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Jeffrey K Davis, Field Manager  
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4/26/2019

Dear Jeffrey K. Davis:

Please accept this combined Protest, from Umpqua Watersheds, Inc., of the Glide Path, Slater 21 & Kenyon Timber Sales, portions of the Upper Rock Creek (URC) Harvest Plan EA (**DOI-BLM-ORWA-C040-2016-0007-EA**). Umpqua Watersheds, Inc. (UW) is a 501 C 3 non-profit conservation, restoration, education, outreach organization, with offices in Roseburg, Oregon.

### **Introduction**

UW made the following statements in its NEPA comments on the Upper Rock Creek EA, submitted timely, in March of this year. Clearly, they were overlooked, discounted or ignored. It is beyond our ken to discern which. Nonetheless, we are certain that they were valid and completely germane to that EA in every respect. In our estimation, they remain so in regards to the Glide Path, Slater 21 and Kenyon, Timber Sales derived from that EA. As such, these questions and surmises deserve serious consideration and well supported replies. In many, although not all instances, we either got no answers, or, at best, cursory responses. Therefore, by way of bearing witness to this perceived agency dismissive stance, negligence and/or oversight, we citizen-volunteers are forced to file a combined protest of the three sales. To wit, from UW's Scoping Comments:

*"Again we are forced to ask: where in the Upper Rock Creek EA are the cumulative and damaging environmental impacts of these contiguous or very nearly contiguous large canopy openings fully discovered and disclosed to NEPA participants? The presence on these watersheds now, or in the near future (Please see ODF FERNs aerial views on pp. 6 and 7 of these comments.), of large private*

*industrial clear cuts and monoculture fiber farm plantations, whose environmental constraints under the Oregon Forest Practices Act (OFPA) compare poorly, if at all, with those in effect on the public forestlands under authority of the BLM, must be a critical component of any worthwhile Environmental Analysis. This remains starkly so, even when comparing the environmentally retrograde strictures of the OFPA with the significantly reduced riparian protections of WOPRjr. **That this essential aspect of watershed degradation is absent from the URC EA, as from numerous other BLM extractive proposals within the most unfortunate and infamous “checkerboard” of alternating ownerships, is an invitation to responsible NEPA participants, though volunteer citizen-participants they may be, to offer formal protest of subsequent timber sales emanating from this EA.** For example, as in other NEPA EAs etc. published by CBBLM, great attention is devoted to stand conditions on the involved public lands, by means of various tables relating to number of acres in a given age class, NSO habitat, road miles, carbon-sequestration/release, peak and low flows etc. However, nothing comparable is either discovered or disclosed concerning the same parameters as they exist currently, or are likely to exist in the future on the adjoining and proximate private holdings in the URC Analysis Area. (For that matter, very little if any such data for the vast intervening private industrial timberlands of the "checkerboard" was discovered and disclosed in the PRMP/FEIS.)"*<sup>1</sup>

**Repeated again for emphasis:** *"That this essential aspect of watershed degradation is absent from the URC EA, as from numerous other BLM extractive proposals within the most unfortunate and infamous “checkerboard” of alternating ownerships, is an invitation to responsible NEPA participants, though volunteer citizen-participants they may be, to offer formal protest of subsequent timber sales emanating from this EA."* Thus again, in the above excerpt, as well as in other of its Scoping and EA Comments, UW restated its position regarding essential contextual conditions, historic and current, and the need for their credible discovery and disclosure by the BLM well before the advertisement of these three timber sales. In point of fact, both the historical context and the current spatial context of forest management on this analysis area, as well as the other critical issues UW highlighted in its EA comments, have been effectively ignored, yet again, by BLM. Forewarned, one might have reasonably thought, would have been forearmed. Apparently not and thus, this protest.

## **PROTEST POINTS**

**1 a)** Failure, by the BLM, to include the mandates, of the 1937 O&C Act, to protect watersheds, regulate stream flows and provide for recreation in its purpose and need statement for the Upper Rock Creek EA, which encompasses the Glide Path, Slater 21 & Kenyon Timber Sales.

**b)** Failure by the BLM to clearly acknowledge and, in its extractive activities going forward, to account for the past over extraction of primary old growth/mature forest stands across all ownerships in the decades preceding adoption of the NWFP.

**c)** Failure of the BLM to clearly acknowledge and, in its extractive activities going forward, to account for the ongoing clear cut/herbicide/monoculture fiber farm extractive activities on the private timberlands adjoining and proximate to the public lands in these three timber sales.

**2 a)** Failure of the BLM to clearly and directly discover and disclose the environmental condition, terrestrial and aquatic, flora and fauna, of the adjoining and proximate private industrial timberlands in the Upper Rock Creek Analysis Area, in general and those of the Glide Path, Slater 21 & Kenyon T.S.,

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<sup>1</sup> UW Comments URC EA, pp. 11, 12

in particular. This is especially germane, considering the **141 acres of MITA regen.** proposed for Glide Path, the **42 acres of MITA regen** proposed for Slater 21 & the **107 acres of regen. (63 acres of MITA and 44 acres of LITA)** proposed for the Kenyon timber sales. (N.B.: Over-broad generalities here will not do for describing the environmental condition of the intervening private industrial lands, no more than such generalities would satisfy the need for a useful and representative description of the condition, sylvan, hydrological, wildlife and climate change-wise etc., of the public lands on the Upper Rock Creek EA.)

**b)** Failure of the BLM, in the URC EA and in the Decision Documents for these timber sales, to clearly acknowledge and adequately consider the potentially detrimental environmental impacts flowing from its siting of these regens adjacent and proximate to existing large private land clear cuts and monoculture fiber farm plantations; impacts that are thus indisputably and obviously **CUMULATIVE**<sup>2</sup> to the suite of environmental harms flowing from those same existing large private land clear cuts and monoculture fiber farm plantations. This is particularly true of the **141 acres of regen.** proposed for the Glide Path T.S., in that it exceeds the size currently permitted by the Oregon Forest Practices Act, that act itself certainly no paragon of environmental oversight and/or protection.

