaborative, cost effective way to reduce fire risk danger to citizens, while generating widespread support from local land managers, citizens, environmental groups and political leaders. We implore you to use this example to guide fire risk reduction proposals. (Preservation/Conservation Organization, Bellingham, WA - #1410.8.64000.710)

Fuels Management on Private Lands

Fuels Management on Private Lands General

Public Concern: The USDAFS & DOI should encourage the proper treatment of fuels on private property in the community protection zone.

The best available science counsels that the protection of houses and communities from the threat of forest fire depends upon the proper treatment of the community protection zone—the area directly adjacent to houses and communities. The protection of the house depends entirely on treatment of the home ignition zone—the house itself and the area within 60 meters (200 feet) of the house. This is necessary to protect the house from the various forms of ignition present during forest fires, regardless of what treatments are implemented in the adjacent forest. In addition, an overlapping community protection zone can provide opportunities for firefighters to protect other flammable features of a community. The largest community protection zone required under maximal conditions is less than 500 meters (approximately 1/4 mile) wide. However, most communities require treatment extending less than 1/4 mile from the house. (Individual, Indianapolis, IN - #896.9.70300.739)

Zoning and Regulations

Public Concern: The USDAFS & DOI should encourage local communities to implement zoning and building code restrictions.

Cities and counties should be passing zoning ordinances to prevent people from building in hazardous areas. I don't think federal taxpayers should subsidize people's foolish housing decisions by trying to make forests fire-proof. (Individual, Victor, ID - #369.3.70130.740)

There are plenty of more environmentally sound and effective ways of controlling fire. These include keeping people's homes a safe distance from the forest's edge through intelligent zoning, fireproofing them, and inducing controlled burns that are carried out by skilled people who wouldn't let them get out of control. (Individual, Hoboken, NJ - #1173.5.64900.602)

Put in place strong building codes describing allowable types of structures and building materials to be used for future construction in the wild land urban interface. Enforce them. (Individual, La Grande, OR - #383.3.70130.710)

Public Concern: The USDAFS & DOI should support a prohibition on building homes adjacent to forests.

The only thing bad about forest fires are that people's houses are getting burned down, but people don't belong there anyway. The solution is to ban people from building their homes in and around these old growth forests; the only humans who belong in forests are indigenous peoples who live off the land. (Individual, North Wales, PA - #1081.2.70130.000)

Another factor contributing to public harm is that more people are building homes on land directly adjacent to public forest lands, regions referred to as the wild land-urban interface. The concentration of residential property in these regions increases the risk that wildfires will destroy property and endanger lives. (Individual, Springfield, VA - #1466.5.70130.710)

Technical Assistance

Public Concern: The USDAFS & DOI should provide assistance to homeowners at risk from wildfire.

In response to recent action by the Bush administration, I am writing to express my very strong opposition to the "Categorical Exclusions" rules the administration has proposed. Instead of facilitating the interests of the timber-cutting industry, please ask the Bush administration to expand efforts to truly provide assistance to homeowners at risk from wild fires. Cutting of large fire-resistant trees in pristine areas will not help the environment or homeowners. Do the right thing by withdrawing this Bush administration proposal. (Individual, No Address - #155.1.64000.001)

Public Concern: The USDAFS & DOI should work with home owners to reduce nearby flammable materials.

To protect homes that are built inside our national forests I recommend that the Forest Service work with individual home owners to clear away nearby flammable materials. (Individual, Watertown, MA - #657.2.64000.710)

Education and Outreach

Public Concern: The USDAFS & DOI should educate the public about fireproofing buildings.

I urge you to increase public education regarding fireproofing buildings and attending to vegetation close to structures and communities. Please withdraw this proposal immediately and come up with a plan to safeguard our forests, not increase the profits of the timber industry. (Individual, Stevensville, MT - #672.3.64000.710)

People who build their new home in the woods should be educated on how best to protect their house by removing fire fuels close by.

Prescribed and controlled burns with light thinning is the best way to reduce catastrophic wildfires. (Individual, Riggins, ID - #1658.2.64000.710)

Public Concern: The USDAFS & DOI should educate the public about the risks they assume by inhabiting areas adjacent to forests.

I don't believe this proposal would reduce fire risk. I urge you to expand the Forest Service's efforts to genuinely reduce fire risk to homes and other structures by directing resources to educating the public about the hazards of home and business ownership adjacent to forested lands. It is only common sense that nature will prevail at some point, and there is never a guarantee to anyone's safety in any location. The risk must be acknowledged and accepted, or the individual should make the prudent choice to move on. The remaining American landscape should no longer be sacrificed for the abuses of suburban sprawl. Our environment needs protection not destruction. (Individual, Madison, CT - #578.2.70130.001)

There have always been some fires due to lightening strikes, and nature has both lost and gained by occasional burns of tracts of forest; the quintessential contemporary problem in terms of human and property losses derives not from nature, but from our insistence upon living in areas formerly considered wild. People should be reasonably informed of the extra risk they take in inhabiting these places. (Individual, Chicago, IL - #274.3.70130.602)

Persons who build near national forests should be aware that there is a fire hazard when they build there just as persons building on ocean fronts are aware of flood damage. The ocean is not destroyed in that case and the forests should not be destroyed to protect these homes. It should be home owner responsibility to take proper fire protection to protect their homes from forest fires. (Individual, No Address - #772.6.70130.703)

Public Concern: The USDAFS & DOI should encourage local residents to remove fuel.

Have local people cut down the trees that are hazardous. There are more than enough Navajo and Hopi who would be willing to cut these trees for firewood and construction purposes. I would be willing to set up the program if you wish. (Individual, Flagstaff, AZ - #1332.8.61000.001)

Financial Assistance and Incentives

Public Concern: The USDAFS & DOI should provide incentives and funding to communities and home owners.

TO CLEAR BRUSH AND FIREPROOF STRUCTURES

Assistance needs to be provided to communities in these areas. Following are some suggestions to take pre-emptive action, while maintaining old-growth and other aspects of forest health.

Offer incentives and funding to help landowners protect buildings currently contained in the wildland urban. All flammable brush and small trees need to be removed and buildings fireproofed. Use current true science to determine what these perimeters should be within the so-called Community Protection Zones.

This is a measure which could provide prompt and effective assistance to the communities the “Healthy Forests Initiative” purports to be designed to aid. In addition, it would begin to restore the natural fire cycles in the backcountry science has shown maintains forest health and reduces risk of catastrophic fire, all without suspending the environmental safeguards we so need to honor if we hope to have a healthy planet to pass on to future generations. (Individual, La Grande, OR - #383.2.64000.703)

Buildings should be fireproofed and granted, there are certainly areas that do need to have trees and brush thinned around them. Yet, I think it would be more effective to provide funding that offers incentives for people to take personal responsibility in fireproofing their homes. You should be working with community organizations to increase the number of people who truly understand this issue and wish to do something about it. (Individual, Williamstown, NJ - #946.2.64000.710)

Public Concern: The USDAFS & DOI should offer low cost fire insurance as an incentive for at-risk communities to reduce hazardous fuels on private lands.

Assistance needs to be provided to communities in these areas. Following are some suggestions to take pre-emptive action, while maintaining old-growth and other aspects of forest health.

Offer low-cost fire insurance or other incentives to only those property owners who participate in these pre-emptive measures.

This is a measure which could provide prompt and effective assistance to the communities the “Healthy Forests Initiative” purports to be designed to aid. In addition, it would begin to restore the natural fire cycles in the backcountry science has shown maintains forest health and reduces risk of catastrophic fire, all without suspending the environmental safeguards we so need to honor if we hope to have a healthy planet to pass on to future generations. (Individual, La Grande, OR - #383.4.70120.736)

Public Concern: The USDAFS & DOI should charge for wildfire protection service.

Instead of putting public lands at risk so that logging companies can benefit financially from “hazardous fuel reductions”, why not simply make those who use the wildfire protection service pay for it. Those who live in the cities who understand that fire is a natural part of a forest and those who live in the forest and prepare for the inevitable fires by clearing defensible areas around houses and clearing out underbrush and so forth are pretty annoyed at the sacrifices of pristine public lands, the blatant catering to private interests, and the facade of public service that this policy enacts. (Individual, Fort Collins, CO - #579.4.64000.710)

Public Concern: The USDAFS & DOI should not provide firefighting services for homes built in fire prone areas.**TO REMOVE INCENTIVES FOR RESIDING IN THESE AREAS**

Longer term we have to remove the incentives for building housing in forest fire prone areas. There is a moral hazard in providing fire fighting services for free where people should not be building in the first place. If we have stopped encouraging people building in the floodplains why are we still encouraging them building in fire plains? (Individual, Washington, DC - #483.7.70130.703)

Fire Management

Fire Management General

Public Concern: The USDAFS & DOI should reduce fire danger through a variety of methods.**NOT JUST THROUGH TIMBER HARVEST**

I recommend changing the way the Forest Service does fuels reduction work - to abide by our nation’s laws, to be in touch with the will of the public and to be more effective. We who live in fire-prone places like the Siskiyou Wild Rivers area, site of the largest wildfire of the 2002 fire season, do not need more loopholes—we need real fuels reduction in the plantations and young, previously logged areas around our communities. (Since there are far too many acres with excess fuels for the limited funds available, efforts should concentrate on the areas where the most protection can be obtained for the dollar, and this means primarily in the immediate vicinity of homes and communities.) But beyond logging, much can and should be done to reduce fire danger, including prescribed burning, the removal of small diameter fuels, the decommissioning of unneeded roads (a common ignition source of fires) and the protection of fire-resistant mature and old-growth forests. The Forest Service should start on this work instead of wasting time and money on another round of controversial logging. (Individual, Cave Junction, OR - #1420.3.64000.001)

Public Concern: The USDAFS & DOI should determine fire management according to the type of forest under consideration.

Fire management should be determined by the type of forests under consideration, and the best scientific data we have on how to properly manage their fire regimes. (Individual, Bellevue, WA - #1003.4.14100.602)

Public Concern: The USDAFS & DOI should manage forests so as to prevent crown fires.

Control of the loss of wildlife habitat, watersheds and private property through wildfire can only occur by aggressively managing our National Forests so that the stands may burn but they will not result in crown fires.

A recent study by Carl Fiedler, at the University of Montana has very good information showing how stands must be treated to reduce the destruction by wildfire. (Business, Columbia Falls, MT - #1617.3.64100.322)

Public Concern: The USDAFS & DOI should consider that the proposed fire management CEs will increase fire danger.

Much of the current science indicates that a combination of past logging practices, road building, fire suppression and climate change have been responsible for the recent increase of catastrophic wildfires. The casual observer of the 2000 fire season could notice many ignition points near roads or in clearcuts on the Kootenai. Our organization is very concerned that the expanded Categorical Exclusion language will only increase fire danger across the landscape as a whole. The Kootenai National Forest has a varied and complex fire history, one that cannot be mimicked by such heavy-handed and simplistic means as are being proposed. The "one size fits all" approach to ecological systems will not work in the Northern Rockies. (Place-Based Group, Troy, MT - #1743.4.14000.109)

Many respected scientists have said that the proposed rules would do nothing to reduce fire risk; they would actually increase the risk of fires. (Individual, Bronx, NY - #286.4.14100.602)

THROUGH ACTIVITIES SUCH AS TIMBER HARVEST, ROAD CONSTRUCTION, AND GRAZING

The fuels CE rule as published fails to acknowledge that logging, thinning, road building, and grazing may actually increase fire risk and/or severity and thus have significant and cumulative impacts on the human environment. (Individual, West Lebanon, NH - #1771.4.14120.300)

Public Concern: The USDAFS & DOI should reinstate natural fire ecology.

Fuel Reduction projects that do not reinstate the natural fire ecology of a region are a waste of money, time and effort. For example, the Oconee National Forest in GA is in the Piedmont eco-region, one that has a fairly frequent fire return interval. However, the burns that are proposed on that Forest are for the purpose of fuel reduction and need to be repeated every three years to provide any protection. However, if the natural fire regime was restored and the natural ecosystem (primarily grasses) was restored, the risk of wildfire would be drastically reduced, the risk of fire damage to urban areas would be virtually eliminated, and the cost to the Forest Service would be a one time expenditure that would not have to be repeated every three years. However, since all of the money for the fire program is specifically set aside for fuel reduction treatments and not ecological fire, the problem persists. This proposal will only perpetuate that problem. (Preservation/Conservation Organization, Ellijay, GA - #1152.5.64100.308)

Forest areas outside this buffer zone should not be subjected to more logging, which is one of the major reasons that there is a problem in the first place. What is necessary is a return of an approximately natural fire regime to our forests (at least those areas away from habitation). (Individual, Davis, CA - #373.5.61000.710)

Public Concern: The USDAFS & DOI should allow remote forest areas to burn.

We need to reduce fire risk near communities and remove small trees and light fuels. My family owns property in Arizona adjacent to Forest Service land that was burned by the Rodeo-Chedeski fire. We lost our vacation home. While our loss and the loss of the hundreds of other homes in the area was devastating, forest health actually improved on our property and much of the surrounding area. The fire burned in a patchy pattern and thinned the area. It was the community that was damaged. We need to

recognize that the problem is that we are not adequately protecting our communities from fires and that we need to reduce fuels near communities to lower fire risk.

We need to treat forests near communities differently than those in more remote areas. Most of our forests are away from communities and we should allow them burn. Fire is a natural and essential part of the ecosystem and we should not be entering roadless and other remote areas to fight fires or log off trees to suppress fires. These areas are healthier and at less fire risk than areas with high road densities. We would be creating a more severe problem by logging them. We need to focus our efforts on areas near communities with prescribed fires and with thinning projects that focus on small trees and brush. Not only will these measures improve habitat but these measures will save money from lost homes and will also save money from reduced wildfire fighting costs. (Individual, McKinleyville, CA - #386.5.64000.710)

TO RETURN NUTRIENTS TO THE ECOSYSTEM

If these bark beetles are killing of so many trees, will they not solve the largest and most important problem: How to eliminate the trees. The beetle kills them, they fall, some will catch on fire, and some will decay. And all of the nutrients within these trees will return the forest ecosystem. An ecosystem that is very fragile in the Northern part of Arizona.

Allow the forest to burn, without causing damage to homes and people. (Individual, Flagstaff, AZ - #1332.8.61000.001)

Role of Fire

Public Concern: The USDAFS & DOI should consider that the data presented in the Federal Register notice is not adequate to justify conclusions regarding fire trends.

These proposed categorical exclusions are fundamentally flawed. They should be formally withdrawn by both of the agencies that have proposed them, for the following reason:

The "Supplementary Information" in the December 16 Notice provides a few selected statistics regarding the numbers of fires recorded and acres burned in the years 2000 and 2002. The extent to which there is a wildfire crisis that requires such a radical rule change is unclear. The Overview states that during the 2000 fire season, "Approximately 123,000 is fires burned more than 8.4 million acres. The total acreage burned was more than twice the 10-year national average." It further states, "The trend since 2000 has continued. During 2002, catastrophic wildfires continued to make national headlines, burning over 7.1 million acres." The 10-year national average is not given, but from the first statement, that average appears to be about 4 million acres per year. Without a number for the acreage burned in 2001 or other prior years, no independent conclusion can be drawn as to whether the trend line is up or down over the past several years. The data given may be misleading, or may simply demonstrate that forest wildfires are a normal and natural occurrence throughout much of the United States, regardless of present or past management.

It is not clear whether these numbers refer only to lands under the jurisdiction of the Agriculture and Interior Departments, or include all recorded fires within the United States. The Notice does not indicate how many of these fires were on public lands of each of the above-named federal agencies. The Notice provides no agency-specific or even aggregate trend data that would indicate whether, over the past decade or more, there is a statistically significant trend, increasing or decreasing, in fire frequencies or sizes on the public lands. The Notice does not distinguish how many of these fires occurred on lands that would be excluded from the scope of these proposed rules (and thus should not be included in any database that would be used to justify these proposed rules). No mention is made of the ecological benefits of fire in maintaining healthy forests and grasslands or of the ongoing use of controlled burning, under existing administrative rules, by federal public land management agencies to achieve these benefits. The information in the Notice implies that virtually all fires on such lands are undesirable. (Individual, Chevy Chase, MD - #1727.1-2.14000.109)

Public Concern: The USDAFS & DOI should discuss the role current drought conditions play in wildfire risk.

The discussion of drought conditions is incomplete and misleading and fails to “tease out” the drought variable from the others, offering the public no information on the degree to which drought alone is responsible for large wildfires.

We suspect that no one, including the agency, has a real handle on this matter, which is yet another reason an EIS on the plan to treat 190 million acres with fuels-reduction projects should be prepared. If drought represents the major cause of intense fire seasons, the situation would likely be exacerbated by new roads and commercial logging, against which there are no clear restrictions in this proposal. (Preservation/Conservation Organization, Republic, WA - #1429.10.17100.602)

Public Concern: The USDAFS & DOI should explain how fire can harm fire-adapted ecological systems.**IN ORDER TO JUSTIFY THE CLAIM THAT SEVERE FIRES REPRESENT A RISK TO THE ENVIRONMENT**

The purported “risk to the environment” from severe fires is . . . questionable. Most studies demonstrate clearly that fire is an essential part of most Western ecosystems. The agencies proposing the categorical exclusion must demonstrate how fires harm an ecological system that has adapted to, and depended on, fires for centuries if not millennia. (Individual, Hampstead, MD - #1745.11.14000.104)

Public Concern: The USDAFS & DOI should analyze the effects of last year’s wildfires.**BECAUSE MANY OF THOSE FIRES WERE BENEFICIAL**

I would encourage the Forest Service to begin by analyzing the effects of last year’s fires. Many of last year’s fires were beneficial and created healthier forests in their wake. We don’t need to reduce fire risk in remote areas or remove large trees and increase logging which would increase light fuels. (Individual, Mckinleyville, CA - #386.2.64000.602)

Public Concern: The USDAFS & DOI should recognize that fuel buildup is the result of years of fire suppression.