**3) a)** Failure by the BLM to discover and disclose the current dismal nesting/reproduction data for the NSO either on the URC Analysis Area, or in the Glide Path, Slater 21 & Kenyon Timber Sale Decision Records, as well as failure by the BLM to discover and disclose the harmful **CUMULATIVE** impacts to NSO viability and/or recovery resultant from the clear cut etc. extractive activities on the adjoining and proximate private industrial timberlands of the URC Analysis Area EA, in general, or in the Decision Documents for these timber sales, in particular.

**4)** Lack of useful, representative and credible data for intervening private industrial timberlands as they relate, **CUMULATIVELY**, to extractive actions on adjoining and proximate public lands vis a vis a strongly inferred and chronically depleted low summer flow condition, as well as opinions wrongly presented as fact regarding this same condition, as discovered and disclosed by the Perry-Jones Study.

**5) a)** Failure, to date, of the BLM to address the issue of onrushing, anthropocentrally influenced climate change in a serious and effective manner.

**b)** Failure of the BLM to discover and disclose the harmful impacts to carbon sequestration and climate change mitigation attributable to the adjoining and proximate private industrial timberlands of the URC Analysis Area, in general, or in the Decision Documents for these timber sales, in particular. That is, as these harmful private timberland impacts relate **CUMULATIVELY** to the carbon sequestration/climate change impacts emanating from extractive activities on the public forestlands of the URC Analysis Area in general, and to these three timber sales, in particular.

**6) Roads**

**Protest Point #1, a) Failure, by the BLM, to include the mandates, of the 1937 O&C Act, to protect watersheds, regulate stream flow and provide for recreation in its purpose and need statement for the Upper Rock Creek EA, which encompasses the Glide Path, Slater 21 & Kenyon Timber Sales.**

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<sup>2</sup> i.e., in the literal sense that  $1+1=2$ ,  $2+2=4$ ,  $3+3=6$  etc.

**b) Failure by the BLM to clearly acknowledge and, in its extractive activities going forward, to account for the past over extraction of primary old growth/mature forest stands across all ownerships in the decades preceding adoption of the NWFP.**

**c) Failure of the BLM to clearly acknowledge and, in its extractive activities going forward, to account for the ongoing clear cut/herbicide/monoculture fiber farm extractive activities on the private timberlands adjoining and proximate to the public lands in these three timber sales.**

**1 a)** In its comments on the Upper Rock Creek Harvest Plan EA, UW provided BLM with primary historic source material<sup>3</sup>, researched, collated and presented by a BLM employee, in 2005. This material was clearly indicative of the critical importance, accorded by a principal author (Walter H. Horning) of the 1937 O&C Act, to the environmental constraints imposed upon the management of the O&C, from the inception of the Act. (Please see UW comments on the Upper Rock Creek Harvest Plan EA, pages 9, 10, 11.)

[While UW recognizes, on the one hand, that provision for recreation might not always be completely applicable to the harvest land base (HLB), the BLM should never conduct activities which may impinge on recreational opportunities and quality farther down stream, so to speak, from any HLB activities. On the other hand, we reject BLM's implied and stated contention that protection of watersheds and regulation of streamflows on a given analysis area within the HLB are regulatory provisions that are not germane thereon but only within LSRs etc.]

That the BLM continues to ignore the citation of this primary historical information, while, at the same time, failing to offer any countervailing and comparable primary historical data, is thus a partial cause for UW filing this protest.

**b)** See UW Comments on the URC EA, pages 11, 12, 13, 14. In particular, we wish to emphasize the hard data presented to BLM over and again, and to which that agency persists in offering no reply, and worse yet, persists in its apparent non-consideration of this deplorable over extraction of late seral and mature stands from the public land entrusted to its care, when it formulates its management actions going forward. To wit:

*"Please bear in mind that the original 500mmbf ASQ was predicated upon a 100 year rotation. 100 years indeed! As UW made clear in its Appeal to the IBLA of the Semaphore Timber Sale (RBBLM), this **"Average annual cut therefrom shall not exceed one-half billion board feet measure..."**, stricture, as it was stated in the 1937 O&C Act, was honored more in the breach than in fact. **"Within ten years of its adoption, the original, and oft-cited annual allowable cut of 500 million board feet stipulated in the 1937 O&C Act, began to be exceeded. On August 28, 1962, then State Director for Oregon and Washington, Russell E. Getty, authored a paper titled Increase In the Allowable Cut. In part, therein, Getty reported to the O&C Advisory Board the following extractive volumes: 1937 500 million board feet (mmbf), 1947 523.5 mmbf, 1954 534.5 mmbf, 1955 588.2 mmbf, 1956 1,274.8 billion (mmbf), 1957 1,368.4 mmbf, 1958 769.3 mmbf, 1959 874.2 mmbf, 1962***

<sup>3</sup> Price, Frank N., 2005, Protecting Watersheds, Regulating Stream Flow, and Providing Recreational Facilities: The Intent of this Language in the O & C Act, Early Interpretation and Historic Context.

**2,104 mmbf. This amounts to the astounding total extractive volume of primary old growth and mature forest of 8036.9 mmbf (billion board feet), and just for those eight particular years alone!**”<sup>4</sup>  
Again, an equally important consideration is that this annual sustainable yield of **500 MMBF** continued to be substantially, even grossly “exceeded” by actual BLM timber harvesting, as illustrated by ODF’s 50 year (1962-2010) harvest history spreadsheet. During this half century, BLM harvests averaged **703 MMBF! This average is weighted by some notable decades of heavy old growth harvesting** averaging nearly twice the Act’s sustained yield mandate of 500 MMBF.”<sup>5</sup>

The following statement from the URC EA is indicative, to some degree, of the past negligent and profligate over-extraction of primary forest on this analysis area. Indeed, the repeated expressed need of the BLM to achieve stand age diversity by regenerating stands back to the 0 - 10 year decadal class is a strong indication to any concerned citizen observer that such over-extraction by clear cut was rampant on these public lands in the decades preceding adoption of the NWFP ammendment.

*“There are roughly 54 acres within the project area that are overstocked. These stands are roughly 55-year-old plantations that are characterized by high basal area per acre, trees per acre, and relative density (See Issue 3 for further information).”*<sup>6</sup>

While the above excerpt is germane and indicative of the consequences of past ill-considered adherence to a myopic version of the vaunted sustained yield extractive paradigm, it in no way qualifies as the “hard look” stipulated by NEPA. Rather, in UW's estimation, BLM's general paucity or complete lack of critical watershed data across all ownerships represents a hard looking away and is thus a partial cause for UW filing this protest.

c) UW clearly stated its view of the management context surrounding the public forestlands of the URC Analysis Area in its EA Comments.

To wit: **“Again considering the mandates, codified by the 1937 O & C Act, to protect watersheds, regulate streamflows and provide for recreation, there need to be resultant necessary, if de facto, constraints placed upon BLM management activities on these watersheds resultant from the continued, widespread and environmentally damaging clear cut extraction, and ancillary activities, on adjoining and proximate, privately owned, industrial timberlands. These damaging impacts to public lands in the Upper Rock Creek Analysis Area, from on-going extractive activities conducted on private industrial holdings, conducted under aegis of the retrograde environmental provisions of the Oregon Forest Practices Act, include but are not limited to:**

- 1) increases in winter peak stream flows and chronic decreases in summer low streamflows;**
- 2) severe and obvious disruptions to connectivity and biodiversity due to gross removal of canopy cover, subsequent sylvacultural simplification and continued expansion of the current “spider web” network of forest roads;**
- 3) negation of carbon sequestration/mitigation contributions of public lands by extensive clear cut removal of woody biomass, living and dead, from adjoining and proximate private industrial timberlands;**
- 4) airborne drift onto public lands from repeated aerial applications of increasingly toxic suites of herbicides and their ancillary chemicals, as well as in runoff of same from private lands onto**

<sup>4</sup> UW Appeal to the IBLA of the Semaphore Timber Sale, Pg. 10

<sup>5</sup> UW Comments URC EA, page 13

<sup>6</sup> URC EA, Final, pg. 4

public lands and their waterways;

5) runoff from private onto public lands, and into waterways, of aerially applied nitrogen and phosphate fertilizers;

6) wildfire threats to public lands from the novel imposition, upon the shared landscapes of the URC Analysis Area, of structurally simple, even age, monoculture fiber farm plantation "fire bombs" on adjoining and proximate private industrial properties<sup>7</sup>;

7) de facto negation of the conservation/restoration efforts, made on public lands by the BLM on behalf of ESA listed species, aquatic and terrestrial, by the environmentally retrograde clear cut extraction practices conducted under aegis of the OFPA on private lands, adjoining and proximate to the public lands of the Upper Rock Creek Analysis Area, lands managed by the Coos Bay District of the BLM."<sup>8</sup>

As stated in its URC scoping comments: "UW strongly recommends that the Upper Rock Creek EA reflect this undeniable private land management context when developing extractive proposals for this watershed. Please recall, in case it may have been overlooked or forgotten: timber harvested from BLM lands (as well as from those managed by the USFS) is subject to the Oregon Forest Products Harvest Tax (OFPHT). Yes, the log purchaser is the entity that actually submits the tax due. However, given that, according to accepted economic principles, the bid price for timber is customarily and sensibly taken as the net of all taxes due thereon, BLM may correctly be considered a payer, to the Oregon Department of Revenue, of the OFPHT. From this it seems clear to us that the BLM both enjoys the right and bears the responsibility to speak up publicly and forcefully against the suite of detrimental impacts imposed upon adjacent and proximate public forest lands by the nearly ubiquitous clear cuts that currently share this and almost every watershed in the Coquille system.

In reading the Coos Bay District Scoping document, UW notes the citation of The 1937 O & C Act to conduct timber harvests on a sustained yield basis. Perhaps we need to remind the BLM that that same act also enjoins the BLM to regulate stream flows and protect watersheds. Nowhere in that act, that we have seen, is this requirement limited to a simple consideration of public lands. When such a truncated purview obtains, surely it must work against the meaningful fulfillment of watershed and streamflow protection stipulated by the O & C Act.

Yes, UW is very aware that the BLM does not, unfortunately, exercise supervisory authority over adjacent private industrial forest operations. Nonetheless, it is our firm and studied opinion that BLM's EA for this and all of its other extractive proposals include a realistic assessment of and subsequent allowance for the several environmentally destructive practices condoned by the OFPA. **It is UW's position that the BLM, in general, should offer active criticism of clear cut extraction on adjoining and proximate private holdings, insofar as they impose harmful environmental impacts on public lands. We believe that such consideration and critique is in the public interest, and is critical to environmentally responsible public land management, a key purpose for which various guiding processes (e.g., NEPA) were instituted to begin with.**"<sup>9</sup> Quite obviously, the forestlands and the waterways that grace them, the wildlife (flora and fauna) of the URC Analysis Area do not recognize

<sup>7</sup> See: ZALD, HAROLD S. J. AND DUNN, CHRISTOPHER J. Severe Fire weather and intensive forest management increase fire severity in a multi-ownership landscape

<sup>8</sup> UW Comments URC EA, page 8

<sup>9</sup> UW Scoping Comments re URC, pg. 2



the property lines imposed on these landscapes by we human beings.

Sadly, UW takes BLM's (as well as that of the USFS, USFWS, NMFS etc.) continued silence for its tacit assent, regarding the deleterious impacts private industrial timber extraction and related activities on the intervening sections of the URC Analysis Area, as practiced under aegis of the OFPA, imposes upon the public forestlands managed by the BLM. UW protests this continued silence and implied assent!

Rather than reflect and comment upon the critical issues raised by the citizen volunteers at UW, the CBBLM responds, in effect, by implying that managing O&C lands pursuant to sustained-yield principles by definition protects watersheds. For its part, the 2016 NCO ROD/RMP claims that its strictures contain protections that would maintain and/or improve watersheds, water quality and stream flow, regardless of the simple fact that it does not effectively consider, allow for or compensate (i.e., mitigate for) the obviously inadequate provision for such environmental protections on the intervening private industrial timberlands operating under aegis of the OFPA.