The categorical exclusions for fuel reduction projects are based on false information regarding the role that natural fire played in ecosystem maintenance and restoration.

Many National Forests suffer from “fuel buildup” that is beyond what would have occurred naturally; this is a direct result of prior forest management paradigms that indicated that fire in forests was a priori, undesirable. The suppression of fires in ecosystems had led to excessive and, in some places, dangerous build-up of forest floor fuel material that would have been naturally burned away in low-temperature, higher-frequency fires typical of natural regimes. At the same time, suppression of forest fires has dramatically altered processes of forest succession, composition and structure, and has increased the incidence of disease and insect outbreaks in most forest types (including boreal, temperate coniferous and oak forests) (Spies and Turner 1999, Heinselman 1981, Kilgore 1981, Abrams 1992). Fire suppression was not an appropriate management directive in the past, and cannot be appropriate for the future of forest management if we want to restore native species and ecological functions. (Preservation/Conservation Organization, Asheville, NC - #1417.1.14100.602)

Funding

Public Concern: The USDAFS & DOI should allocate money to federal agencies to develop their Fire Management Plan.

Money should also be allocated to the federal agencies to develop their Fire Management Plan. With a FMP, we could identify some areas of remote forests with a 'let burn' policy under certain weather conditions. This could reduce the funding needed for prescribed burns, as well as future fire suppression. True, a FMP won't facilitate more logs to the mill. But that is not what this is about, right? (Place-Based Group, Roseburg, OR - #1249.7.20000.200)

Prescribed Burns for Fuel Reduction

Public Concern: The USDAFS & DOI should include prescribed burning in fuel reduction activities.

Instead of changing the rules, I recommend changing the way the Forest Service does fuels reduction work—real fuels reduction in the plantations and young, previously logged areas around communities. Fire safety should include prescribed burning under controlled conditions. The Forest Service should start on this work instead of wasting time and money on another round of controversial logging. (Individual, No Address - #886.3.64000.710)

Public Concern: The USDAFS & DOI should ensure that prescribed burns comply with the Clean Air Act.

I believe that under the proposed change, decision makers will not have enough information regarding particulate emissions from prescribed burns to comply with the Clean Air Act. How will the public and decision makers be assured that State air quality permit requests are in compliance and be monitored if only rudimentary and ancillary data are included in the analysis? Did the agency's review of the 3,000 projects thoroughly document how the Clean Air Act and State standards were met? (Individual, No Address - #309.4.31300.739)

Firefighting Tactics and Operations

Public Concern: The USDAFS & DOI should fight fires aggressively, safely, and with ingenuity.

Fires that burn out of control must be fought aggressively, safely and with a new model of ingenuity. Fuel loads must be reduced ahead of forest fires by felling trees with chainsaws and flying whole trees with helicopters. Small clear-cuts firebreaks can be created and maintained by cutting trees to reduce the stands on both sides of the firebreak as long as safely possible. Flight paths and communication are important, as well as landings and haul road access. Duration of time on forest fires will be sharply curtailed and when economically possible, a profit could be the result. (Individual, Riggins, ID - #1677.2.64100.602)

Public Concern: The USDAFS & DOI should emphasize initial attack.

Place much more emphasis on initial attack forces and timing. Then if the fire escapes initial attack, assess where the available forces would be most needed. (Individual, Bonners Ferry, ID - #1564.2.64100.000)

Public Concern: The USDAFS & DOI should fight fires at night.

Take a very strong look at going back to fighting fires at night. In most forest fuels, you chase a fire all day. If you really wish to catch a fire, your best chance is at night. (Individual, Bonners Ferry, ID - #1564.3.64100.000)

Public Concern: The USDAFS & DOI should acquire additional fire fighting equipment.

If you want to control forest fires; get additional firefighting equipment. (Individual, North Miami Beach, FL - #602.2.64100.000)

Public Concern: The USDAFS & DOI should use heavy machinery to create firebreaks.

When a fire gets out of control, don't just let it burn. Bring in heavy equipment to make a fire break to stop it. (Individual, Missoula, MT - #1231.11.64120.602)

Public Concern: The USDAFS & DOI should utilize satellite technology for early detection and management of forest fires.

Why is Satellite technology not employed in the early detection and management of forest fires? Instead, we opt for destruction to our forests to control forest fires. More logging means building more roads, which also increases criminal activity on our national land and endangers the populace. In the federal register, the main objective in managing our public lands is identified as public safety. (Individual, Carmel, CA - #1104.2.64100.001)

Public Concern: The USDAFS & DOI should utilize local resources.**LOCAL RESIDENTS**

Local talent and woods workers are available but are very much under utilized during a bad season. (Individual, Bonners Ferry, ID - #1564.4.64100.000)

LOCAL FIRE MANAGEMENT AND FUEL MANAGEMENT OFFICERS ON THE RANGER DISTRICTS

Most centralized dispatch organizations have taken the most qualified individuals out of the initial attack decision making arena. The local Fire Management and Fuel Management Officers on the ranger districts know the problems and fuels much better than dispatchers that are not at all familiar with each fire start. (Individual, Bonners Ferry, ID - #1564.6.64100.000)

Public Concern: The USDAFS & DOI should turn fire fighting responsibilities over to states or counties.

I live 7 or 8 miles from the Moose Creek fires southern fire line. I have first hand knowledge of fire having worked 1 season on fire crews. If the Let it Burn Policy is to be and not to send fire fighters in because of the danger, I say give the fire fighting duty over to the State or County and pay them. We know that they will take on the task. (Individual, Columbia Falls, MT - #1216.8.64100.112)

Proposed Rehabilitation CE

Proposed Rehabilitation CE General

Public Concern: The USDAFS & DOI should focus on post-fire rehabilitation activities instead of constructing new roads.

Activities (such as reseeded or planting, fence construction, culvert repair, installation of erosion control devices, and repair of roads and trails) necessary for the stabilization and rehabilitation of habitat, watersheds, historical, archaeological, and cultural sites and infrastructure impacted by wildfire and/or wildfire suppression. There is so much rehabilitation work that needs to be completed that I again can't help but reiterate this unheeded refrain: Why build any new roads at all? I only hope that you put half the effort into rehabilitation and reseeded that you put into "thinning." (Individual, Burlington, VT - #1721.7.65000.602)

Public Concern: The USDAFS & DOI should consider that post-fire rehabilitation is ineffective.

It is appalling that the Forest Service would dismiss the reams of scientific data available, much of it by its own scientists, which indicates that the so-called Healthy Forests Initiative will only reduce the integrity of remaining wild lands. Post fire rehabilitation simply does not work, and nature does a far better job of healing itself (its been doing so for eons, after all) than "restoration" (double-speak for industrial logging for narrow, short-term economic interests). (Individual, No Address - #18.4.14000.602)

Public Concern: The USDAFS & DOI should not allow restrictive language in the proposed fire management CEs to delay restoration projects.

The Coalition supports the proposed language of the categorical exclusion. However, we fear that the restrictive language is going to produce a time lag for restoration in those forested lands with identified hazardous fuels accumulations. (Coalition of Arizona/New Mexico Counties, Glenwood, NM - #1628.5.17110.102)

Public Concern: The USDAFS & DOI should propose a stewardship clause to support restoration activities in the urban interface.

Our stewardship forestry cooperative markets firewood as a viable industry. In addition we are exploring the feasibility of marketing small-diameter wood products which are the primary fuel source in the logging-over urban interface. Our goals are to make forest healthy. Your proposal differs radically from what we have found to be viable. What the current proposal still needs is:

A stewardship clause to support restoration activities in the urban interface.

Support for the small-diameter products industry. (Preservation/Conservation Organization, Winthrop, WA - #1184.2.20000.001)

Public Concern: The USDAFS & DOI should empower non-agency outside experts to select and oversee rehabilitation and stabilization activities.

RATHER THAN USE COMMERCIAL AND STEWARDSHIP CONTRACTS

On first glance, I do not think that an acceleration of a failed 100 year old fire suppression/commercial (aka "stewardship") timber harvest program will help homeowners protect their property or contribute to intact, functioning forest and range ecosystems. Many of our public lands do indeed need restoration, but these are the over-grazed, mined, logged, and recreationally abused lands, not our relatively few remaining pristine wildlands. Any restoration should be just that, supervised by panels of non-agency outside experts. If groups such as the Society for Ecological Restoration were funded and empowered to

hand out research and restoration grants, the environmentally-minded American public would more likely support fire management proposals. However, this one has industry hand-out fingerprints all over it, and I fear that it will only worsen the current situation. (Individual, Sandy, UT - #688.3.65000.001)

Adequacy of Analysis

Public Concern: The USDAFS & DOI should incorporate wildlife-based research into forest health and restoration projects.

The Arizona Game and Fish Commission urges Congress and the land management agencies to incorporate wildlife-based research and wildlife resource needs in planning projects associated with forest health and forest restoration. (Arizona Game and Fish Department, Phoenix, AZ - #799.20.14100.100)

Wildlife resources should be considered and addressed in planning efforts associated with forest health, and research is needed to better understand the potential impacts to wildlife resources as a result of implementing forest restoration activities on western public lands. (Arizona Game and Fish Department, Phoenix, AZ - #799.18.33000.303)

Public Concern: The USDAFS & DOI should provide a review of the literature regarding the efficacy of thinning and salvage harvest in relation to post-fire treatments.

The proposed categorical exclusions allow for both the full range of mechanical treatments and the use of scientifically questionable site rehabilitation and stabilization techniques. More specifically, no information is provided on the direct, indirect, and cumulative impacts of thinning, salvage logging, and seeding from which to assess environmental impacts and no literature is provided to back the supposition that such treatments do not constitute significant impacts to the human environment (as specified under NEPA).

We note that there is significant lack of agreement in the scientific community regarding the efficacy of thinning and especially salvage logging in relation to post-fire treatment effects. A review of the literature is absent from the background materials needed to more completely assess impacts. (Preservation/Conservation Organization, Ashland, OR - #501.8.14100.300)

Implementation of Proposed Rehabilitation CE

Implementation – General Considerations

Public Concern: The USDAFS & DOI should implement the proposed rehabilitation CE.

We note that a categorical exclusion is being proposed for rehabilitation work in areas already consumed by fires. We support these efforts. (Agriculture Industry, Laramie, WY - #569.5.65000.000)

Forests that have recently burned need the categorical exclusion to facilitate their rapid rehabilitation and avoid excessive erosion and stream pollution. The cost of extended environmental assessments is not necessary and steals needed funding from on-the-ground work. The proposal's restrictions for wilderness areas and endangered species habitat are sufficient to protect those resources. (Timber or Wood Products Industry, Summerville, SC - #1706.3.65000.322)

Implementation – Planning Considerations

Public Concern: The USDAFS & DOI should implement the proposed rehabilitation CE.

TO PREVENT DELAYS IN CONDUCTING RESTORATION ACTIVITIES AFTER CATASTROPHIC WILDFIRE

Restoration of forests impacted by wildfire must be accomplished expeditiously. Delays created by the administrative process, appeals and litigation are unconscionable given the severity of post catastrophic impacts. Unfortunately, the proposed revisions offer little hope in abating the appellate and judicial quagmire that is destroying our renewable resources and rural economies by catastrophic wildfire and is preventing expeditious restoration of those areas already devastated. (Coalition of Arizona/New Mexico Counties, Glenwood, NM - #1628.3.65200.602)

The restoration of forests after wildfire must be done immediately. Delays caused by litigation, appeals, or bureaucracy are unconscionable. Current policy does nothing to address this issue. Please consider adding a proposal to these revisions to address the judicial nightmare that is destroying our public lands and rural economies caused by these catastrophic wildfires and ultimately preventing timely restoration of these devastated areas. (Individual, Buellton, CA - #1763.1.65000.102)

Implementation – Legal Considerations

Public Concern: The USDAFS & DOI should not implement the proposed rehabilitation CE.

BECAUSE AGENCIES ARE LEGALLY REQUIRED TO ANALYZE THE EFFECTS OF REHABILITATION PROJECTS IN ENVIRONMENTAL IMPACT STATEMENTS

“Fire Rehabilitation” projects are known to have significant impacts, thus categorically excluding them from analysis guarantees significant adverse effects on the environment. The courts have ruled that the effects of the work conducted in such projects must be considered in an EIS. *Sierra Club v. Bosworth*, 199 F. Supp. 2d 971 (D. Or. 2002); *League of Wilderness Defenders - Blue Mountains Biodiversity Project et al. v. Forsgren*, 184 F.Supp.2d 1058 (D. Or. 2002); *League of Wilderness Defenders - Blue Mountains Biodiversity Project et al. v. Zelinski, Forsgren*, 163 F.Supp.2d 1222 (D. Or. 2001); see also, *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1213 (9th Cir. 1998). (Preservation/Conservation Organization, Republic, WA - #1429.17.65000.300)

Experience has shown that ecological rehabilitation that takes place after a fire is significant and can cover thousands of acres. Rehabilitation work conducted as part of the Big Tower, Summit, Hash Rock, Timber Basin, Crane Prairie, and Big Bar fires included fire line ripping, seeding, planting, tree removal, mulching, water bar installation, and other activities. The courts have clearly stated that this activity—in addition to fire suppression activities and post-fire salvage logging—must be considered in an EIS. *Sierra Club v. Bosworth*, 199 F. Supp. 2d 971 (D. Or. 2002); *League of Wilderness Defenders—Blue Mountains Biodiversity Project et al. v. Forsgren*, 184 F.Supp.2d 1058 (D. Or. 2002); *League of Wilderness Defenders - Blue Mountains Biodiversity Project et al. v. Zelinski*, 187 F. Supp.2d 1263 (D. Or 2002); *Sierra Club et al. v. Bosworth*, 199 F. Supp. 2d 971 (N.D. Cal. 2002); see also, *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1213 (9th Cir. 1998). (Preservation/Conservation Organization, Bloomington, IN - #1343.11.65000.001)

Implementation – Public Involvement Considerations

Public Concern: The USDAFS & DOI should not implement the proposed rehabilitation CE.

BECAUSE IT WILL LIMIT ENVIRONMENTAL ANALYSIS AND PUBLIC INVOLVEMENT

The feature that each of these proposals share in common is that they limit environmental analysis and public involvement into multiple use planning for the Bureau of Land Management (BLM) and the Forest Service. For example, activities authorized after a fire include rehabilitation of habitat, watersheds, and infrastructure impacted by wildfire suppression. Presumably, the proposed categorical exclusion (CATEX) for these activities would be used where hazardous fuel loads exist after wildfires. Although “salvage timber sales” are not mentioned in the document, it should be expected that the rehabilitation and stabilization CATEX would include salvage timber sales. Salvage sales in the aftermath of the 2000 and other fire seasons have proven to be controversial and benefit from environmental analysis and public scrutiny. (Recreational/Conservation Organization, No Address - #1435.2.65000.100)

Implementation – Environmental Considerations

Public Concern: The USDAFS & DOI should implement the proposed rehabilitation CE.

TO PROTECT WATER SUPPLIES IN AN EFFECTIVE AND TIMELY MANNER

Post fire impacts have been even more devastating than the actual fire events. When viewed over time the effects can be expected to last up to a century in some cases. I support the change in policy direction represented by the proposed revisions. Affected watersheds are delivering increased sediment to downstream riparian areas thereby exacerbating already deteriorating conditions. Along with that sediment are increases exceeding of water quality standards for heavy metals, dioxin, and other toxic substances. This is having a devastating impact on agriculture and domestic water supplies and fisheries. The longer the delay in restoration, the greater the impacts. (Individual, Huachuca City, AZ - #1757.4.65000.305)

Fire rehabilitation and stabilization activities damages that occur without effective and timely treatments are not limited to federal agencies or to lands federally administered. During periods of drought, after high intensity burns, and fires in critical municipal watersheds, the assessment and any treatments must be done quickly or effectiveness is limited. Categorical exclusions for protective and restorative treatments will allow agencies to protect a multitude of resource values, including water supplies to municipalities. (Multiple Use or Land Rights Organization, No Address - #1729.7.65000.304)

TO PROTECT AGAINST EROSION

An example of the benefits of the categorical exclusion for activities for rehabilitating and stabilizing lands and infrastructure is the case of the Star Fire on the Tahoe and El Dorado National Forests. This fire, which burned in 2000, caused significant damage to both public and private timberlands. Officers of the El Dorado National Forest compared the effects of early salvage harvesting on private land with the delayed, minimal harvesting on federal lands. One of the key findings was that careful harvesting on the private land reduced the risk of soil loss from post-fire erosion by a factor of 7 (private land had an 8 fold increase in erosion, public land had a 35 fold increase in erosion). Use of this categorical exclusion could lead to a reduction in damage or loss to soil and other resources. (Timber or Wood Products Industry, Redding, CA - #1703.3.65000.322)

TO PROTECT WATERSHED HEALTH

Watershed health will be significantly improved through small rehabilitation programs that will qualify for the proposed categorical exclusions. Studies indicate that at least 50% of Utah’s aspen communities have been displaced by conifer communities which can yield up to 75% less water than a mixed aspen

stands. Conifer trees transpire more water than aspen trees and have a sparse understory with relatively few species. The proposed categorical exclusions could allow for the use of small rehabilitation projects to restore Utah's aspen communities. Restoration of aspen communities will significantly increase water yield for many watersheds in Utah—a resource which has become critical during the past four years of drought. This would also restore lost biodiversity and understory production. (Agriculture Industry, Sandy, UT - #1347.5.30300.304)

Public Concern: The USDAFS & DOI should not implement the proposed rehabilitation CE.