(Of course, the environmental harms imposed by these private timberland extractive activities are **CUMULATIVE** to any traceable to regeneration and other extraction conducted on the public forestlands of the URC Analysis Area, and visa versa; these, in turn, being **CUMULATIVE** to the vast over-harvest of mature and old growth primary forest in Western Oregon in the decades preceding adoption of the Northwest Forest Plan, across all ownerships.)

**Repeated for emphasis:** preposterous and clearly inaccurate implications, such as that managing O&C lands pursuant to sustained-yield principles by definition protects watersheds, regulates stream flows etc. would be laughable had the imposition of sustained yield (as that nebulous paradigm was so nefariously, wantonly **and unsustainably** imposed, across all ownerships, upon the shared landscapes of the O&C and CBWR in the decades preceding adoption of the NWFP) not left such a lamentable legacy of degraded stream flows, diminished or extirpated species, aquatic and terrestrial etc., on the shared ownerships of those very landscapes.

That there occurred this vast liquidation of primary old growth and mature forest, and its subsequent conversion, in so many instances to monoculture Douglas Fir plantations, for decades **across all ownerships** in the name of “**sustained yield**” is an incontrovertible fact. Indeed, as incontrovertible as the environmentally damaging consequences flowing from that poorly understood, ill-considered application of the sustained yield management paradigm; a model, which, while it was certainly sustained for decades, was, in the end, hardly sustainable.

As we have stated numerous times before, in our various **NEPA** submissions to the BLM, such deeply damaging and far reaching ecological consequences were made irrefutably obvious, *ipso facto*, by the obvious and pressing necessity of applying the remedial strictures of the **ESA, NWFP, Clean Water Act, NEPA** etc. to these very same landscapes and their badly degraded watersheds. In the event, we are not laughing, rather we are dismayed by an agency attitude that appears to have the temerity to offer such a non-response to our very serious and well documented comments. In part, that dismay and subsequent environmental distress prompts our including that persistent non-response in part "c" of our first point of protest, and, as part and parcel of the Glide Path, Slater 21 & Kenyon Timber Sales,

indeed we do protest it.

**Protest Point #2, a) Failure of the BLM to clearly and directly discover and disclose the environmental condition, terrestrial and aquatic, flora and fauna, of the adjoining and proximate private industrial timberlands in the Upper Rock Creek Analysis Area, in general and those of the Glide Path, Slater 21 & Kenyon T.S., in particular. This is especially germane, considering the 141 acres of MITA regen. proposed for Glide Path, the 42 acres of MITA regen proposed for Slater 21 & the 107 acres of regen. (63 acres of MITA and 44 acres of LITA) proposed for the Kenyon timber sales. (N.B.: Over-broad generalities here will not do for describing the environmental condition of the intervening private industrial lands, no more than such generalities would satisfy the need for a useful and representative description of the condition of the public lands on the Upper Rock Creek EA.)**

**b) Failure of the BLM, in the URC EA and in the Decision Documents for these timber sales, to clearly acknowledge and adequately consider the potentially detrimental environmental impacts flowing from its siting of these regens adjacent and proximate to existing large private land clear cuts and monoculture fiber farm plantations ; impacts that are thus indisputably and obviously CUMULATIVE<sup>10</sup> to the suite of environmental harms flowing from those same existing large private land clear cuts and monoculture fiber farm plantations. This is particularly true of the 141 acres of regen. proposed for the Glide Path T.S., in that it exceeds the maximum size currently permitted by the Oregon Forest Practices Act, that act itself certainly no paragon of environmental oversight and/or protection.**

**a) For the purposes of this NEPA process, again think CUMULATIVE here; for, indisputably, any environmental impacts resultant from these public land regens, will most definitely be CUMULATIVE to what is already present, particularly emanating from the intervening clear cuts and monoculture fiber farm plantations of adjoining and proximate private industrial ownerships. This contextual condition, past, present, future renders the disclaimers made in both the FEIS and the three timber sale Decision Documents if not perhaps specious, then, at the very least, of limited value to NEPA process participants in this regard.**

The 2016 PRMP/FEIS offers the following: "*For BLM-administered lands, reasonably foreseeable future actions are those actions that would occur as described under the various alternatives and the Proposed RMP. For other ownerships within the planning area, reasonably foreseeable actions are those actions that would occur with the continuation of present management, also from a broad-scale perspective. It would be speculative for the BLM to presume knowledge of site-specific actions that would occur in the future on lands managed by others over the time period analyzed in the Proposed RMP/Final EIS. The BLM based these assumptions about future management on other ownerships on existing plans or current trends, and these assumptions are broad and general in nature. However, the broad assumptions are sufficient to provide context for evaluating the incremental effect of the alternatives.*"<sup>11</sup> (added emphasis, UW)

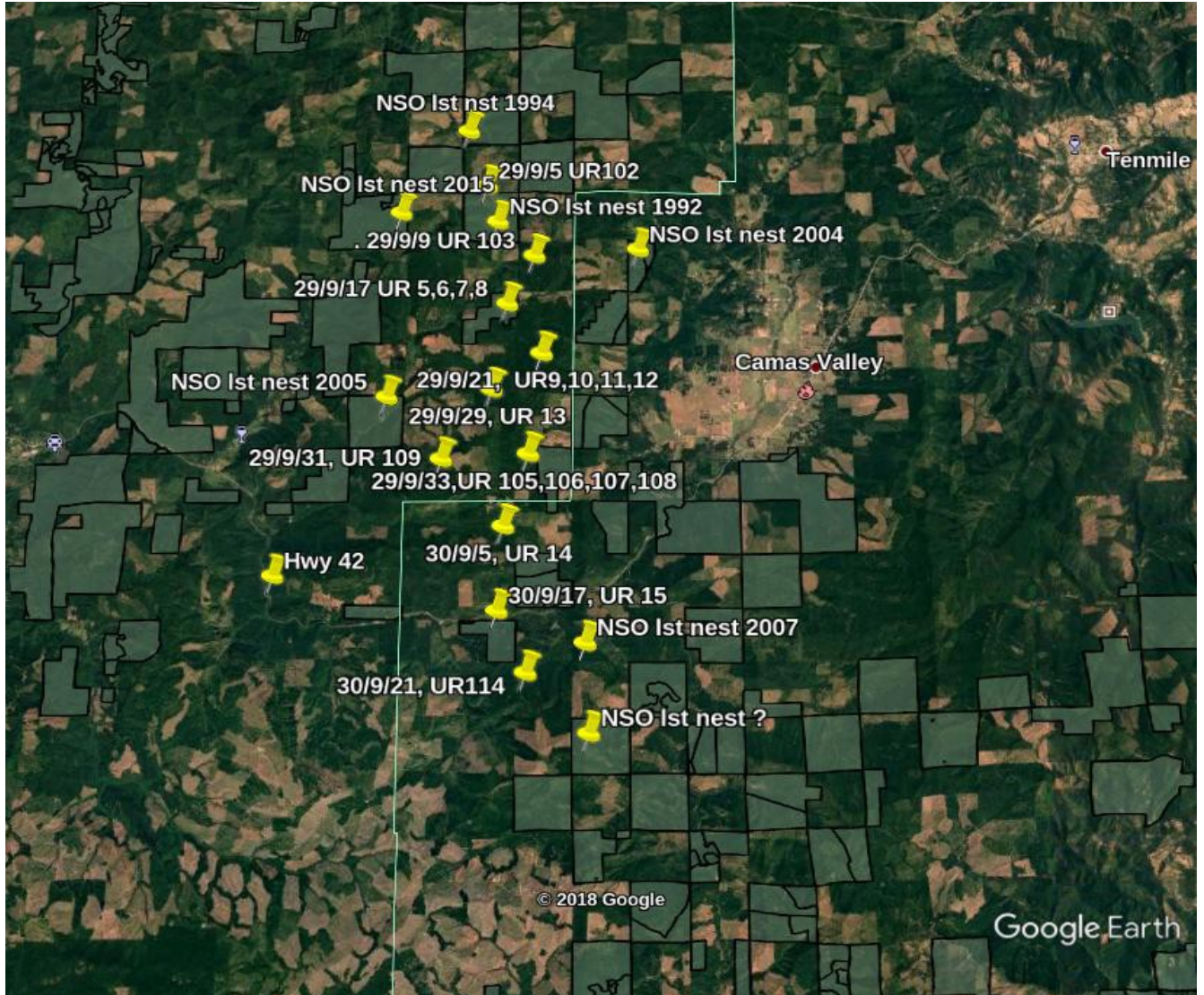
At this point, UW offers CBBLM three views of the URC Analysis Area, the first from Google Earth,

<sup>10</sup> i.e., in the literal sense that 1+1=2, 2+2=4, 3+3=6 etc.