BECAUSE OF ADVERSE EFFECTS ON THE ENVIRONMENT

Rehabilitation of a site after a fire by humans is not what is needed. I have seen the results of many post fire “rehabilitation” projects, which removed trees that had been burned and trees that were expected to die. Most of these projects were analyzed using the EA or EIS process. Most of the USFS employees on the Interdisciplinary Teams that did the EAs and EISs were competent, well-educated resource specialists. In spite of this, some EA and EIS analyses for these projects underestimated the ecological destruction that would occur as part of “rehabilitation.” Even several years after the thinning (aka logging) had occurred, the land looked as if it had been nuked and the streams looked like chocolate milk. How can the USFS even suggest that they might CE even one of these types of projects? A proposal to CE them all is lunacy. (Individual, Grangeville, ID - #10.32.65000.322)

BECAUSE AGENCIES SHOULD ASSESS SIGNIFICANT IMPACTS ON CULTURAL AND ENVIRONMENTAL RESOURCES

Rehabilitation and stabilization of resources following wildfire occurrences require the depth and vigor of analysis not usually found in a categorical exclusion. Typically, vegetation, soil, transportation, public safety, wildlife, and water quality effects accrue from rehabilitation treatments, and the required expertise for an informed decision by the lowest level deciding officials is inadequate as the scale of the project expands beyond small areas. Easily overlooked in the haste to make a quick decision are the presence of extraordinary circumstances and the significance of effects on threatened, endangered and sensitive species, non-native invasive species, and archaeological and historic sites not previously known to occur in the project boundaries. Did the FS review of the 3,000 projects include an analysis of these resources to a degree that assures that effects on all resources are not significant? (Individual, No Address - #309.3.65000.001)

Public Concern: The USDAFS & DOI should not implement the proposed rehabilitation CE.

BECAUSE OF ADVERSE EFFECTS TO SOILS CAUSED BY HEAVY EQUIPMENT

We do not agree that rehabilitation projects do not have significant impacts. For both fire fuel reduction and rehabilitation projects bulldozers, loaders, trucks, skidder tractors, helicopters, and other heavy equipment may be used. The impacts that these activities have on soil include compaction, erosion, puddling, and other impacts like noise, loss of solitude, water pollution, air pollution, vegetation changes, ecosystem structure modifications, and wildlife habitat alterations. An EIS is required by NEPA to ensure that all environmental impacts are fully assessed, analyzed, and evaluated. Rehabilitation projects also may result in fire lane creation which can cause soil erosion. (Preservation/Conservation Organization, Houston, TX - #12.7.65000.322)

Implementation – Economic Considerations

Public Concern: The USDAFS & DOI should implement the proposed rehabilitation CE.

BECAUSE IT WILL INCREASE JOB OPPORTUNITIES AND STIMULATE THE ECONOMY

As far as jobs are concerned I and many others support forest rehabilitation that would increase jobs of the forest service, and would sow the seeds for jobs and economic growth in the future. In replacement of job opportunity for the destruction (logging) of National Forests, we need to take those same people and give job opportunities for forest rehabilitation (tree planting of native species, over seen prescribed fires, removal of logging roads, clean up of fish spawning grounds, etc., etc.) In the long run this [rehabilitation] will create clean drinking water, a large source of CO2 fixing into O2, a thriving and diverse ecosystem composed of many new threatened animals and plants, and various forms of recreation (fishing, hiking, camping, tourism), all which carry the prospect of a job opportunity, and monetary harvesting. (Individual, Edmonds, WA - #1793.5.65000.001)

Culvert Repair

Public Concern: The USDAFS & DOI should clarify that categorically excluded repair of culverts and erosion control devices will return them to pre-fire condition or remove them if adverse effects were previously occurring.

I would modify CE category 2 such that rehabilitation of habitat, watersheds etc., cultural sites, etc., includes the repair of culverts and erosion control devices in a manner that brings the device to a condition that the device was in prior to the wildfire, or for devices that were causing adverse watershed effects the device is hydrologically disconnected from the stream and road network through the rehabilitation project. (Business, Arcata, CA - #860.8.65100.304)

Public Concern: The USDAFS & DOI should not allow culvert repair under the proposed rehabilitation CE.

BECAUSE HOLISTIC WATERSHED ANALYSIS IS NEEDED PRIOR TO TAKING ACTION

By allowing categorical exclusions for post-fire rehabilitation and stabilization activities, culverts may be replaced or upsized on roads before a more holistic, watershed analysis on whether these roads are needed is completed. (Place-Based Group, Bigfork, MT - #1002.4.65000.304)

Scope of Proposed Rehabilitation CE

Public Concern: The USDAFS & DOI should clarify and broaden the range of specific activities allowed under the proposed rehabilitation CE.

We feel strongly that in order to make these categorical exclusions truly effective the following changes should be made. Change sentence one, paragraph one of the post fire rehabilitation and stabilization categorical exclusion to read “Activities (but not limited to, reseeding or planting, fire and safety hazard tree removal, fence construction, culvert repair, installation or erosion control devices, natural or mechanical soil rehabilitation, and repair of roads and trails) necessary for the stabilization and rehabilitation of recreation sites, watersheds, historical” (Ron Christensen, Chairperson, Board of Directors, Eastern Arizona Counties Organization, Saint Johns, AZ - #1816.3.65000.100)

Public Concern: The USDAFS & DOI should clarify and narrow the range of specific activities allowed under the proposed rehabilitation CE.

The list of activities, which includes repair of roads and trails, rehabilitation of habitat and watershed, and infrastructure impacted by wildlife and/or wildfire suppression are so broad that they could include virtually an activity. What kind of boundaries are there on the use of these CEs? (Individual, Brookport, IL - #460.6.65000.109)

Public Concern: The USDAFS & DOI should allow the use of the proposed rehabilitation CE for restoration activities following non-fire catastrophic events.

SUCH AS INSECT AND DISEASE OUTBREAKS, WINDTHROW, AND FLOODS

I urge you to adopt the following suggestions from NASF, which are intended to help the USDA and the Interior Department ensure that the CEs serve as effective tools for forest management. Consider Other Catastrophic Events as Eligible. While we understand that implementation of the Administration's Healthy forests Initiative is the impetus for the CEs, excluding rehabilitation/stabilization activities from environmental documentation would also be helpful for activities following non-fire catastrophic events. Including other catastrophic events such as insect and disease outbreaks, windthrow, and floods under the rehabilitation/stabilization CE would expand the environmental and economic benefits of quickly responding to these events. It would also help reduce the likelihood of future fires by quickly reducing excessive fuel levels. (National Association of State Foresters, Washington, DC - #1731.6.65000.001)

Public Concern: The USDAFS & DOI should not limit categorically excluded rehabilitation projects to 250 acres or less.

BECAUSE OF ADVERSE ECONOMIC EFFECTS

The 2002 wildfire season unfortunately burned more than 7 million acres of our forests and grasslands. This proposal, though a good first step, will not have a significant impact on helping to restore these recently burned lands to productivity. The agencies must have more latitude to act on the ground than to be held to a 250-acre limit as put forth in this proposal. For example, The Biscuit Fire, which burned nearly 500,000 acres in Southern Oregon in 2002, is currently bogged down in planning for the planning process. There is more effort being expended on trying to decide how to proceed with the planning so as when the real planning takes place they can do it without leaving out any detail that will later lead to a lawsuit. (If the above sentences do not make sense, it is because the process is so convoluted). If history is our guide, we can look to the Meagram Fire in Northern California as our guide. The Forest Service took more than two years and hundreds of thousands of dollars preparing a recovery plan for this burned area, only to end up in a tangle of appeals and litigation that is still going on. In the meantime, timber has rotted, brush fields are replacing what were once healthy timber stands and the cost to taxpayers has been enormous. Please consider expanding the use of categorical exclusions even more than the present proposal. (Timber or Wood Products Industry, Yreka, CA - #1519.2.65000.603)

Reseeding, Replanting, and Non-Native Invasive Weed Management

Public Concern: The USDAFS & DOI should use only native or non-invasive non-native seed in post-fire rehabilitation.

CEs for reseeding or otherwise treating burned areas or disturbed areas due to fire suppression are good, so long as native seed is used for the reseeding efforts, or at least plants which have been proven to be non-invasive. All other materials used should be weed free. Procedures should be developed to ensure that prevention of the spread of aquatic nuisance species is also considered. (Individual, No Address - #1754.1.65300.300)

Public Concern: The USDAFS & DOI should use non-native seed in post-fire rehabilitation.**BECAUSE NATIVE SEED STOCKS ARE TOO LOW TO MEET CURRENT DEMAND**

Vast acreages of federal land have been burned by wildfires in the past several years. Stocks of native seed are at an all time low. Many times they are unavailable when needed. The CEs should include the rehab of burned areas with approved non-native seed. The window of opportunity for establishing cover to prevent erosion and invasion by undesirable invasive species is short lived. The environmental harm of doing nothing because of the unavailability of native seed is far greater than the use of non-native seed. (Mike Dunn, Chairperson, Modoc County Board of Supervisors, Alturas, CA - #1833.2.65300.308)

Public Concern: The USDAFS & DOI should not allow post-fire reseeding under the proposed rehabilitation CE.**BECAUSE OF THE UNCERTAINTY OF ITS EFFICACY FOR EROSION CONTROL AND ADVERSE EFFECTS ON NATIVE PLANTS**

No information is provided on the efficacy of post-fire stabilization measures, particularly those involving seeding. A significant number (300 projects, 41%) of projects involved the use of seeding for stabilization during 1998-2002 (categorical exclusion background materials). Yet, a review of published studies by Beyers (in prep.) revealed few data on erosion control effectiveness; less than 25% of cases examined showed reduced sediment movement with seeding. The use of post-fire seeding, in addition, can inhibit recolonization by native plants, which is particularly a concern in areas of unique botanical diversity recovering from fires such as the Siskiyou National Forest in southwest Oregon. This level of uncertainty warrants additional analysis to more fully document environmental impacts before proceeding with post-fire seeding projects and categorical exclusions. (Preservation/Conservation Organization, Ashland, OR - #501.14.65000.602)

Public Concern: The USDAFS & DOI should implement the proposed rehabilitation CE.**TO FOSTER COST-EFFECTIVE NOXIOUS WEED MANAGEMENT ACTIVITIES WITH STATE PARTNERS**

Several counties in Utah have started a collaborative effort in the battle against noxious weeds. Cooperative Weed Management Areas (CWMAs as they're called) are producing significant results. Local Forests are partners in this effort and are helping to finance many projects. The proposed categorical exclusions could allow more rehabilitation projects that would produce greater efficiencies in partner dollars used in these projects. (Agriculture Industry, Sandy, UT - #1347.7.36100.602)

Salvage Timber Harvest

Salvage Timber Harvest General

Public Concern: The USDAFS & DOI should clarify whether the proposed rehabilitation CE includes commercial salvage harvest.

Please clarify whether rehabilitating lands impacted by wildfires includes commercial salvage logging. (Preservation/Conservation Organization, Santa Fe, NM - #1766.17.65000.109)

The average member of the public would never recognize that rehabilitation in this context is in large part a euphemism for logging. The primary concern of environmentalists interested in post fire activities is the removal of green trees and large trees as part of the lucrative logging associated with “rehabilitation”. If agencies craft a proposal that leaves these all important rehabilitative attributes in place, I’m sure that true rehabilitative efforts would proceed quickly and go unchallenged. Under the current circumstances, where the very attributes whose removal is likely to result in adverse impacts necessitate environmental analysis, categorical exclusion is unacceptable. (Place-Based Group, Blairsden-Graeagle, CA - #1736.8.65000.103)

Public Concern: The USDAFS & DOI should not implement the proposed rehabilitation CE.

BECAUSE IT WILL ALLOW POST-FIRE SALVAGE HARVEST WITHOUT NATIONAL ENVIRONMENTAL POLICY ACT ANALYSIS

Addressing fire rehabilitation activities in a CE ignores the fact that fire rehabilitation almost always precedes post-fire salvage logging. Consequently, fire rehabilitation is a “past action” as defined in the NEPA regulations, and must be assessed concurrently with any post-fire salvage logging. 40 C.F.R. [section] 1508.27. Similarly, post-fire salvage logging is a “reasonably foreseeable future action” that must be assessed along with fuels reduction and fire rehabilitation. Given this legal reality, allowing fire rehabilitation to escape analysis because it has been assessed in a CE rather than the latter EA or EIS violates the requirements of NEPA, as well as the holdings in several cases interpreting the government’s legal obligation to assess the cumulative impacts of its actions. Segmenting fuels reduction of fire rehabilitation for analysis in a CE violates the requirements of NEPA, making the proposed CEs unlawful. (Preservation/Conservation Organization, Bloomington, IN - #1343.11.65000.001)

Chapter 6

Public Lands Management and Values

Public Lands Management General

Public Concern: The USDAFS & DOI should actively manage public lands.

BECAUSE THAT IS GOOD STEWARDSHIP

I support the Healthy Forest concept from the perspective of an adjacent landowner to the National Forest. Both the private landowners and public land administrators have a moral obligation to be stewards of the land. This is to be done by harvesting, thinning, weed management, prescribed burning, and fire suppression. Both of us can be partners in this process. With the high growth rate of timber in Western Montana, more emphasis needs to put on optimizing production for the future. (Individual, Trout Creek, MT - #1693.1.61100.322)

TO REDUCE THE RISK OF WILDFIRE

Under normal conditions of forest and rangeland health, fires play a vital role in removing excess fuels and maintaining normal plant composition and density.

These fires tend to burn at ground level, generating low temperatures and moving relatively slowly. When burning through forested areas, these fires remove underbrush and dead growth while healthy, mature trees survive. Without active management of forests and rangelands, large, expensive, and damaging wildfires will occur more frequently, causing greater damage to people, property, and ecosystems. Intelligent active land management that minimizes the risk of severe fires is needed to protect forest and rangeland ecosystems.

About 190 million acres of federal forests and rangelands in the lower 48 states face high risks of catastrophic fire due to deteriorating ecosystem health and drought. For instance, many ponderosa pine forests are 15 times denser than they were a century ago. Where 25 to 35 trees once grew on each acre of forest, now more than 500 trees are crowded together in unhealthy conditions. Drought conditions coupled with years of fuel buildup for fire suppression and reduced thinning make these lands vulnerable to intense and environmentally destructive fires. (Leland G. Heinrich, Clerk, Valley County Board of Commissioners, Cascade, ID - #1627.2.64000.602)

Public Concern: The USDAFS & DOI should follow management practices that emphasize multiple use.

TuCARE is a community based non-profit organization founded in 1988. Our membership is made up of a cross-section of our community including local business persons, educators, retirees, and those actively engaged in working on a daily basis with our local natural resources. TuCARE supports conservation and the multiple-use of the many natural resources on our federal lands. Multiple-use policies allow for everyone to benefit. TuCARE firmly believes that man must play an active role to ensure our resources are available both now and in the future—for the benefit of all. (Multiple Use or Land Rights Organization, Twain Harte, CA - #839.2.60210.705)

Public Concern: The USDAFS & DOI should adopt management practices that emphasize the harvest of renewable resources.

I am the by-product of the Babbitt/Eneiro failed policy as I lost my job in the resource industry 7 years ago when Mexican spotted owls were given 3,000 acres each and the goshawk and every other “endangered specie” was given precedence over forest health, eco-management, Forest Service data, or resource job or the human scientific balance. Ranchers who had a history on the land lost their land, which was their job and their home! Logging companies shut down when they could no longer fight the far out policies. They bulldozed down their mills and sold off the land, and many of them were 2nd and

3rd generation family businesses. The pain was overwhelming. Now there are no saw mills in AZ! Amazing isn't it! Yet last year, we had one of the largest national fires—the Rodeo Chediski—and now even the Indians have no trees to log! Does this look like failed policy to you??

I'm a rancher's daughter and the past Executive Assistant to the CEO of what was the largest privately held logging co. in AZ. I'm still angry at the abuse of the land by political environmental propaganda, bad science, and fire!! It is way past time to bring back science, balance, and begin restoring our forest health, since they are a renewable resource. (Individual, Scottsdale, AZ - #1200.8.60200.001)

TO BENEFIT THE ECONOMY

I believe it is time that common sense was used in the management of our forest. These are our most valuable renewable resources in the nation, and there is no reason why we can't use them to produce jobs and boost our economy while at the same time improving their health, and providing wildlife habitat and biodiversity. We have the science and knowledge to do this. All we need is the political will, and President Bush is to be commended for his courageous stance. (Individual, Hall, MT - #962.8.60200.001)

Public Concern: The USDAFS & DOI should emphasize management that allows natural ecosystem processes to function.