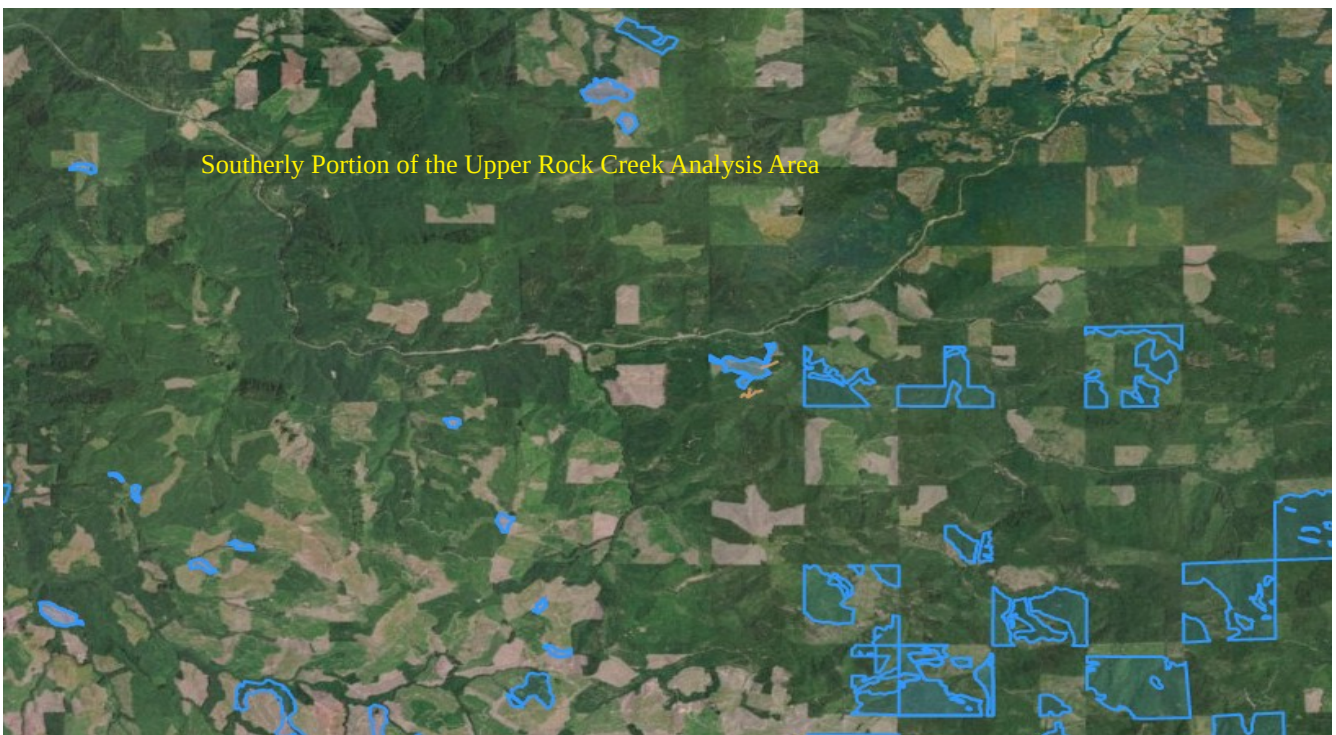
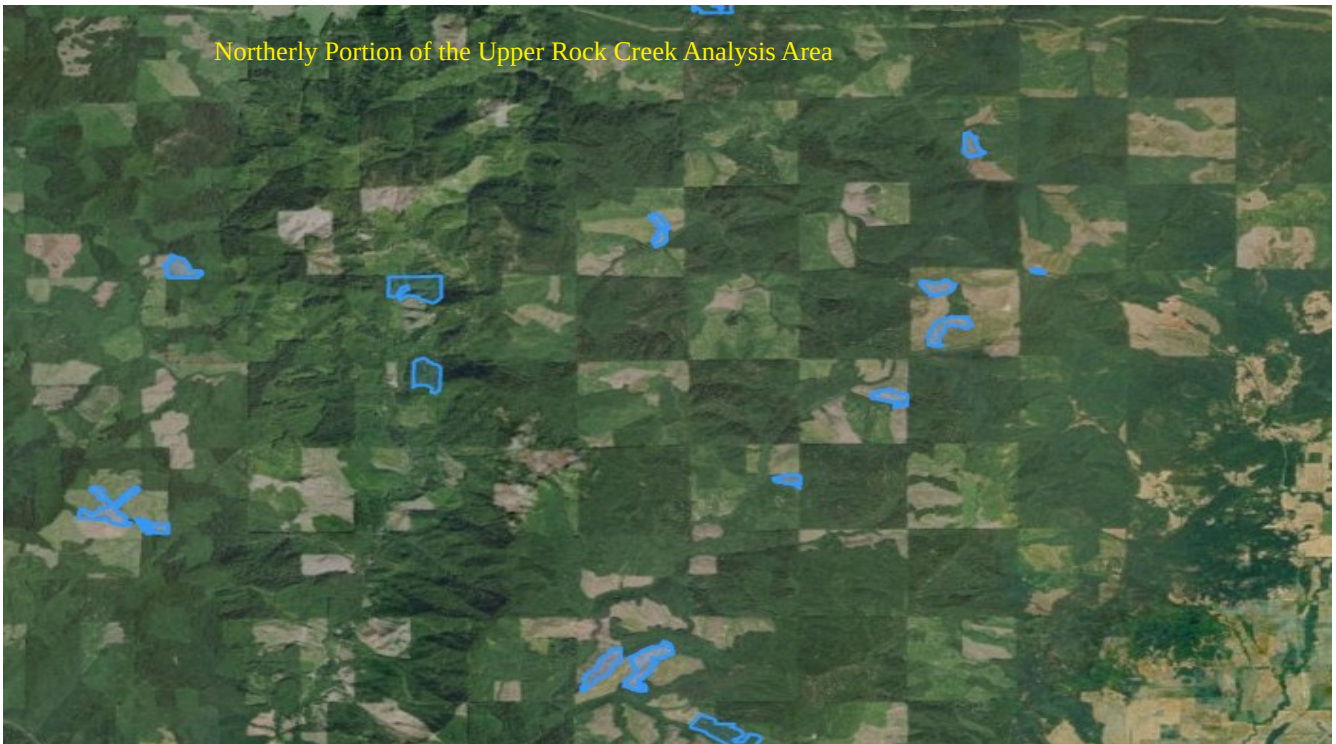
<sup>11</sup> FEIS, Vol. #1, pg. 120



the second and third taken from the ODF Ferns web site. As opposed to assumptions often referred to by OR/WA BLM, which are declared to be "*...broad and general in nature...*," these, as should be, are narrow and specific:







Please note that areas outlined in blue represent recent, current or future clear cut related management activities.

b) Germane to this protest point, is the insistence, by BLM, of imposing yet more relatively large canopy openings onto this landscape; watersheds that are already pock marked with numerous large, very recent clear cuts and/or young monoculture fiber farm plantations on the adjoining and proximate private industrial timberlands.

During its researches for the Upper Rock Creek and other BLM EAs, UW reviewed all four volumes of the Draft Resource Management Plan/Environmental Impact Statement as well as the Northwestern & Coastal and Southwestern Oregon RODs and RMPs and failed to find much that was specific by way of useful data concerning the actual, current environmental condition of the adjoining and proximate private industrial timberlands mentioned above. Follows what we did discover in those volumes. We see no reason why these references are not germane to the Glide Path, Slater 21 & Kenyon Timber Sales.

- On page 90 of Vol. I of the DEIS/RMP figure 3-9 shows a pie chart showing percentages of land ownership within the planning area. The proportions allotted on chart are themselves indicative of the need for a true "hard look" at the adjoining and proximate private industrial timberlands.
- Regarding consideration of the past liquidation of primary forest, in Volume #1 of the same DEIS, on page 94, we read the following: *“Use of information on the effects of past actions may be valuable in two ways according to the Council on Environmental Quality guidance: for consideration of the proposed action's **cumulative** effects and as a basis for identifying the proposed action's direct and indirect effects.”* (emphasis UW)
- Further down page 94, we read: *“Scoping for this project did not identify any need to list individual past actions nor to analyze, compare or describe environmental effects of individual past actions in order to complete an analysis that would be useful for illuminating or predicting the effects of the proposed action.”* Indeed, forget listing individual actions, insofar as we were able to determine, BLM did not waste any ink (ink that would be indicative of much effort) even listing **aggregations** of **past** clear and partial cutting of primary late seral/mature forest on the land it manages, either, let alone on the vast adjoining and proximate private timberlands in the checkerboard. If memory serves, there may have been some discussion of this in the Scoping volume for WOPRsr. Perhaps, but where are the tables discovering and disclosing the accumulated acreage of these clear cut acres, and their subsequent conversion to monoculture plantations, in the deis or in the final decision document? More to the point, where is this data discovered and disclosed in either the Upper Rock Creek Harvest Plan EA, or in the Decision Document for either the Kernel Klink or Glide Path, Slater 21 & Kenyon T.S.s?
- Again, regarding current and future conditions on the intervening private, on page 95 of the DEIS, this is all we get: *“The BLM based these assumptions about future management on other ownerships on existing plans or current trends, and these assumptions are broad and general in nature. However, the broad assumptions are sufficient to provide context for evaluating the incremental effect of the alternatives.”* This is a “hard look?” A hard look **away**, perhaps, but certainly no hard look **at**. The result of this flimflammy is that currently under the new RMP (as sometimes under the '95 ROD), BLM sites regens smack dab in the middle of large private clear cuts and very young monoculture fiber farm plantations. But, not to worry, says BLM in