RATHER THAN FOREST RESOURCE PRODUCTION

Ecosystem and watershed-based sustainable practice is the only practical solution to management of these areas. And sustainable practice means managing the ecosystems by allowing natural processes to predominate, not management for forest product production and substantial human impact, i.e. road building and skid paths. (Individual, Champaign, IL - #357.2.30200.001)

With less than five percent of commercial lumber coming from national forests, I believe national forest should be managed differently from private timberlands. The national forests should be managed for the natural resources that private timberlands cannot offer. If managed for their natural resources rather than for their commercial resources, I then think that wild fires should be allowed to return to their historical role in the backcountry. (Individual, Tulsa, OK - #1374.3.61000.606)

Public Concern: The USDAFS & DOI should emphasize environmental protection rather than active management for short-term economic gain.

We must look beyond short term monetary potential of this invaluable resource and focus on the irreplaceable asset of the forest ecosystem as a carbon sink, water purification system, habitat sanctuary, and psychological sanctuary for the contemporary human psyche. Our 'national relationship' to the land must mature to one of greater stewardship in order to protect the environment for our grandchildren, please continue to regulate and inspect all logging requests and contracts scrupulously. It is money [well] spent. (Individual, New York, NY - #240.3.30300.705)

All over the world forests are being destroyed at an alarming rate. In the next minute, another 140 acres of forest will disappear. In the next 20 minutes another plant or animal will become extinct. The forests belong to all of us, not just the short-sighted corporations that would destroy them for a quick profit. If we don't try and protect our remaining natural resources now, while there's still time, someday there may be nothing left to protect. (Individual, Deerfield, IL - #1664.9.30000.001)

It is the responsibility of all of society to protect, preserve, and enhance the natural environment. By degrading it and abusing it we are ultimately playing with fire and diminishing ourselves. (Individual, Fort Lee, NJ - #1443.4.30000.300)

Please consider carefully all new proposals and how they affect fragile ecosystems. Once damaged, these ecosystems can take many years and millions of dollars to restore. (Individual, Fort Lauderdale, FL - #104.9.30000.100)

As “co-owner” of our public lands and the resources on them, I demand that the Forest Service finally heed the public’s oft-stated desire to protect and preserve our invaluable natural treasures from abuse-for-profit. (Individual, Monticello, IA - #1823.5.30000.001)

Transportation System Management

Road Construction and Reconstruction General

Road Construction and Reconstruction – General Considerations

Public Concern: The USDAFS & DOI should allow permanent road construction under the proposed fire management CEs.

A limitation I have concerns about is the elimination of new permanent road construction or other infrastructure associated with a CE eligible activity. Often road access is essential for carrying out activities and eliminating new road construction may make many areas inaccessible and prevent necessary activities from taking place. (Timber or Wood Products Industry, Princeton, ID - #1465.4.41100.453)

Public Concern: The USDAFS & DOI should not allow road construction or reconstruction under the proposed fire management CEs.

Road building must submit to environmental review. (Individual, Missoula, MT - #1168.3.41100.739)

The proposal states that there will be no new road construction, but that reconstruction of existing infrastructure is allowed. The Southeastern forests are heavily roaded. Most of these roads were old logging roads that now only amount to a flat place on the hill. There are trees growing on them. However, according to Forest Service personnel, they are existing roads and can be “reconstructed” at any time. The environmental and aesthetic consequences would be phenomenal! I would like to invite any or all of you reading this letter to come see our National Forests in Georgia and imagine the result if these roads could be opened at a whim, without a thought about the effects. We urge you to change this language. (Preservation/Conservation Organization, Ellijay, GA - #1152.6.41000.322)

The proposed rule states that a CE would be inappropriate for projects that include permanent road construction, but does not prohibit the construction of temporary roads or other structures. Temporary road construction can have the same—if not greater—ecological impacts as permanent road construction. Allowing additional road construction, regardless of any purported temporary character, is inconsistent with the best available science and fiscal data that counsels against such construction. The same applies for road reconstruction. We have seen many instances of “road reconstruction” where there is great environmental impact. In many cases the “road” being reconstructed appears to be little more than a trail prior to “reconstruction” or in other cases the area has begun to significantly heal. Opening old scars by way of these roads has a significant environmental impact. We expect that road reconstruction would not be allowed under an expanded CE. (Preservation/Conservation Organization, Portland, OR - #1436.3.41200.300)

The proposed implementing procedures would also permit the road reconstruction associated with fire-management and fuels reduction projects to be approved via CEs. The preamble to the proposed procedures recognizes this by stating that, while no new permanent infrastructure could be constructed,

“infrastructure could be reconstructed” under the proposed procedure. See 67 Fed.Reg. 77041. “Reconstructing” roads includes upgrading them to allow expanded uses. For example, this term would allow rough roads suitable only for high clearance, four-wheel drive vehicles to be upgraded so as to allow passage by low clearance, two-wheel drive passenger cars. Road reconstruction such as this has the potential to wreak serious impacts upon soils, water quality, and wildlife habitat quality by allowing many more cars and people into areas previously accessible only by foot. However, potential impacts such as these would escape consideration and/or analysis pursuant to the proposed procedures, in violation of NEPA and its implementing regulations. (Preservation/Conservation Organization, Paonia, CO - #1732.10.41100.300)

Public Concern: The USDAFS & DOI should only allow the construction of temporary roads under the proposed fire management CEs when no other alternative exists.

We endorse the prohibition of constructing new permanent roads or other infrastructure in categorically excluded fuel management projects, however, the environmental effects of many “temporary” roads are long-term and can result in sedimentation, water quality degradation, wildlife disturbance, and become travel-ways for unauthorized or unregulated off-road vehicle travel. We recommend the construction and use of temporary roads only when no other reasonable option exists, and only when the responsible official can provide guaranteed funding so that temporary roads would be obliterated and land restored with appropriate native vegetation immediately after the CATEX activity was completed. (Preservation/Conservation Organization, Washington, DC - #1419.5.41200.113)

AFTER CAREFUL EVALUATION AT THE PROJECT LEVEL

We offer the following suggestions in an effort to sharpen the focus of the new categorical exclusions on the intended objective. Limit the construction of temporary roads. Roads fundamentally alter the nature of an ecosystem. Even roads designed to be temporary create long-term environmental effects. While roads are necessary to facilitate fuels management projects, NOLS strongly encourages the agencies to modify procedures in such a way as to mandate the careful evaluation of the need for a new road, even a temporary road, prior to construction. In other words, we ask the agencies to charge local decision makers with constructing a new road only when no reasonable alternative exists. (Special Use Permittee, Lander, WY - #841.1.41000.113)

Public Concern: The USDAFS & DOI should only allow reconstruction of actively used roads under the proposed fire management CEs.

Road reconstruction should be limited to roads that are actively used, and should exclude roads that have substantially revegetated. (Preservation/Conservation Organization, Montgomery, AL - #1409.37.41200.301)

Road Construction and Reconstruction – Resource Management Considerations

Public Concern: The USDAFS & DOI should not allow road construction or reconstruction under the proposed fire management CEs.

BECAUSE THE EXISTING ROAD SYSTEM IS SUFFICIENT FOR FOREST MANAGEMENT

Do not build new roads, and do not open old roads that have been closed in order to manage the forest. The existing roadway system is more than adequate for the needs of a healthy forest. (Individual, Prescott, AZ - #1006.5.41000.602)

Road Construction and Reconstruction – Environmental Considerations

Public Concern: The USDAFS & DOI should not allow road construction or reconstruction under the proposed fire management CEs.

BECAUSE THERE ARE POTENTIALLY SIGNIFICANT EFFECTS TO THE ENVIRONMENT THAT SHOULD BE EVALUATED IN AN ENVIRONMENTAL ANALYSIS

The proposed procedures would allow unlimited use of “temporary” roads for these fire management and fuel reduction projects. However, these “temporary” roads should not be subject to less thorough environmental analysis than are fully engineered and constructed roads because experience demonstrates that the adverse impacts of these two types of roads are often similar. Nevertheless, the proposed procedures impermissibly exempt fire and fuels projects involving road construction or reconstruction to go forward without any consideration or disclosure of the adverse environmental impacts that result from such construction and the concomitant use of these roads. Such a result is not justified under NEPA. (Preservation/Conservation Organization, Paonia, CO - #1732.11.41200.300)

The proposal contradicts the intent of the National Environmental Policy Act by exempting large projects with the assumption that no harm will be done to the environment. Yet significant scientific documentation exists concerning the harmful impacts of logging road construction (even temporary roads) to wildlife habitat, surface water quality, groundwater hydrology, and soil stability. Consideration of these and numerous other issues are integral to NEPA law and analysis. Such scientific analysis is required under NEPA specifically because projects such as those to be excluded by this proposal cause significant impacts. (Place-Based Group, Asheville, NC - #1567.2.41000.322)

The proposed CEs state that a CE would be inappropriate for projects that include permanent road construction. 67 Fed. Reg. 77,043. However, it is well established that temporary road construction can have the same—if not greater—ecological impacts as permanent road construction. See generally, <<http://roadless.fs.fed.us/documents/feis/documents/vol1/volume1.shtml>>. The legacy of “temporary” roads on our public lands is a backlog of maintenance for these roads that runs into the hundreds of millions of dollars, streams choked with sediment and devoid of fish, and fragmented terrestrial habitat. There is a strong positive correlation between roads and the ignition site of forest fires, bringing into question the policy of allowing more road building (even temporary roads) where there is a danger of forest fires. See generally *Roads and Wildfires*; Pacific Biodiversity Institute White Paper. 30 July 2001. Allowing additional road construction, regardless of any purported temporary character, is inconsistent with the best available science and fiscal data that counsels against such construction. (Preservation/Conservation Organization, Bloomington, IN - #1343.10.41200.300)

This proposal would allow roads of any length, width, or impact to escape environmental review as part of a categorically excluded project as long as they are designated “temporary.” Temporary roads have roughly equivalent environmental impacts to permanent roads, however, and should not be exempted from environmental review any more than permanent roads should be. Temporary roads undergo the same construction process as permanent roads, except they are often built to lower standards, and not maintained, which can actually lead to more negative environmental impacts such as erosion. Erosion decreases water quality and destroys fish habitat particularly spawning grounds, by clogging it with sediment. Further, temporary roads fragment forests and habitat the same way permanent roads do, providing access for people who hunt, poach, or otherwise disturb many wildlife species; and for predators and competitors that previously were limited to the forest’s edge. Temporary roads also result in roughly the same long-term environmental impacts as permanent roads since they are often used over the course of their useful life for legal and illegal motorized recreation, and may be maintained in perpetuity by repeated use. Finally, many roads initially designated temporary are given permanent status by the land management agency at a later date. (Preservation/Conservation Organization, Washington, DC - #1501.9.41000.001)

Nothing in the proposed procedure would prevent the use of “temporary” roads. In our experience, temporary roads often have impacts similar to those from specified, or fully engineered and constructed, roads. This is because these roads can be constructed similarly to specified roads, e.g., temporary road construction can include cut slopes, fill slopes, and culverts. Note that the definition of temporary roads does not prevent this from happening: Roads authorized by contract, permit, lease, or emergency operation, not intended to be part of the forest transportation system and not necessary for long-term resource management. Glossary in Forest Service Roadless Area Conservation FEIS, Volume 1, at G-11. Thus the proposed procedure would allow Forest Service officials to approve certain projects involving road construction or reconstruction without disclosure of the impacts from such construction and the concomitant use of these roads. (Preservation/Conservation Organization, Crested Butte, CO - #1403.9.41200.322)

Public Concern: The USDAFS & DOI should not allow road construction under the proposed fire management CEs.

BECAUSE OF ADVERSE EFFECTS ON AIR QUALITY AND VISIBILITY IN THE SOUTHERN APPALACHIANS

The Western North Carolina mountain community derives a huge percentage of its economic input from recreation on the public lands which compromise about half of the region. The Proposal effectively removes NEPA protective provisions which assure that the visual quality and health of the region’s natural resources are maintained and continue to support this growing economy. The Western North Carolina mountain region, including the Great Smokey Mountains, has one of the worst air pollution problems in the nation, equaling or exceeding urban pollution in most states. Further road building will certainly add to this problem. Surveys of visitors state they will not return to this area if visibility continues to decrease. The financial pump that tourism provides to the Southern Appalachian region is essential, but will become threatened if this proposal is implemented. (Place-Based Group, Asheville, NC - #1567.4.41100.001)

Public Concern: The USDAFS & DOI should not allow road construction under the proposed fire management CEs.

BECAUSE OF EROSION AND SEDIMENTATION

The proposal contains such alleged safeguards as “. . . not involving the construction of new permanent roads. . . “ Now the potential for erosion and sedimentation will be occurring twice!!!! First in the construction activities and again in the removal/salvaging process. If you would just limit the fuel reduction projects to where you would not need any new road construction, you would probably have more work available than you could possibly pay for and be reducing the hazards in the most fire-prone areas, namely those already accessible by humans in their vehicles. (Individual, Somers, MT - #644.1.41200.322)

BECAUSE OF ADVERSE EFFECTS ON WATER QUALITY

Allowing larger projects to be categorically excluded from NEPA review will result in activities that cause erosion and stream sedimentation. The highest quality water in the Southern Appalachian Mountains flows out of the region’s national forests and parks, except in areas where road building and clearcutting have occurred. Southern Appalachian communities and municipalities are dependent upon their drinking water from mountain rivers and reservoirs. Sedimentation from road construction in such areas has been shown to impact community water supplies, contribute to landslides and flooding, and promote increased siltation of reservoirs. Such stream pollution also exacerbates the sedimentation problems that expanding development is causing on privately owned lands and in farming communities of western North Carolina. (Place-Based Group, Asheville, NC - #1567.3.41000.304)

The proposal effectively removes NEPA protective provisions which assure that the . . . health of the region’s natural resources are maintained and continue to support this growing economy. Stream pollution will impact the funds derived from fishing, tubing, paddling, and swimming. The region is laced with an overabundance of roads on and off public lands, and categorically excluding even limited road construction will greatly exacerbate stream pollution problems. Best management practices have

had only a limited effect in preventing erosion/sedimentation, and cannot be relied upon as a solution to road increases since they are seldom put into law, or if required are unenforceable due to insufficient wording, funding, or agency enforcement staff. (Place-Based Group, Asheville, NC - #1567.4.41100.001)

Public Concern: The USDAFS & DOI should not allow road construction or reconstruction under the proposed fire management CEs.

BECAUSE OF ADVERSE EFFECTS ON BLACK BEAR AND THEIR HABITAT

Numerous studies have clearly shown that black bears avoid even seldom traveled gravel or dirt roads, such as those that would be excluded from review under this Proposal. The high incidence of roads in the North Carolina mountain counties has increasingly impeded black bear migration and fragmented their populations. (Place-Based Group, Asheville, NC - #1567.5.41100.322)

BECAUSE OF ADVERSE EFFECTS ON SALMON AND STEELHEAD HABITAT IN THE COLUMBIA RIVER BASIN

The Notice states that the proposed categorical exclusions would not apply to projects with new, permanent road construction, although they would cover projects with new, temporary, road construction. In addition, the proposed regulations imply that permanent roads can be “reconstructed” if that infrastructure was previously there. Temporary roads can have the same adverse effect on watersheds and aquatic habitats as permanent roads, and reconstructing a permanent road simply creates another permanent road that will have continuous, long-lasting, adverse effects. The Forest Service and BLM have themselves acknowledged that roads are one of the greatest and most persistent causes of aquatic resource degradation, and that most salmon and steelhead habitats in roaded watersheds within the Columbia River basin have been significantly degraded. (USFS and USBLM, 1997). These agencies have asserted that reductions in the extent and effect of road networks is essential to protecting and restoring salmon and steelhead habitat in the basin. (USFS and USBLM, 1997). The creation of any additional roads in the Columbia River basin—even temporary or reconstructed—is contrary to the needs of the basin as previously identified by the Departments’ own agencies. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.13.41200.001)

BECAUSE OF ADVERSE EFFECTS ON LISTED SPECIES CAUSED BY FAILURE TO CLOSE ROADS AFTER PROJECT COMPLETION

As shown by the experience in the Southwest, hazardous fuel reduction projects can reasonably be expected to have adverse impacts to listed species. The burden is therefore on the agencies to show that similar impacts to listed species cannot occur elsewhere. Loss of important nesting trees for imperiled birds, spread of noxious weeds, increased risk of human caused fires, and increased soil erosion and watershed impacts were some of the adverse effects of the failure to effectively close roads following treatments. (Preservation/Conservation Organization, Santa Fe, NM - #1766.6.41400.315)

Public Concern: The USDAFS & DOI should not allow road construction under the proposed fire management CEs.

BECAUSE ROADS PROVIDE INCREASED ACCESS FOR POACHING

Roads through the forest give easy access to poachers. (Individual, Atlanta, GA - #115.3.40000.001)

I live in the Seattle area and own 1,400 acres of land adjacent to the Okanogan National Forest in Winthrop, WA. This portion of the National Forest has an extremely high road density and I am very aware of the problems caused by these roads. Roads fracture wildlife habitat . . . and provide access to people who use them for unlawful hunting. (Individual, Seattle, WA - #758.4.40000.322)

Public Concern: The USDAFS & DOI should consider the adverse effects of roads on post-fire forests.

Post-fire forests are extremely susceptible to erosion. While roads have extremely detrimental impacts on unburned forests (through changing water flow patterns, increasing erosion, and influencing wildlife habitat and migration), their impacts are greatly intensified on burned landscapes. Roads often have devastating impacts on water quality and fish habitat by increasing landslides, erosion, and siltation of streams. Roads also fragment forests and degrade or eliminate habitat for species that depend on remote landscapes, such as grizzly bears, wolves, and other large, wide-ranging predators (Trombulak and Frissell 2000). (Preservation/Conservation Organization, Missoula, MT - #952.6.60000.606)

Road Construction and Reconstruction – Forest Health Considerations

Public Concern: The USDAFS & DOI should not allow road construction under the proposed fire management CEs.