effect, we have considered this context and there will be no harmful impacts resultant from introducing our own relatively large canopy openings into such a condition. A condition on the Upper Rock Creek Analysis Area as on so very many of the watersheds of Southwestern Oregon, that is very badly degraded before BLM regens a single stem.

- Again, in Vol. #1 of the DEIS, on page 139, Figure 3-25 provides a pie chart (“A”) showing percentages of estimated greenhouse gas (ghg) emissions from harvest operations. While at least some very general accounting is thus provided, this one pie chart hardly constitutes an in depth or “hard” look at such an existential issue as carbon-sequestration etc vis-a-vis climate change. (See Protest Point #5, below.)
- In the roughly 50 pages of the Forest Management Section of Vol. 1 of the DEIS, UW found only one reference to private timberlands: Figure 3-59 on page 238 showing extractive levels, for BLM, USFS, State and Private from 1962-2008. In contrast, on page 359, Figure 3-60 shows bar graphs delineating 10-year age classes on BLM. There is no comparable graph delineating the same for the vast acreage of the private industrial timberlands, which are, it goes without saying, the actual spatial and environmental context for the BLM lands in the checkerboard of alternating ownerships. (In the opinion of some critics, the authors of this portion of the DEIS might be forgiven in part, though not entirely, for offering only a very broad description of this ownership and environmental context, given the broader, regional nature of their work. Similar critics, we believe, would not extend the same indulgence to the authors of the Upper Rock Creek EA, nor to those responsible for the Glide Path, Slater 21 & Kenyon Timber Sales, and neither does UW.)
- Regarding data concerned with intermittent and perennial stream miles on the WOPRjr. Analysis Area, we do find Table 3-71, on page 290 of the same Vol. 1 of the DEIS. Tellingly, without specifying other ownerships, it reveals what a relatively small portion of each category is managed by the BLM in Western Oregon. We use the word “tellingly” because of its obvious implication as to the importance of an all-ownership analysis of the landscapes and their watersheds at play here. Notwithstanding our parenthetical remark in the bullet point immediately above, in and of itself, this table underlines the limited value of discovering and disclosing only the relevant environmental data extant on the public lands managed by the BLM and not on the vast holdings of the intervening private ownerships.
- In the Hydrology Section of the DEIS RMP, there is no mention made, that we were able to discover, of low summer streamflow on the analysis area. However, regarding non-BLM ownerships, we read the following on page 300 of Vol. #1 of the DEIS RMP: *“Second, the BLM used change detection methods rather than rule set described in Step 3 in the Planning Criteria to calculate the early-successional forest on non-BLM-administered lands. Using the Landscape, Ecology, Modeling, Mapping, and Analysis (LEMMA) satellite imagery and vegetation classification the BLM identified new regeneration harvest ares on non-BLM-administered lands for the base period with available imagery, 1996 to 2006, for each identified rain-on-snow subwatershed. The BLM projected this rate of regeneration harvest forward in 10-year increments for 50 years.”* So, if BLM was able to accomplish this more detailed analysis for “rain-on-snow” forestlands, why not use the same or comparable methods

to discover and disclose relevant stand age and other data on those non-BLM-administered ownerships sited at elevations below the “rain-on-snow” region?

Whether credibly estimated or actual, such critical and completely germane data would provide NEPA participants with the necessary spatial context parameters on the vast, intervening private industrial timberlands of Western Oregon, of the Upper Rock Creek Area in general, and of the Glide Path, Slater 21 & Kenyon Timber Sale vicinity, in particular. In the event, insofar as UW was able to discover, this is about as detailed as BLM gets in such private land disclosure in any of the documents made available to we citizen volunteers and other NEPA process participants that we have seen.

- Regarding all ownership road miles, within fine sediment delivery range only, discovered and disclosed in the analysis area for WOPRjr., we do find Table 3-72, on page 314 of Vol. #1 of the same DEIS RMP. Nice to see a few numbers at long last, however general they may be. Again, as with table 3-71, the lopsided imbalance here is indicative of the importance of discovering and disclosing road miles on private industrial timberlands and their condition.

Of particular interest, given the environmentally retrograde nature of the Oregon Forest Practices Act, as compared even to the reduced riparian and other aspects of WOPRjr., **we note the 145 acres of the Glide Path T.S. proposed for MITA regen.**

The state of Oregon has determined that a **120-acre regeneration harvest is the largest opening possible before unacceptable ecological damage could occur.** The Upper Rock Creek EA failed to consider those ecological reasons. **Instead, the EA allows clear cuts up to 192 acres!**

In the BLM’s most recent decision, the Glide Path timber sale is 145 acres in one unit, violating the state limitations by 25 acres! We realize the federal government is not bound by state rules. However, it is cavalier of the BLM to violate these minimally protective state rules, especially without any analysis of that violation in the EA or Decision.

The Oregon Forest Practices Act (OFPA) has important ecological reasons for limiting regeneration harvest openings to 120 acres, including “air quality, water resources, soil productivity and fish and wildlife resources”. **(OFPA 629-605-0175 (3) (c)).**

The BLM cannot use the excuse that BLM sales have more retention trees than typical clear cuts under the OFPA, because the BLM retention trees are not very significant. Despite their depiction in sale maps as reserves, these are not reserves in the truest sense. We protest CBBLM's attempt to reduce the meaning of a forest reserve designation to euphemism. Furthermore, the BLM has no penalties for damaging retention trees in logging operations, so there is no incentive to protect them. As a result, many retention trees on BLM regeneration harvests are damaged by the logging operation. This is not to mention the very real potential for scalding on south and west aspects and for blow down during high wind or heavy wet snow events.