BECAUSE ROADED ACCESS INCREASES THE RISK OF HUMAN IGNITED FIRES

Building roads for thinning and fuel breaks can increase human access and increase ignition risks. Widespread road access associated with intensively managed stands increase the risk of human caused ignitions. Today, humans are the most common ignition source for wildfires. More than 90% of wildfires are ignited from operating motorized vehicles and logging equipment, smoking, arson, campfires, and debris burning (USDA 1996, 1998). (Preservation/Conservation Organization, Bellingham, WA - #1410.11.41100.530)

Fire occurrence is highly correlated with the presence of roads, as many wildland fires are caused by human activities. Areas of high road density are areas prime for fire starts, due to human access. Given the overwhelming ecological damage associated with roads (including so-called temporary roads and excavated skid trails that the FS would include in the three-classes of CEs under this CE rulemaking) the FS should take a closer look at the real impacts of roadwork in its future analyses—not more shortcuts. (Preservation/Conservation Organization, Missoula, MT - #952.5.40000.301)

BECAUSE ROADS INCREASE THE SPREAD OF NON-NATIVE INVASIVE SPECIES

Roads are known to serve as vectors for invasive alien plant and animal species, which rapidly inhabit road corridors and displace native species which have no defense against such invasions. The National Forest Service (as well as National Park Service and state agencies) is extremely concerned about the invasive species problem and has begun implementing proposals to begin controlling such species, but has a long way to go. This Proposal will clearly undermine this important agency effort. (Place-Based Group, Asheville, NC - #1567.5.41100.322)

Road Construction and Reconstruction – Road Density Considerations

Public Concern: The USDAFS & DOI should require local units to evaluate whether to construct temporary roads for fire management projects in the context of existing local road density.

TO AVOID SIGNIFICANT ECOLOGICAL EFFECTS

Bark recently completed a survey of roads in the Clackamas District of Mt. Hood National Forest, specifically the Upper Clackamas, Oak Grove Fork, and Collawash/Hotsprings watersheds. Our research exposed many problems, including the fact that 54% of the roads that are supposed to be closed are not effectively keeping out vehicles; 34% of elk analysis units have road densities that exceed their own limits (a higher percentage than Forest Service documents admit); and the presence of ghost roads, or roads that the USFS doesn't include in its inventory. Because temporary roads can have the same or greater ecological impact as new roads, they need to be discussed in the context of the road densities in

the area before they are built. (Preservation/Conservation Organization, Portland, OR - #1436.4.40000.001)

Public Concern: The USDAFS & DOI should not allow road construction under the proposed fire management CEs in areas where road density exceeds two miles per 1,000 acres.

DUE TO CUMULATIVE EFFECTS

It is well-documented that roads and road construction have, or can have, significant effects on the environment. . . . I suggest that road density in a given watershed is a factor in determining whether or not the categorical exclusion should apply. In most cases, road density is a factor that needs environmental analysis to evaluate cumulative impacts. I suggest . . . adding a restriction from categorical exclusion if the existing road density exceeds two miles per 1,000 acres. (Individual, Damascus, VA - #1045.1.41000.300)

Road Construction and Reconstruction – Recreational Considerations

Public Concern: The USDAFS & DOI should not allow temporary road construction under the proposed fire management CEs.

BECAUSE OF LIKELY ADVERSE EFFECTS CAUSED BY OFF-ROAD VEHICLE USE

Temporary roads are often subject to off-road vehicle (ORV) abuse. What will be done to prevent any temporary roads built under an expanded CE category from being subject to ORV abuse? (Preservation/Conservation Organization, Portland, OR - #1436.4.40000.001)

Roads make it too easy to enter the forest on motorized vehicles which create pollution, noise, and human harassment of wildlife which reduce reproductive rates, survival rates, and quality of life for the wildlife. (Individual, Atlanta, GA - #115.6.40000.313)

Road Construction and Reconstruction – Economic Considerations

Public Concern: The USDAFS & DOI should not allow temporary road construction under the proposed fire management CEs.

BECAUSE THE COSTS OUTWEIGH CURRENT FUNDING TO MAINTAIN THE EXISTING ROAD NETWORK

The Healthy Forest Initiative plan would require a larger road network and the taxpayers can't afford to maintain the network we have. The Forest Service is supposed to be making an effort to reduce road densities to improve habitat and to reduce maintenance costs to the taxpayer. (Individual, McKinleyville, CA - #386.4.41100.001)

It makes no sense for the public land agencies to spend more money on road building, and then decommissioning of these new temporary roads, when there is already a huge backlog in road maintenance and decommissioning projects within their jurisdictions due to lack of funding. (Columbia River Inter-Tribal Fish Commission, Portland, OR - #797.13.41200.001)

Your proposal would encourage road construction in areas where it currently is not cost-effective to build roads. I will admit that on private forest lands it is possible to find such careful logging, but in remote roadless areas it is impractical to build roads up steep mountains and across riparian areas, in addition to burdening the taxpayers. (Preservation/Conservation Organization, Winthrop, WA - #1184.9.41000.113)

The Forest Service already has an 8 billion dollar backlog in road maintenance. There is no guarantee temporary roads could be decommissioned in an appropriate and timely manner to prevent serious environmental degradation. There is evidence that road maintenance would fall further behind. (Preservation/Conservation Organization, Santa Rosa, CA - #1769.3.41000.300)

BECAUSE THE FOREST SERVICE IS CURRENTLY UNABLE TO FUND THE REQUIRED OBLITERATION OF TEMPORARY ROADS AFTER TIMBER SALES

The Forest Service does not currently have the funding to maintain roads and maintain road closures for the miles of forest roads we already have. Where would the funding come from to obliterate temporary roads in CEs? We have seen numerous timber sales in the Mt. Hood National Forest that have claimed that the roads used would be temporary. However, many of these roads were never properly obliterated. Hence Mt. Hood National Forest is already covered in ghost roads. Additionally, the Forest Service has told us that they were unable to close roads in timber sale projects due to funding constraints. We believe that the creation of an expanded CE for hazardous fuels reduction that allows the creation of temporary roads will lead to an increase of ghost roads in the Mt. Hood National Forest. This will increase the problems we already have where road densities in key areas are far higher than Forest Service documents reveal. Will there be any restriction put on where these temporary roads are allowed to be built? We believe there should be no new road building, temporary or otherwise, under an expanded categorical exclusion. Roads have significant environmental impacts. Additionally, [the agencies should] require discussion of funding for proper maintenance and obliteration. (Preservation/Conservation Organization, Portland, OR - #1436.5.41200.001)

Many timber sales in recent years are justified on the basis of an ill-defined fuel reduction policy. These same sales build roads and, even though many roads are [classified] as temporary, they have significant effects on watersheds. A major problem with "temporary roads" is the fact that road closure is not always effective. Research by the US Fish and Wildlife Service in the Panhandle National Forest of Idaho in 1994 found the majority of roads passable to motorcycles and even larger off-road vehicles such as all terrain vehicles (ATVs). The results of this and other studies show that once a pathway is created, it is often difficult to close even if the intent of the agency is that the route is to be temporary. The federal register leads one to believe the agencies have extensive experience in these kinds of projects. However, the background information for the Forest Service seems to date back only to October of 2000. That hardly qualifies as extensive experience. Quantitative monitoring is required to make a reasoned decision in this case. The evidence provided by the government does not make that case. (Preservation/Conservation Organization, Moscow, ID - #1752.5.15111.739)

An example from the Southwest [of] the failure to effectively close roads following hazardous fuels treatments and other activities on the Carson and Lincoln National Forests in New Mexico. Studies found that only 64 percent of the roads on the Carson were effectively closed while just 44 percent were effectively closed on the Lincoln (B.M. Bird. 1997. Road closure and density survey, Camino Real District, Carson NF, New Mexico. Forest Guardians, Santa Fe; B.M. Bird. 1999. Road closure effectiveness: implications for watershed and noxious weed management on the Sacramento Ranger District, Lincoln NF, New Mexico, Forest Guardians, Santa Fe). (Preservation/Conservation Organization, Santa Fe, NM - #1766.6.41400.315)

Road Construction and Reconstruction in Roadless Areas

Public Concern: The USDAFS & DOI should not construct roads in roadless areas.

BECAUSE THESE AREAS ARE LEAST PRONE TO HUMAN CAUSED IGNITIONS FACILITATED BY MOTORIZED ACCESS

Roadless areas are shielded from unregulated motorized access, and thus, from the increase in fire ignitions. "Fires are almost twice as likely to occur in roaded areas as they are in unroaded areas" (NFP

2001). We request that the agency drop the CE proposal and at very least, exclude roadless areas from the proposal. (Preservation/Conservation Organization, Bellingham, WA - #1410.11.41100.530)

Public Concern: The USDAFS & DOI should not construct temporary roads in roadless areas.

EXCEPT IN RARE CASES WHERE PROPERTY IS AT RISK

“Temporary” roads in roadless areas are not acceptable except in rare cases where human dwellings are directly endangered. (Individual, Crested Butte, CO - #1066.8.41200.703)

Public Concern: The USDAFS & DOI should mandate and fund temporary road obliteration after project completion under the proposed fire management CEs.

TO REDUCE ADVERSE EFFECTS TO ROADLESS AREAS

We understand that the intended effect of these additional categorical exclusions, as presented in the Federal Register, is “to facilitate efficient planning and timely decisions concerning treatment of hazardous fuels and stabilization and rehabilitation of areas so as to reduce risks to communities.” NOLS supports this objective, however, we are concerned that some of the actions proposed to achieve it will negatively affect roadless areas in the long run. We offer the following suggestions in an effort to sharpen the focus of the new categorical exclusions on the intended objective: ensure and provide funding for road obliteration and land restoration. Temporary roads, if left to recover naturally, often become de facto permanent roads because they invite access and become unofficial travel ways. We ask the agencies to designate funding and provide procedural mandate to actively close temporary roads when categorically excluded activities are completed. (Special Use Permittee, Lander, WY - #841.2.41400.113)

Road Decommissioning, Closure, and Obliteration

Public Concern: The USDAFS & DOI should decommission or obliterate roads.

TO REDUCE RISK OF HUMAN CAUSED FIRES

Remove unneeded roads, which have been shown to be a significant factor in human-caused wildfires. (Individual, Medford, OR - #815.4.41400.602)

We need decommissioning of roads—potential sources of fire. (Preservation/Conservation Organization, Ashland, OR - #1075.6.41400.602)

Public Concern: The USDAFS & DOI should not allow obliteration of existing roads under the proposed fire management CEs.

BECAUSE THE EXISTING ROAD SYSTEM IS ESSENTIAL FOR FOREST MANAGEMENT

To correct the present situation, small targeted projects will not be enough. I believe that the following should be implemented. Protection of the existing transportation system is essential for the protection and restoration of our forests and makes projects more economically sound. The obliteration of roads only takes place after review of its future need and value are assessed. (Individual, Grangeville, ID - #1669.4.40000.453)

Public Concern: The USDAFS should mandate closure and obliteration of temporary roads after categorically excluded rehabilitation activities.

Forest Service policy should explicitly state that where temporary roads are required to facilitate rehabilitation activities, these temporary roads will be reclaimed/obliterated after project completion. (Preservation/Conservation Organization, Rice Lake, WI - #179.2.41400.453)

Other Infrastructure

Public Concern: The USDAFS & DOI should not allow the rebuilding of any infrastructure under the proposed rehabilitation CE.

INCLUDING ROADS, FENCES, AND LIVESTOCK WATERING FACILITIES

Do not rebuild infrastructure until it is determined to be necessary. The rehabilitation CE should not allow the rebuilding of “infrastructure” such as roads, pasture fences, livestock watering facilities, etc., until after the agencies have determined these facilities to be necessary for future management. Grazing facilities such as fences and water sources should not be rebuilt under a CE without any NEPA analysis. (Preservation/Conservation Organization, Montgomery, AL - #1409.38.41000.739)

Do not rebuild infrastructure until it is determined to be necessary. The rehabilitation CE should not allow the rebuilding of “infrastructure” such as roads, pasture fences, livestock watering facilities, etc., until after the agencies have determined these facilities to be necessary for future management. Roads are a source of fire ignitions and thereby increase fire risk. Maybe these roads are no longer needed. Why rebuild them without any analysis? Similarly, livestock grazing causes serious adverse effects on natural plant community structure and fire regimes (as explained above), so grazing facilities such as fences and water sources should not be rebuilt under a CE without any NEPA analysis. (Preservation/Conservation Organization, Takoma Park, MD - #1591.15.60100.001)

Recreational Management

Public Concern: The USDAFS & DOI should emphasize recreational opportunities rather than timber harvest in forest health management planning.

As a former employee, I have seen firsthand the damage to watersheds and other habitats by excessive logging. I also know that timber is only one of six areas under the USFS aegis. Research has shown that, in most national forests, recreation brings in more money than logging. Recreation is also less destructive, particularly if snowmobiles, motorcycles, and other off-road vehicles are kept out. (Individual, Des Moines, IA - #527.5.73000.001)

Public Concern: The USDAFS & DOI should provide more non-motorized recreational opportunities.

Provide more hiking, horse, and cross country skiing trails. According to your own workshop chart enclosed, the miles used for motorcycles, snowmobiles, and ATVs dwarf miles for other usage. (Individual, Clawson, MI - #1159.4.45100.450)

Public Concern: The USDAFS & DOI should prohibit or restrict off-road vehicles.

Limit or ban snowmobiles and ATVs. These disturb the wildlife. They destroy the forest undergrowth and vegetation. These vehicles emit noxious fumes; two stroke engines give off more exhaust hourly than a car in a day. (Individual, Clawson, MI - #1159.5.46100.001)

Public Concern: The USDAFS & DOI should allow unmaintained closed roads to be used for recreation.

Roads don't have to be maintained but can be opened when needed with just a few major roads being maintained. Closed roads can be used by those recreating, hunting, hikers, horses, and bicycles. (Individual, Eureka, MT - #1528.10.41300.453)

Landownership

Public Concern: The USDAFS & DOI should not create new inholdings.

The federal government should not be creating new inholdings as the Forest Service is doing at Grand Targhee ski resort in Wyoming, surrounded by the Targhee NF. (Individual, Victor, ID - #369.6.50000.602)

Public Concern: The USDAFS & DOI should acquire inholdings to reduce private backcountry development and subsequent fire management costs.

I would also ask to FS to consider programs to acquire inholdings. It seems financially irresponsible to spend millions of dollars protecting private buildings worth hundreds or thousands of dollars. (Individual, Santa Fe, NM - #1175.6.50100.740)

Roadless Areas and Other Special Designations

Roadless Areas

Public Concern: The USDAFS & DOI should emphasize the protection of ancient and roadless forests.

We must make a real effort to protect our ancient and roadless forests and areas. Please, do everything you can to make certain that we do more good than harm, instead of vice-versa. It seems that we are headed in the wrong direction. (Individual, Williamstown, NJ - #946.4.60000.530)

I am entirely opposed to forest management techniques that would involve any activity in roadless areas. (Individual, Amherst, MA - #837.4.66100.530)

Public Concern: The USDA & DOI should provide maps to identify the 10 million acres of roadless areas in Montana that may be affected by the proposed fuels reduction CE.

We are concerned with the inadequate sideboards of the proposal:

The lack of maps identifying the affected 10 million acres. While it is understood hazardous fuel reduction activities will not occur in wilderness areas or wilderness study areas, little is said concerning Inventoried Roadless Areas (IRAs), except they will be avoided under extraordinary circumstances in the rehabilitation and stabilization category of CEs. This implies IRAs may be entered under the fuel reduction CE. As we all well know, many IRAs are recommended in forest plans as potential wilderness areas, while there are only seven (7) Wilderness Study Areas in Montana with the formal legislative designation (SB-393). Are we to assume that these are the ONLY areas so categorized in the president's Healthy Forests Initiative (PHFI) that will be exempted? If not, then it should be so stated and maps provided. It is MWA's belief that without appropriate maps providing definition, this 10,000,000 acre policy is excessive and unwarranted. (Preservation/Conservation Organization, Kalispell, MT - #388.2.17700.530)

Wilderness Areas

Public Concern: The USDAFS & DOI should allow the proposed fuels reduction CE to be used in wilderness study areas.

Hazardous fuel load reductions should be allowed in wilderness study areas to improve the chances of effective controls over potential fires. Over thirty-three percent of Forest Service lands in Wyoming are

already in wilderness which means no hazardous fuel load reductions can occur. (Agriculture Industry, Laramie, WY - #569.9.64000.531)

Public Concern: The USDAFS & DOI should not allow any timber harvest within several miles of wilderness area boundaries.

I continue to see our native forests dwindle here in Oregon and Washington. I continue to see the native forests on the perimeters of wilderness areas being nipped away at. The best accessible forests which usually reside outside these wilderness areas are unfortunately allowed to be cut. I see it time and again. The gradual slopes with the biggest trees become property of the timber companies while the public is given the rugged and rocky terrain where even wildlife have difficulty moving through. Please, I request that . . . the Forest Service work toward restoring the perimeters of our wilderness areas by not allowing any logging within several miles of their borders and by eliminating the roads there. (Individual, No Address - #442.1.10200.001)

National Monuments

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs in national monuments.

AS WELL AS IN DEPARTMENT OF INTERIOR NATIONAL NATURAL LANDMARKS

Presumably, the proposed CEs will allow categorically excluded management activities to occur within the boundaries of our National Monuments. Neither the proposed CEs nor existing Department of Interior NEPA guidance explicitly exempt Monuments from CEs. In contrast, National Natural Landmarks (NNLs) are explicitly exempted from the CEs via the DOI Manual. While those Monuments that overlap with such NNLs will be protected, this is a very small percentage of Monument land. According to the Park Service, of the approximated 587 NNLs, less than 20 are in National Parks and only a couple are in National Monuments. (Pers. comm. with Steve Gibbons, regional National Natural Landmark representative) For example, one NNL is in Hagerman Fossil Beds. The proposed CE does state that activities “would not be conducted in wilderness areas or where they would impair the suitability of wilderness study areas for preservation for wilderness.” Thus, at least parts of National Monuments may receive some protection, such as the proposed WSA in the Klamath-Siskiyou National Monument. However, many Monuments are not WSAs, and in those that are WSAs the proposal would still give agency managers the discretion to use CEs if they determined that the activities would not impair their wilderness suitability. The proposed CEs must be in a manner consistent with the Collaborative Framework in the 10-year Comprehensive Strategy Implementation Plan. However, this framework does not mention National Monuments so it does not provide any sort of protection. Currently, National Monuments are jeopardized by the CEs and are at the mercy of the current Administration’s interpretation. Clear language should exist in the regulations requiring normal NEPA review for management activities in National Monuments. (Preservation/Conservation Organization, No Address - #1724.21.53300.001)

Social Values

Public Concern: The USDAFS & DOI should protect public lands for their social value.

TO BENEFIT FUTURE GENERATIONS

The future of our forests rests in your hands. Please act responsibly to preserve their integrity so that future generations may enjoy them and the wildlife for which they provide habitat. (Individual, Piedmont, CA - #236.3.30000.001)

Our founding fathers and those since who have set aside these lands had the foresight to know that with population increases and more pollution, this earth was going to need pockets of undisturbed, natural habitat. These areas were set aside for the benefit of all who will come after us. (Individual, Bentonville, AR - #506.5.30000.705)

FOR PUBLIC USE

I have visited many of the national parks and forests, and plan to visit more; I want them maintained for use by the public—in a natural state, so we (and our children and grandchildren) can see what this country was like many years ago. Once these forests are “logged over,” there is no chance to bring them back for years! (Individual, Saint Louis, MO - #416.3.30000.705)

TO ENSURE QUALITY OF LIFE

Protecting and preserving the natural environment should always be high priority on every society’s agenda, for in the long run the benefits of a healthy environment are great, such as a greater quality of life for society. (Individual, Fort Lee, NJ - #1602.4.30000.702)

I believe that a huge component of living a healthy, quality life as a human involves having wild spaces to explore and have in our “backyards.” I grew up near the Olympic National Forest in Western Washington and know that the beauty and wonder of the park enhanced my life. Our forests deserve our active protection. (Individual, Bellingham, WA - #1571.4.30000.702)

Some of us need to have forests where we can take our children and grandchildren and get back in touch with nature. Please realize it is vital that we have trees, for our air, for our souls. (Individual, Santa Ana, CA - #611.6.30000.700)

TO FOSTER PUBLIC HEALTH

And if you don’t really care about preserving the forests and letting the wild beasts have a home, you surely must at least care about human beings like yourself and your family. Not only does it destroy our mental health, it destroys our physical health as well. I’m pretty sure the high rate of cancer, especially in the United States, has to do with pollution. Damaging the environment will only damage us. We must choose a better world before it is too late.

Please continue to oppose all environmentally damaging regulations now and in the future, if not, maybe we don’t have a future, and if we do, so far it looks like a lot of garbage, cement and disaster. (Individual, San Francisco, CA - #505.5.30000.001)

TO SET AN EXAMPLE FOR THE WORLD

Our nation needs to set the example to the rest of the world for forest protection. It’s the only way we can protect the planet and protect our way of life in the long term. Please do not allow short term profit to overcome the Forest Service’s long history of good forest management. (Individual, Stanton, CA - #351.1.30300.301)

TO RESPECT RELIGIOUS VALUES

As a serious reminder, Allah (God), who is the eternal, who has no partners or equals, created everything in the heavens, the earth, and all that is between! As such, your programs of planet destruction are very sinful! (Individual, Montreal, Canada - #773.6.30000.704)

Economic Values

Economic Values General

Public Concern: The USDAFS & DOI should employ displaced timber harvesters to remove small-diameter non-commercial fuels and conduct restoration.

RATHER THAN SUBSIDIZE HARVEST OF LARGE-DIAMETER TIMBER AS CURRENTLY PROPOSED IN THE FIRE MANAGEMENT CE'S

I was told that a General Accounting Office (GAO) study showed that fuels reduction projects that do not log big trees in native forests have not been obstructed by citizen appeals or lawsuits. The proposed CEs could be used to enable commercial logging, salvage logging, and other activities that waste taxpayer money and do nothing to reduce fire risk, while subsidizing the big timber industries. This is corporate welfare; let's instead provide forest restoration and management jobs for displaced loggers by having them cut the brush and small trees that clog the under story in fire-prone areas. That's a good and direct use of tax money to benefit working Americans. (Individual, Ashland, OR - #1384.2.74400.001)

I have many stories of friends and acquaintances who worked on fire crews in the past [about] the waste of taxpayer money. Why should we pay for inefficient emergency response rather than slowly clearing brush from that land which is close to houses? I would like to see local Ranger Districts working with local citizens in each community to provide jobs to local folks using our dollars effectively. Logging in our pristine old growth forests is not the answer. (Individual, Corvallis, OR - #793.5.75100.001)

Set aside funds to reeducate and train loggers for other lines of work. Logging companies are dying dinosaurs and we all need to accept that some death is necessary—but must it always be the poor or the defenseless who unwillingly and often unknowingly sacrifice? (Individual, Ferndale, WA - #1326.9.73000.734)

Provide funding for retraining and relocation of loggers now, not when no trees are left and workers are out of jobs. Use the funds we should be receiving from “sales” or giveaways and road building on our national forests. (Individual, Los Angeles, CA - #771.8.70000.603)

Public Concern: The USDAFS & DOI should assist communities in securing funds available under the National Fire Plan and the Secure Rural Schools and Community Self-Determination Act.

In addition to enhancing the efforts H-F ZLG Pilot Project, CEs will expedite the funding and implementation of hazardous fuel reduction projects that are designed by local citizens, agencies and landowners through their efforts in County Fire Sale Counsels and Resource Advisory Committees. Between the Community Assistance Grants under the National Fire Plan and Title II and Title III funds under the Secure Rural Schools and Community Self-Determination Act, an additional \$20 million is available for fuel reduction and fire protection projects beyond the agencies' annual operating budget and it is imperative that these funds be utilized and leveraged efficiently for the protection of communities and watersheds. (Quincy Library Group, Chico, CA - #1373.5.16100.602)

Adequacy of Analysis

Public Concern: The USDAFS & DOI should assess the economic effects of proposed fire management CEs, including non-market costs.

AS REQUIRED BY EXECUTIVE ORDER 12866

Executive Order 12866 requires that the Forest Service and DOI “assess both the costs and benefits of the intended regulation” and “propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.” E.O. 12866, Sec 1(b) 6. In addition, since the proposed CEs are “significant regulatory actions,” the Forest Service and DOI must prepare and make public (a) an assessment, including the underlying analysis, of benefits anticipated from the regulatory action; (b) an assessment, including the underlying analysis, of costs anticipated from the regulatory action, and; (c) an assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonable alternatives to the planned regulation. E.O. 12866, Sec. 6(a) C. Further, in assessing benefits and costs, effects on all market and non-market goods and services must be addressed.

The Forest Service and DOI have failed entirely to conduct any economic analysis whatsoever of the proposed CEs. Because of this, the agencies must withdraw the current notice and complete and make public the required economic analysis before re-issuing the proposed CE rules in the Federal Register.

The proposed CEs have a potential to impose significant and lasting non-market costs on the vast number of landowners, businesses, and communities that rely on unlogged public forestlands for ecosystem services, such as clean water, recreation, scenery, non-traditional forest products, and game. In addition to any purely financial analysis the Forest Service and DOI conduct, these non-market economic costs and benefits must also be considered and quantified whenever possible (Preservation/Conservation Organization, Santa Fe, NM - #845.12.75200.230)

Public Concern: The USDAFS & DOI should justify the assertion that the proposed fire management CEs will not have an annual effect of \$100 million or more on the economy.

The Federal Register draft rules state, “This action to add two categorical exclusions to the agencies’ NEPA procedures will not have an annual effect of \$100 million or more on the economy”

I would challenge the validity of that statement. The Department of Interior’s FY’03 budget request for hazardous fuels is \$186MM with another \$20MM set aside for rehabilitation and restoration. The Forest Service’s FY’03 budget request for hazardous fuels is \$234MM with another \$4.6MM set aside for rehabilitation and restoration. The total for both agencies for both categories exceeds \$444MM. (Timber or Wood Products Industry, Eugene, OR - #686.3.23200.736)

Appendix A

Content Analysis Process

Public responses submitted regarding the proposed fire management categorical exclusions (CEs) have been documented and analyzed using a process called content analysis. This is a systematic process of compiling and categorizing all public viewpoints and concerns submitted on a plan or project. Content analysis is intended to help the planning team clarify or modify the final rule. Information from public meetings, letters, e-mails, faxes, and other sources are all included in this analysis.

In the content analysis process, each response is assigned a unique number. This number allows analysts to link specific comments to original responses. All respondents' names and addresses are entered into a project-specific database program, enabling creation of a complete list of all respondents.

Analysts read and code responses using the coding structure. Each comment is coded by subject and verified by a second analyst for accuracy and consistency. Then all coded comments are entered verbatim into a comment database. Database reports track all input and allow analysts to identify public concerns and to analyze the relationships among them. The final analysis document includes an executive summary, which discusses respondents' main areas of concern, and a formal list of public concern statements. Each public concern statement is accompanied by one or more sample excerpts from original responses.

This process and the resulting document do not replace responses in their original form. Rather, they provide a map to the responses and other input on file at the offices of the Content Analysis Team (CAT) in Salt Lake City, Utah. Interested parties are encouraged to read public comment firsthand.

It is important to recognize that the consideration of public comment is not a vote-counting process in which the outcome is determined by the majority opinion. Relative depth of feeling and interest among the public can serve to provide a general context for decision-making. However, it is the appropriateness, specificity, and factual accuracy of comment content that serves to provide the basis for modifications to planning documents and decisions. Further, because respondents are self-selected, they do not constitute a random or representative public sample. The National Environmental Policy Act (NEPA) encourages all interested parties to submit comment as often as they wish regardless of age, citizenship, or eligibility to vote. Respondents may therefore include businesses, people from other countries, children, and people who submit multiple responses. Therefore, caution should be used when interpreting comparative terms in the summary document. Every substantive comment and suggestion has value, whether expressed by one respondent or many. All input is read and evaluated and the analysis team attempts to capture all relevant public concerns in the analysis process.

Appendix B

Coding Structure

Presented below is the list of categories or “codes” used to sort public comment on the Combined Interim Directives. A more detailed description of the coding, database construction, and other elements of the methodology used for this analysis can be found in Appendix A: Content Analysis Process.

PLANN 10000-19999

- 10000 Purpose and Need for Proposed Action
 - 10100 Implement CEs
 - 10200 Do Not Implement CEs
- 11000 Decisionmaking Authority
 - 11100 Role/Authority
 - 11110 PRESIDENT/EXECUTIVE BRANCH
 - 11120 USDA/FOREST SERVICE
 - 11130 DEPARTMENT OF INTERIOR (BUREAU OF INDIAN AFFAIRS, BUREAU OF LAND MANAGEMENT, NATIONAL PARKS SERVICE, FISH AND WILDLIFE SERVICE, BUREAU OF RECLAMATION)
 - 11140 LEGISLATIVE BRANCH
 - 11150 JUDICIAL BRANCH
 - 11160 STATE, COUNTY, AND CITY GOVERNMENTS
 - 11200 Role of Interest Groups
 - 11210 ENVIRONMENTAL GROUPS
 - 11220 MULTIPLE USE/ WISE USE GROUPS
 - 11230 INDUSTRY/BUSINESS GROUPS
 - 11300 Role of General Public
 - 11310 LOCAL CITIZENS/COMMUNITIES
 - 11320 NATIONWIDE CITIZENS/COMMUNITIES
- 12000 Public Involvement
 - 12100 Adequacy/Availability of Information
 - 12200 Outreach/Agency Communication Efforts
 - 12300 Use of Public Involvement/Comment
 - 12310 METHODOLOGY AND TECHNIQUES
 - 12400 Public Meetings
 - 12500 Adequacy of Comment Period
 - 12510 EXTENSION NEEDED
 - 12520 NO EXTENSION NEEDED
 - 12600 Adequacy of Timeframe
 - 12700 Collaboration
- 13000 Trust and Credibility

- 14000 Use of Science in Decisionmaking General
 - 14100 Best Available Science
 - 14110 STUDY ON 154 RANDOMLY SELECTED TIMBER HARVESTS
 - 14120 FINDING OF NO SIGNIFICANT EFFECT ON HUMAN ENVIRONMENT
- 15000 Relation to Other Plans, Directives, Etc.
 - 15100 1994 Northwest Forest Plan
 - 15110 10-YEAR COMPREHENSIVE STRATEGY
 - 15111 MONITORING (NATIONAL FIRE PLAN OPERATIONS AND REPORTING SYSTEM)
 - 15120 NATIONAL FIRE PLAN
 - 15130 ROADLESS AREA CONSERVATION RULE
 - 15140 215 APPEALS
 - 15150 PLANNING RULE
- 16000 Agency Organization and Funding
 - 16100 Funding, General
 - 16200 Staffing General
 - 16210 STAFF TRAINING, EDUCATION

CATEX 17000 Categorical Exclusions General

- 17100 Categorical Exclusions (CE) General comments about CEs
 - 17110 SUPPORTS CE'S
 - 17120 OPPOSES CE'S
- 17300 Suggestions for other alternatives
- 17400 Use of Interim Directives (prior to actual amendment)
- 17500 Documentation required to exclude project
 - 17510 DECISION MEMO
- 17600 Description of decision to be made
- 17700 Extraordinary circumstances
 - 17710 ANY FINDINGS REQUIRED BY OTHER LAWS
 - 17720 EIS OR EA REQUIRED TO ISSUE CEs
 - 17730 CUMULATIVE IMPACTS OF MULTIPLE CEs
- 17800 Separate CEs issued within close proximity (really just one project, individually too large for CE qualification)
 - 17810 LIMIT ON NUMBER OF CEs DURING CERTAIN PERIOD OF TIME
- 17900 Limit on number of CEs within a certain area
 - 17910 DEFINITION OF SIGNIFICANT EFFECT

ALTER 20000 Alternative Development

LEGAL 23000-25999

- 23000 Relation to Laws, Act, Policies and Regulations General
 - 23100 Constitution
 - 23200 Federal Laws, Acts, Policies, and Regulations
 - 23210 NEPA
 - 23220 NFMA
 - 23230 CEQ
 - 23240 OTHER
- 24000 Appeals and Litigation

TRIBL 26000-29999

- 26000 Tribal Rights and Interests General
 - 26100 Federal Trust Responsibilities
 - 26200 Tribal Government Issues
- 27000 American Indian Use of Public Lands
 - 27100 Cultural Interests
 - 27200 Economic Interests
 - 27300 Spiritual Interests

ENVIR 30000-39999

- 30000 Environmental Values General
 - 30100 Multiple Environmental Resources
 - 30200 Environmental Quality and Ecosystem Integrity
 - 30300 Short-Term Vs. Long-Term Productivity/Risks
- 31000 Physical Elements, General
 - 31100 Multiple Physical Resources
 - 31200 Soils and Geology
 - 31210 SOIL PRODUCTIVITY
 - 31220 SOIL DISTURBANCE (EROSION, COMPACTION, ETC.)
 - 31300 Air Quality
 - 31400 Noise
 - 31500 Water Resources
 - 31510 SURFACE WATER
 - 31520 GROUNDWATER
 - 31530 RIPARIAN AREAS AND WETLANDS
 - 31540 WATER QUANTITY
 - 31550 WATER QUALITY
 - 31560 WATERSHED CONDITION
 - 31600 Climate, Weather, and Atmospheric Processes
- 32000 Biological Elements, General
 - 32100 Multiple Biological Resources
 - 32200 Biodiversity
 - 32300 Ecosystem/Habitat Composition and Function

- 33000 Wildlife General
 - 33100 Wildlife Population Management
 - 33200 Fisheries and Aquatic Wildlife
 - 33300 Terrestrial Wildlife and Habitat
 - 34000 Forested Vegetation
 - 34100 Forest Structure
 - 34110 DOWNED WOODY DEBRIS/SNAGS
 - 34120 LATE SUCCESSIONAL/OLD GROWTH
 - 34130 EARLY SUCCESSIONAL
- 35000 Botanical Resources
 - 35100 Threatened, Endangered, and Sensitive Species
- 36000 Non-Forested/Rangeland Vegetation
 - 36100 Invasive Non-Native Species

TRANS 40000-44999

- 40000 Forest Transportation System General (infrastructure)
- 41000 Roads Infrastructure Management General (For Use of Roads/Restrict or Don't Restrict Access, Use RECRE codes)
 - 41100 Construction
 - 41200 Temporary Road Construction
 - 41300 Road Maintenance
 - 41400 Road /Removal/Decommissioning (for closures and use mgmt., use RECRE codes)
 - 41500 Repairing a damaged road to pre-wildfire condition
- 42000 Trails Infrastructure Management General
 - 42100 Trails Construction
 - 42200 Trails Maintenance
 - 42300 Trails /Removal/Decommissioning
 - 42400 Repairing a damaged trail to pre-wildfire condition
- 43000 User-Created Roads and Trails

RECRE 45000-49999

- 45000 Recreation Management General
 - 45100 Multiple Recreational Activities/Laundry Lists
 - 45200 Use of Volunteers
 - 45300 User Conflicts
- 46000 Recreation Types: Non-Commercial, Dispersed, Or Unspecified
 - 46100 Motorized Recreation General
 - 46200 Mechanized Recreation
 - 46300 Non-Motorized, Non-Mechanized Recreation
 - 46400 Other
- 47000 Recreation: Developed Facilities, Commercial Use, Special Use Permits, and Fees General
- 48000 Scenery and Visual Resources Management

LANDS 50000-52999

- 50000 Landownership General
 - 50100 Lands Acquisition by Agency
 - 50200 Land Exchanges and Disposal
- 51000 Rights-of-Way General
 - 51100 Rights-of-Way to Public Lands across Private Property
 - 51200 Rights-of-Way to Private Property across Public Lands

SPECL 53000-55999

- 53000 Special Designations General
 - 53100 Roadless Areas
 - 53200 Designated Wilderness
 - 53300 Other Special Designations
 - 53310 WILD, SCENIC, AND RECREATIONAL RIVERS
- 54000 Heritage and Cultural Resource Management

NRMGT 60000-69999

- 60000 Natural Resources Management General
 - 60100 Multiple Natural Resource/Management Activities
 - 60200 Guiding Management Philosophy
 - 60210 MULTIPLE USE MANAGEMENT
 - 60220 ECOSYSTEM MANAGEMENT
 - 60300 Public Education
- 61000 Timber Resource Management
 - 61100 Timber Harvest General
 - 61110 Best Management Practices (stream buffers)
 - 61200 Size of CE projects—Specific Acreage
 - 61210 10 ACRES OR LESS
 - 61220 50 ACRES OR LESS
 - 61230 250 ACRES OR LESS
 - 61240 251 ACRES OR GREATER
 - 61250 100,000 BOARD FEET OR LESS
 - 61260 250,000 BOARD FEET OR LESS
 - 61270 1 MILLION BOARD FEET OR LESS
 - 61300 Allowable Sale Quantity
 - 61400 Harvest of Specific Size Trees
 - 61500 Harvest Methods
 - 61510 TRACTOR TOW/ROLLER CHOPPER
 - 61520 THINNING GENERAL
 - 61530 SALVAGE
 - 61600 Even/Uneven aged timber harvest
- 62000 Other Forest Products
- 63000 Domestic Livestock Management
 - 63100 Rebuilding or repairing livestock management fences and watering structures for wildlife/livestock

- 64000 Hazard Fuels Reduction
 - 64100 Fire Management
 - 64110 FIREFIGHTER ACCESS
 - 64120 FUEL BREAKS (CANOPY CLOSURE)
 - 64200 Role of Fire In Ecosystems
 - 64300 Fire Plans
 - 64400 Prescribed Fire
 - 64410 SMOKE MANAGEMENT
 - 64500 Methods (for hazardous fuels reduction)
 - 64510 TRACTOR TOW/ROLLER CHOPPER
 - 64520 THINNING
 - 64530 SALVAGING
 - 64600 Timber Sales
 - 64700 Wildland Fire
 - 64800 Use of Pesticides/Herbicides
 - 64900 Other Methods
- 65000 Rehabilitation and Stabilization
 - 65100 Install Erosion Control Devices
 - 65200 Habitat Restoration
 - 65300 Reseeding and Replanting
- 66000 Forest Health Management
 - 66100 Forest Health Management Activities
- 67000 Mineral Resources
- 68000 Utility Facilities
- 69000 Research and Educational Facilities

SOCIO 70000-72999

- 70000 Social Values General (Includes Socio-Economic General)
 - 70100 Demographics
 - 70110 POPULATION
 - 70120 COMMUNITY STRUCTURE AND STABILITY
 - 70130 URBANIZATION AND DEVELOPMENT
 - 70200 Quality of Life
 - 70300 Public Health and Safety
 - 70400 Equity
 - 70410 INTERGENERATIONAL EQUITY (FUTURE GENERATIONS, LEGACY VALUES)
 - 70420 ENVIRONMENTAL JUSTICE
 - 70430 CLASS AND INCOME EQUITY
 - 70440 TRANSFER OF EFFECTS INTERNATIONALLY
 - 70450 INHERENT VALUES OF ENVIRONMENT (INTERSPECIES EQUITY)

ECONO 73000-75999

- 73000 Economic Values General
- 74000 Contribution/Role of Agency-Administered Lands and Resources To Economy
 - 74100 International
 - 74200 US
 - 74300 Local/Regional
 - 74400 Employment
 - 74500 Business Viability
 - 74600 Private Property Values
 - 74700 Tax Base and Payments To States
 - 74800 Impacts to Tourism
- 75000 Net Public Benefit and Agency Accounting
 - 75100 Cost Benefit Analysis General
 - 75200 Non-Market Products and Services (Valuation/Externalities)
 - 75300 Commodities Valuation and Subsidies

ATTMT 99999 Any Attachment**Theme Codes**

- XX Default, None Mentioned
- AL Allow Activity
- PR Prohibit/Restrict Activity
- AA Adequacy of Analysis (including adequacy of supporting data, use of best available data, analysis of cumulative effects, etc.)
- IN Inventories, Mapping, and GIS
- ED Editorial
- FU Funding
- MM Monitoring and Mitigation
- OP Relation to other Plans, Directives etc.
- LE Legal
- EE Education and Enforcement

Crossover Codes

(To be used only for comments that are submitted to one project that address the other project)

- HFI (To be used for comments that crossover and address the proposed fire management CEs)
- LTR (To be used for comments that crossover and address Limited Timber Harvest CEs)

Appendix C

Public Concern List

Introduction

Analysts derive public concerns directly from public comment. Each represents the gist of a statement of concern made by the public. Concerns may be derived from one person’s input, but often represent the view of many respondents. They are intended to aid the planning team in characterizing the issues to be analyzed in subsequent stages of the planning process. They may also provide a framework for preparing responses to public comment. Primarily, public concerns serve to guide readers to public comment on specific topics. As such, this index is intended to be used as a cross reference to public concerns listed in chapters 1-6 of this document. Readers may identify their areas of concern within the list provided in this index and then reference the relevant portion of the summary document. There they will find sample quotes in support of the concern statement. Each sample quote includes a letter number reference should users wish to look at the original letter on file at the Salt Lake City office of the Content Analysis Team.

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PROPOSED FIRE MANAGEMENT CEs	1
GENERAL PURPOSE AND NEED FOR PROPOSED FIRE MANAGEMENT CEs	1
Public Concern: The USDAFS & DOI should consider that the proposed fuels reduction CE fails to meet the stated purpose and need.	1
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Public Concern: The USDAFS & DOI should recognize that the proposed fire management CEs are not needed.....	1
Because environmental review is not hampering fuel reduction work	1
Because existing regulations allow for the categorical exclusion of fuel reduction and rehabilitation projects.....	2
Because agencies already have sufficient knowledge and experience to implement fire management activities without further review	3
Public Concern: The USDAFS & DOI should explain why existing rules are inadequate to allow effective fire management practices.....	3
Public Concern: The USDAFS & DOI should recognize that the rationale given for the need for the proposed fire management CEs is inadequate.	3
Public Concern: The USDAFS & DOI should recognize that delays caused by appeals cannot be used as a rationale for implementing the initiative.	4

Public Concern: The USDAFS & DOI should consider that, if 190 million acres are at risk of catastrophic fire, it is not clear that “massive fuels buildup” is the cause.6

Public Concern: The USDAFS & DOI should recognize that project implementation delays result from internal agency problems, not from analysis/documentation requirements.....6

Public Concern: The USDAFS & DOI should address the timeliness of implementation instead of the timeliness of decisionmaking.....8

Public Concern: The USDAFS & DOI should justify the assumption that two to four years experience in implementing fire management projects is sufficient to justify the proposed fire management CEs.8

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Public Concern: The USDAFS & DOI should implement the proposed fire management CEs.8

 To bring accountability to the Forest Service9

Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs.9

 Because they will result in reduced agency accountability9

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 Public Concern: The USDAFS & DOI should not implement the proposed fire management CEs..... 18

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 Public Concern: The USDAFS & DOI should implement the proposed fire management CEs. 20

 Because current policies have failed to protect the environment..... 20

 Because the benefits outweigh any risks to the environment 21

 Because the projects review confirms that these types of projects do not result in significant effects 21

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 - To protect forests from blister rust..... 26
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 Public Concern: The USDA & DOI should form an interagency technical task force to review the results of the proposed CEs after two years and make any necessary modifications.33

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 Public Concern: The USDAFS & DOI should gain approval from state foresters prior to implementing any changes to the public input and scientific review process.36

 ROLE OF LOCAL GOVERNMENTS 36

 Public Concern: The USDAFS & DOI should involve local governments in identifying projects consistent with the 10-Year Comprehensive Strategy and Implementation Plan.36

 Public Concern: The USDAFS & DOI should cooperate with local Fire Safe Councils.37

 TRUST AND INTEGRITY 37

 Public Concern: The USDAFS & DOI should recognize that there is public distrust of the federal government.37

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Public Concern: The USDAFS & DOI should recognize that there is public distrust of federal agencies..... 38

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Appendix D

Demographics

Introduction

Demographic analysis presents an overall picture of respondents: where they live, their general affiliation to various organizations or government agencies, and the manner in which they respond. The CAT relational database contains verbatim public comment organized under subject categories (see Appendix B) which is linked to demographic information about each respondent. They can be used to isolate specific combinations of information about public comment. For example, a report can show public comment from certain geographic locations or show comments associated with certain types of organizations. Thus demographic coding, combined with comment coding, allows decisionmakers to focus on specific areas of public concern linked to geographic area, organizational affiliation, and response format.

The total number of responses on the proposed fire management categorical exclusions is as follows:

- 1,825 original responses
- 37,049 organized campaign responses
- 38,874 total responses

The demographic analysis presented in this appendix is based on the 1,825 original responses. Appendix E summarizes and reports the totals for organized response campaign comments.

CAT identifies several categories for demographic purposes. Responses are the individual letters, postcards, e-mails, etc., received. Respondents are the individual response writers. Signatures refer to the people who signed these individual responses. The number of signatures may be greater than the number of responses as there may be more than one signature per response. Likewise, the number of total responses may be larger than the number of total respondents due to multiple submissions by the same respondents. CAT determines the number of responses received for a given project, the number of respondents, and the number of signatures.

Geographic Representation

Geographic representation is tracked for each response. Table D-1 displays, by origin, the number of responses and signatures. Responses were received from all 52 states. Note that 167 responses did not indicate geographic origin of the respondent (this is primarily due to respondents who submit e-mail comments without including a full mailing address).

Table D-1. Number of Responses and Signatures by Origin

State	Number of Responses	Number of Signatures
Alabama	9	9
Alaska	11	11
Arizona	46	47
Arkansas	2	2
California	267	280
Colorado	69	75
Connecticut	16	17
Delaware	2	2
District of Columbia	14	14
Florida	29	29
Georgia	19	19
Hawaii	7	7
Idaho	71	79
Illinois	45	49
Indiana	15	23
Iowa	13	13
Kansas	5	5
Kentucky	16	16
Louisiana	8	8
Maine	6	6
Maryland	26	26
Massachusetts	42	42
Michigan	38	40
Minnesota	22	23
Mississippi	4	4
Missouri	23	25
Montana	104	107
Nebraska	3	3
Nevada	7	7
New Hampshire	12	13
New Jersey	24	34
New Mexico	28	31
New York	65	68
North Carolina	19	19
North Dakota	1	1

Ohio	35	35
Oklahoma	5	6
Oregon	110	660
Pennsylvania	35	35
Rhode Island	7	7
South Carolina	9	9
South Dakota	8	9
Tennessee	11	12
Texas	47	50
Utah	20	20
Vermont	13	13
Virginia	53	55
Washington	152	157
West Virginia	10	11
Wisconsin	20	20
Wyoming	18	18
International	6	6
Response Submitted from Multiple States	11	186
Anonymous/Unknown	167	173
Total	1,825	2,636

Organizational Affiliation

Organizational affiliation is tracked for each response. Table D-2 displays, by organization type, the number of responses and signatures. The first box indicates respondents who wrote on behalf of themselves or those whose affiliation was unclear.

Table D-2. Number of Responses and Signatures by Organization Type

Organization Type	Number of Responses	Number of Signatures
Individual/Unaffiliated	1600	1674
University/Professional Society	0	0
Federal Agency/Elected Official	0	0
State Agency/Elected Official	12	15
County Agency/Elected Official	17	21
Town/Municipality Agency/Elected Official	1	2
Government Employees, Organizations and Unions	1	1
Tribal Official/Member	3	3
Agriculture Industry/Association	17	17
Conservation District	3	3
Business	18	569
Place Based Group	15	15
Civic Group	0	0
Domestic Livestock Industry	1	1
Timber or Wood Products Industry/Association	31	31
Oil, Natural Gas, or Coal Industry	1	1
Recreational Non-Motorized Organization	2	2
Recreational Conservation Organization	3	3
Special Use Permittee (Recreation)	1	1
Conservation/Preservation Organization	76	79
Utility Group/Organization	1	1
Multiple Use, Wise Use, Land Rights Organization	9	9
Other	2	2
Single Responses signed by Multiple Organizations	11	186
Total	1826	2636

Response Type

Table D-3 displays, by response format, the number of responses and signatures. All non-form responses received were letters (other categories of response types include resolutions, transcribed public hearing comments, and telephone messages).

Table D-3 - Number of Responses/Signatures by Response Type

Response Type #	Response Type	Number of Responses	Number of Signatures
1	Letter	1825	2636
Total		1825	2636

Delivery Type

Delivery types are also tracked for each response received on the project. Responses were received in the form of e-mail, fax, and mail.

Table D-4 - Number of Responses/Signatures by Delivery Type

Delivery Type Code	Delivery Type	Number of Responses	Number of Signatures
E	E-mail	1337	1547
F	Fax	103	682
M	Postal or Express Delivery	385	407
Total		1825	2636

Appendix E

Organized Response Report

Organized response campaign correspondence represents 95% of the total responses received (37,049 out of 38,874) during the public comment period for the proposed fire management categorical exclusions (CEs).

Organized Response Campaigns

Five or more responses from different individuals but containing identical text, or identical text plus brief additional comments similar in content, are defined as organized response campaigns. Once an organized response campaign letter is identified, a “master” is entered into the database with all of the content information. All responses with matching text are tallied by form type and by state; the results are presented in Table E-1. Additional respondent and demographic information have not been collected or entered into the CAT relational database for this project.

If a response does not contain the complete text presented in a given organized response master letter, or if it includes additional original text, it is processed as an individual letter. Identical responses from four or fewer respondents are also entered as individual letters.

Each organized response master letter is identified with a unique number. This number is then assigned to all matching responses and matching responses with additional comments. Table E-1 presents the total number of each organized response campaign letter received by CAT and briefly summarizes the comments found therein. Note: some of the letters show less than five received; this is because a number of organized response campaign letters were submitted by government officials and their numbers are counted separately in Table D-1 in Appendix D.

Table E-1. Organized Response Campaigns

Organized Response Campaign Letter Number	Total Received	Summary of Organized Response Campaign Letter Comments
1	387	Requests implementation of the following proposed rule changes to maintain forest health, wildlife habitat, watershed quality, air quality, and reduce the risk of wildfires to protect homes, communities, and residents: -NEPA Documentation Need for Fire Management Activities; Categorical Exclusions—67 Fed. Reg. 77038 (December 16, 2002) -Notice, Comment, and Appeal Procedure for Projects and Activities on National Forest System Lands—67 Fed. Reg. 77451 (December 18, 2002) -Special Rules Applicable to Public Land Hearings and Appeals—67 Fed. Reg. 77011 (December 16, 2002), ATTN: AA83 -National Forest System Land and Resource Management Planning—67 Fed. Reg. 72770 (December 6, 2002)

Letter #	Total	Summary of Organized Response Campaign Letter Comments
2	9201	Opposes proposed categorical exclusions and requests the agency keep environmental reviews and public input for national forest timber harvest projects. Asserts proposals will increase risk of fires by increasing timber harvest of large and medium sized trees. Requests the Forest Service focus its efforts on clearing brush in the wildland urban interface and fireproofing buildings.
3	146	Requests fire reduction CEs be used only under the strict criteria of treatment areas existing no more than ¼ to ½ mile of homes and in forest habitats useful for thinning, allowing only non-commercial fuel removal, and excluding all roadless areas, endangered species habitat, and degraded watersheds. Requests fire management CEs be defined by best available science and public interests.
4 similar to Form 1	91	Requests implementation of the following proposed rule changes to maintain forest health, wildlife habitat, watershed quality, air quality, and reduce the risk of wildfires to protect homes, communities, and residents: -NEPA Documentation Need for Fire Management Activities; Categorical Exclusions—67 Fed. Reg. 77038 (December 16, 2002) -Notice, Comment, and Appeal Procedure for Projects and Activities on National Forest System Lands—67 Fed. Reg. 77451 (December 18, 2002) -Special Rules Applicable to Public Land Hearings and Appeals—67 Fed. Reg. 77011 (December 16, 2002), ATTN: AA83 -National Forest System Land and Resource Management Planning—67 Fed. Reg. 72770 (December 6, 2002)
5	8360	Opposes proposed fire reduction CEs and asserts they will lead to increased timber harvest, habitat fragmentation, and increased risk of fire. Asserts no new laws are needed to reduce fire hazards in the wildland urban interface. Requests aid be given to at-risk communities by reducing fuels 1/3 mile from buildings and fire proofing buildings. Requests funding be directed to the aforementioned projects. Requests Forest Service personnel be moved from the backcountry to clear brush in the community protection zones. Requests the majority of fuels reduction occur in the community protection zone where brush clearing raises no significant impact, and requests agencies work with communities and environmental groups to minimize habitat damage. Requests restoration of natural fire cycles through prescribed burns. Requests protection for old growth and roadless areas and asserts these are at a reduced fire danger and sustain less damage in fires. Requests agencies keep current environmental laws in place.
6	7147	Opposes proposed fire reduction CEs and asserts changes will remove important environmental safeguards and allow for unrestricted timber harvest. Asserts that old growth and mature trees will be at risk for timber harvest under proposed changes. Asserts that cumulative effect of this and other recent regulatory proposals on forest management will have a negative effect on the environment and public involvement. Asserts this and other plans will eliminate the NEPA process and weaken wildlife protection.
7	29	Opposes proposed fire reduction CEs because of broad wording and the possibility for diverse agency interpretation as to whether an activity will cause individual or cumulative effects. Asserts negative cumulative effects are inevitable through proposed activities such as timber harvest up to 250 acres in the absence of NEPA analysis. Remarks that the Supreme Court requires agencies to consider cumulative effects of all proposals. Requests more in-depth definition of “permanent” in order to prevent unrestricted road building. Requests in-depth definition of “permanent” in relation to rehabilitation activities and asserts current definitions are too broad.

Letter #	Total	Summary of Organized Response Campaign Letter Comments
8	6223	Opposes proposed fire reduction CEs and asserts changes will allow for unrestricted timber harvest in national forests. Requests the Forest Service retain administrative procedures and public participation. Asserts old growth forests help prevent catastrophic fires and requests agencies thin brush around communities instead. Asserts the Forest Service is displaying a lack of integrity and is violating the trust of the public.
09	49	Opposes proposed fire management CEs and requests the public be included in all significant decisionmaking on public lands. Asserts that legitimate fuels reduction projects are not hindered by citizen appeals or lawsuits, and that activities are not unreasonably slowed by the public involvement process. Asserts also that proposed changes could allow for unrestricted timber harvest and will do little to reduce fire risks. Requests fire risks be reduced through prescribed burns, removal of fine fuels, demolition of unneeded roads, and protection of fire-resistant old growth and mature forests.
10	18	Opposes proposed fire management CEs and asserts proposed changes would allow for unrestricted timber harvest without environmental analysis, public comment, or opportunity to appeal. Requests the Forest Service focus on fuels reduction in the wildland urban interface, preserve existing laws to allow scientists and the public to provide comments, and prohibit commercial timber harvest of large diameter trees and in wild backcountry areas.
11 similar to Form 1	426	Requests implementation of the following proposed rule changes to maintain forest health, wildlife habitat, watershed quality, air quality, and reduce the risk of wildfires to protect homes, communities, and residents: -NEPA Documentation Need for Fire Management Activities; Categorical Exclusions—67 Fed. Reg. 77038 (December 16, 2002) -Notice, Comment, and Appeal Procedure for Projects and Activities on National Forest System Lands—67 Fed. Reg. 77451 (December 18, 2002) -Special Rules Applicable to Public Land Hearings and Appeals—67 Fed. Reg. 77011 (December 16, 2002), ATTN: AA83 -National Forest System Land and Resource Management Planning—67 Fed. Reg. 72770 (December 6, 2002) -NEPA Documentation Needed for Limited Timber Harvest; Categorical Exclusions—68 Fed. Reg. 1026 (January 8, 2003).
12	30	Requests implementation of fire management CEs to address forest health needs and prevent wildfire losses. Requests that federal land managers be granted the authority to determine which projects are suitable for CEs and which ones require more site-specific analysis. Asserts that current rules are outdated and are the underlying causes of “analysis paralysis,” such as excessive analysis, ineffective public involvement and management inefficiencies. Asserts that current rules cause costly delays and result in negative effects on soil and water quality and wildlife habitat due to catastrophic fires, insect and disease infestations, and reburns. Asserts new CEs will help foster local collaborative restoration and rehabilitation efforts to benefit communities and the environment. Asserts appeals and litigation destroy collaborative efforts and damage local economies and environments. Supports the Healthy Forests Initiative to address insect, disease, and wildfire problems.
13	696	Requests implementation of fire management CEs to allow the Forest Service and Department of the Interior to address forest health needs. Asserts proposed changes will help protect forests, wildlife habitat, watersheds, air and water quality, homes, communities, human lives, and private lands. Asserts proposed changes will protect against catastrophic wildfire, insect infestations, and disease by allowing land managers to implement goals laid out in the national fire plan and the Healthy Forests Initiative.

ORC #	Total	Summary of Organized Response Campaign Letter Comments
14 similar to Form 1	107	<p>Requests implementation of the following proposed rule changes to maintain forest health, wildlife habitat, watershed quality, air quality, and reduce the risk of wildfires to protect homes, communities, and residents:</p> <ul style="list-style-type: none"> -NEPA Documentation Need for Fire Management Activities; Categorical Exclusions—67 Fed. Reg. 77038 (December 16, 2002) -Notice, Comment, and Appeal Procedure for Projects and Activities on National Forest System Lands—67 Fed. Reg. 77451 (December 18, 2002) -Special Rules Applicable to Public Land Hearings and Appeals—67 Fed. Reg. 77011 (December 16, 2002), ATTN: AA83 -National Forest System Land and Resource Management Planning—67 Fed. Reg. 72770 (December 6, 2002) -NEPA Documentation Needed for Limited Timber Harvest; Categorical Exclusions—68 Fed. Reg. 1026 (January 8, 2003).
15	905	<p>Objects to proposed fire management CEs and asserts they are not consistent with the letter or spirit of NEPA. Asserts proposed changes are inadequately supported by evidence from prior projects and would have adverse environmental effects. Asserts the agencies have not met the legal requirements necessary to implement these regulations and that fuels reduction projects should proceed without commercial timber production. Asserts that any changes should involve public and scientific input and be a part of a complete fire management plan to promote natural fire cycles.</p>
16	14	<p>Objects to proposed fire management CEs and asserts they are not consistent with the letter or intent of NEPA and will cause adverse environmental effects. Asserts that the proposed changes are arbitrary and capricious, providing little site-specific evidence for conclusions, and that conclusions were based on personal observations, not scientific review.</p> <p>Asserts the cumulative effect of current proposals will have significant adverse environmental effects to wilderness and wildlife.</p> <p>Asserts that proposed temporary road construction would have adverse environmental effects and contradict the best available science and fiscal data. Asserts temporary roads can have the same negative environmental effects as permanent roads.</p> <p>Asserts that segmenting fuels reduction or fire rehabilitation for analysis in a CE is unlawful and violates NEPA.</p> <p>Asserts that the Forest Service did not disclose in the Federal Register notice that disqualifying projects from categorical exclusion because of extraordinary circumstances is now at the discretion of the Forest Service. Asserts this will be abused and result in projects with significant impacts being conducted under this CE.</p> <p>Asserts that thinning brush and small diameter trees will not produce the revenue needed to pay for such activities, leading mature and old growth trees being included in projects to make up for additional costs. Asserts such timber harvesting can worsen fire-prone conditions.</p> <p>Asserts that fragmenting large projects into smaller ones will dilute significant effects of the multiple projects and potentially violate the Endangered Species Act (ESA).</p> <p>Asserts that proposed CEs will lead to increased timber harvest in remote areas and not protect lives and property. Remarks that the Federal Register notice places no restrictions on where the fuels reduction CEs may be used. Asserts that the best available science was not used to develop strategies for protecting lives and property. Cites publication by Jack Cohen of the USDAFS on effectively protecting homes from wildfire.</p> <p>Requests EIS and EA consultation when incorporating the National Fire Plan into land management guidelines.</p>

ORC #	Total	Summary of Organized Response Campaign Letter Comments
17	6	<p>Objects to proposed fire management CEs and asserts changes could have significant negative individual and cumulative effects, and thus proposed activities should not be eligible for exclusions.</p> <p>Asserts that a NEPA analysis of proposed changes was not performed.</p> <p>Asserts no new CEs are needed as the Forest Service already has the authority to conduct fuels reduction activities.</p> <p>Asserts proposed CEs are vague and ambiguous. Requests a more in-depth definition of “hazardous” in “hazardous fuels reduction activities.”</p> <p>Asserts proposed CEs are inconsistent with citizen participation as outlined in the National Fire Plan.</p> <p>Asserts some fuels reduction activities are ineffective and counter-productive, such as large-tree cutting, road building, and livestock grazing. Asserts that mechanical thinning, timber harvest, and grazing may increase fire danger.</p> <p>Asserts that the agency is not displaying integrity and is opening public lands to resource extraction.</p>
18	7	<p>Requests implementation of proposed fire management CEs and asserts they are consistent with the intent of NEPA. Requests hazardous fuels projects include commercial timber production for economic benefits.</p>
19	9	<p>Opposes proposed fire management CEs without full environmental review. Requests protection for national forests to improve air quality, wildlife habitat, and enjoyment of future generations.</p>
20	5	<p>Opposes proposed fire management CEs without full environmental review. Requests protection of national forests and retention of wilderness status without timber harvest for the enjoyment of future generations.</p>
21	25	<p>Requests implementation of proposed fire management CEs to protect sensitive environmental conditions, such as wilderness areas and threatened and endangered species and their habitats. Requests policy be adopted for both the Forest Service and the Department of the Interior to reduce risks to adjacent lands and communities. Included also the following comments regarding the proposed CEs:</p> <p>Requests a better approach to address threatened and endangered species.</p> <p>Suggests coordination with the Fish and Wildlife Service and National Marine Fisheries Service on procedures for categorically excluded projects. Recommends a project qualify even if it may affect listed species so long as consultation occurs and the recommendations of the biological opinion are followed.</p> <p>Requests proposed rule define “primary purpose” of fuel reduction and provide regulatory guidance to protect against potential litigation that could challenge projects that do not have fuels reduction as their primary purpose. Requests wording be changed to, “It is presumed that if trees are cut in an area designated as moderate to high fire intensity and the long-term risk of wildfire is reduced, that the timber cutting is for the primary purpose of hazardous fuel reduction.”</p> <p>Requests the agencies acknowledge that hazardous fuel reduction projects may increase short-term wildfire risks but are acceptable if the end result is to reduce long-term risk.</p> <p>Requests the relationship between the 10-year comprehensive strategy and the categorical exclusion be clarified. Requests wording is changed to “guided by” rather than must be “consistent with” the Comprehensive Strategy. Requests also clarification of how and when public involvement will occur for excluded projects.</p> <p>Requests that the preamble to the final CEs should clarify that even though a project may not qualify for the categorical exclusion does not mean the project requires an EIS and the use of mitigation should be allowed to retain a project as a CE. Requests the final CEs provide additional brief documentation on decisions.</p>

ORC#	Total	Summary of Organized Response Campaign Letter Comments
22	90	<p>Opposes proposed fire management CEs and asserts Federal Register does not provide enough information to determine possible individual or cumulative effects. Asserts the agency failed to perform a NEPA analysis on proposed changes.</p> <p>Asserts agency already has legal authority to conduct fuels reduction activities and additional changes are superfluous.</p> <p>Asserts activities to be covered will have a significant negative individual and cumulative effect and are inappropriate for exclusion.</p> <p>Asserts that proposed CEs are inconsistent with the citizen participation structure of the National Fire Plan.</p> <p>Asserts some fuels reduction activities will be ineffective and counter-productive. Asserts agencies are violating the public’s trust by attempting to open up public lands to resource extraction.</p>
23	6	Duplicate of Form 7
24	11	Duplicate of Form 21
25 similar to Form 1	2960	<p>Requests implementation of the following proposed rule changes to maintain forest health, wildlife habitat, watershed quality, air quality, and reduce the risk of wildfires to protect homes, communities, and residents:</p> <ul style="list-style-type: none"> -NEPA Documentation Need for Fire Management Activities; Categorical Exclusions—67 Fed. Reg. 77038 (December 16, 2002) -Notice, Comment, and Appeal Procedure for Projects and Activities on National Forest System Lands—67 Fed. Reg. 77451 (December 18, 2002) -Special Rules Applicable to Public Land Hearings and Appeals—67 Fed. Reg. 77011 (December 16, 2002), ATTN: AA83 -National Forest System Land and Resource Management Planning—67 Fed. Reg. 72770 (December 6, 2002) -NEPA Documentation Needed for Limited Timber Harvest; Categorical Exclusions—68 Fed. Reg. 1026 (January 8, 2003).
26	6	<p>Opposes proposed fire management CEs and asserts Federal Register notice does not provide enough information to determine possible individual or cumulative effects. Asserts the agency failed to perform a NEPA analysis on proposed changes.</p> <p>Asserts agency already has legal authority to conduct fuels reduction activities and additional changes are superfluous.</p> <p>Asserts activities to be covered will have a significant negative individual and cumulative effect and are inappropriate for exclusion.</p> <p>Asserts that proposed CE is inconsistent with the citizen participation structure of the national fire plan.</p> <p>Asserts some fuels reduction activities will be ineffective and counter-productive. Asserts agencies are violating the public’s trust by attempting to open up public lands to resource extraction.</p>
27	16	<p>Requests implementation of proposed fire management CEs to prevent negative effects on timberlands, watersheds, sensitive habitats, wilderness areas, and roads, and to reduce wildfire risk to communities and private lands.</p> <p>Requests that the primary purpose of hazardous fuels reduction be redefined as, “It is presumed that as trees are removed in a moderate to high fire intensity area and wildfire risks are reduced, that timber cutting is the primary purpose of hazardous fuel’s reduction.”</p> <p>Requests that the final notice recognize that some projects may increase the short-term risk of wildfire due to fine fuels accumulations from timber harvest but risks are acceptable if the end result will reduce long-term hazards. Asserts that proposal is needed to reduce litigation over this issue.</p>

ORC #	Total	Summary of Organized Response Campaign Letter Comments
28	4	<p>Requests implementation of proposed fire management CEs to expedite management activities on forests and rangelands, which provide economic and recreational opportunities for many farmers and ranchers. Requests any reduction in federal grazing permits consider the possible effects on private farms and ranches. Remarks that private land adjacent to federal land is affected equally by fire, disease, and insects. Remarks on need to streamline activities to prevent “analysis paralysis” and effectively and quickly address forest health needs. Asserts proposed changes will prevent long-term environmental damage. Asserts the use of categorical exclusions will enhance environmental protection by focusing resources on management instead of paperwork. Asserts that the collaborative requirements of the proposal will not exclude the public from participating in the decision making process.</p> <p>Requests that those most affected by projects be primarily responsible for recommending its scope and content.</p> <p>Requests final CEs contain projections of long-term benefits rather than just short-term effects.</p> <p>Requests the role of livestock grazing be further defined as a legitimate tool for fuels reduction projects.</p>
29	24	<p>Requests implementation of all five proposed rule changes (67 Fed. Reg. 77038, 67 Fed. Reg. 77451, 67 Fed. Reg. 77011, 67 Fed. Reg. 72770, and 68 Fed. Reg. 1026) to help agencies effectively manage public forests. Asserts unintended biomass accumulation has created unnatural and fire-prone ecosystems. Asserts wildlife increased taxpayer burden, and can be reduced through active forest management. Requests expeditious completion of proposals to protect habitat, watersheds, and rural communities.</p>
30	5	<p>Opposes proposed fire management CEs and asserts proposal will endanger remaining wilderness areas. Asserts agencies claims of fire prevention tactics are not based on the best available science and that the Forest Service is violating the public’s trust.</p>
31	4	<p>Requests implementation of proposed fire management CEs to address forest health issues, streamline environmental studies, implement forest health treatments, and protect citizens.</p>
32	16	<p>Opposes proposed fire management CEs and requests continued citizen participation in the management of public forest lands. Asserts proposed actions will increase the risk of fire to communities through the cutting of large diameter trees. Requests in-depth environmental review of all forest land projects.</p>
33	11	<p>Opposes proposed fire management CEs and asserts that removal of environmental impact statements will allow for unrestricted timber harvest on public lands. Asserts continued public comment will safeguard against such activities and is an important part of public lands management. Asserts rationale for proposal is inadequate and CEs are too heavily focused on timber harvest interests.</p>
34	15	<p>Opposes proposed fire management CEs and asserts that failure to require environmental impact statements will allow for unrestricted timber harvest on public lands. Asserts maintaining current public comment requirements will safeguard against such activities and is an important part of public lands management. Asserts proposed actions will increase the risk of fire to communities through the cutting of large diameter fire-resistant trees. Asserts rationale for proposal is inadequate and CEs too heavily favor commercial timber interests.</p>

Appendix F

List of Preparers

The list includes the names of the individuals and area of contribution they made toward the completion of the analysis of public comment for the proposed fire management categorical exclusions.

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