### **Changed Circumstances**

Indeed, since the URC EA was released last year, the epic February 24<sup>th</sup> storm occurred, hitting the



Upper Rock Creek project area with some of the heaviest snowfall of the storm. Oregon Governor Brown declared a state of emergency, and all around western Oregon, especially on the Coast Range in the area of Upper Rock Creek, untold numbers of trees are down. This changes the number of viable retention trees available to the sale, as well as increases the fire danger during, and after clear cutting. It also changes the impacts of road access to the project area. So many trees are down on existing roads, they have become essentially closed.

The EA should have considered the impacts of damaged retention trees, along with the impact of exceeding the 120-acre state limit on regeneration harvests.

Finally, regarding discovery and disclosure of stand age, as well as ecological, conditions on the vast adjoining and proximate private industrial timberlands on the Upper Rock Creek Harvest Plan analysis area in general, as on the Glide Path, Slater 21 & Kenyon T.S. vicinity, in particular, we ask: where in the EA for Upper Rock Creek or the Decision Record for Glide Path, Slater 21 & Kenyon, are comparable data rich tables, such as **Table 3-2**, labeled **Stand data for HLB units in both action alternatives** (and which relate to BLM holdings only)<sup>12</sup> to be found?

Since these vast private industrial timberlands, managed under aegis of the retrograde OFPA, form the actual spatial context for the public lands thereon, managed by CBBLM, lacking such crucial data, how on earth are citizen-volunteer and NEPA participants in general, let alone agency personnel responsible for making management decisions of the highest scientific standards on these watersheds, supposed to proceed in a well informed and effective manner? Answer: lacking such discovery and disclosure, they cannot. BLM can provide this detailed and quite necessary all-ownership data for "Rain On Snow" regions, but not for the rest of these landscapes and their watersheds? UW rejects this sleight of hand and thus, UW's protest point #2, a & b.

**Protest Point #3 Failure by the BLM to discover and disclose the current dismal nesting/reproduction data for the NSO either on the URC Analysis Area, or in the Glide Path, Slater 21 & Kenyon Timber Sale Decision Records., as well as the failure by the BLM to discover and disclose the harmful CUMULATIVE impacts to NSO viability and/or recovery resultant from the clear cut etc. extractive activities on the adjoining and proximate private industrial timberlands of the URC Analysis Area EA, in general, or in the Decision Documents for these timber sales, in particular.**

Again, over-broad generalizations will not suffice to constitute the required "hard look." With this ESA listed and declining keynote species' very continued existence at stake, both the region-wide and the local dismal to nonexistent nesting and reproductive success of the NSO should have been both discovered and disclosed in the URC EA. (In our estimation, there is no metric more telling nor starker in its implications than reproductive success.) UW clearly stated this request in its comments on the

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<sup>12</sup> Upper Rock Creek Harvest Plan EA, Pp. 20, 21



draft EA, at the same time outlining the perilous condition of this listed and threatened species on the URC Analysis Area. This simple yet critical request for information was ignored in the final EA as well as in the three timber sale decision documents. Hence, in part, this protest.

Since we have just mentioned partial consideration, it is appropriate to cite this one, made by CBBLM in the Affected Environment paragraph appearing on page 28 of the EA: "*The BLM selected the Upper Rock Creek sale area in part because there is limited suitable habitat for NSO reproduction, reducing the likelihood of resident NSO and thus incidental take of NSO.*" (added emphasis, UW) Surely, if it conveys nothing else of value about the current condition of the Upper Rock Creek Basin, this statement delivers an indirect, if truncated, yet unambiguous assessment of current habitat conditions here, across all ownerships. Indeed, in UW's estimation, it is also a clear, if unintended, indictment of the environmental consequences of a past myopic adherence to the vaunted Sustained<sup>13</sup> Yield extractive paradigm, as applied with abandon to the public lands entrusted to the BLM in the decades preceding adoption of the NWFP Amendment. And, it indicts the current adherence to a very similar form of sustained yield on the clear cut and/or monoculture fiber farm private industrial timberlands adjoining and proximate to those public lands.

(As well, the above EA excerpt is a tacit admission that extractive regen. activities, as proposed by CBBLM, will be **CUMULATIVE** both to those past misguided practices, across all ownerships, and to the current clear cut/monoculture fiber farm plantation regime on the intervening private industrial timberlands, as conducted under aegis of the environmentally retrograde "protections" of the Oregon Forest Practices Act.)

Past and present then: the voiceless denizens of this analysis area, as well as we human beings, are left with what CBBLM admits is a "... limited suitable habitat for NSO reproduction..." and all that that lamentable ecological condition implies. For, given that the presence and viable persistence of the NSO has long been recognized as a barometer of the health of natural function on a given landscape overall, this is both a dispiriting statement to find included in a NEPA document, as well as a tacit indictment of past and present Sustained Yield management. UW protests the attitude that informs it!

### **Further Significance of Degraded NSO Habitat**

A recent scientific study, whose data was derived, in part, from the same 2013 Douglas Complex fire highlighted in last year's Zald and Dunn paper<sup>14</sup>, had this to say about NSO habitat: "*Pre-fire nesting/roosting habitat had lower probability of burning at moderate or high severity compared to other forest types under high burning conditions. Our results indicate that northern spotted owl habitat can buffer the negative effects of climate change by enhancing biodiversity and resistance to high-severity fires, which are predicted to increase in frequency and extent with climate change.*"<sup>15</sup> From the credible conclusions arrived at by both studies it is not difficult to surmise how increasingly vulnerable, given the stated dismal plantation/clear cut habitat condition of the URC Analysis Area (as is true of so many others within the Upper, middle and lower Middle Fork Coquille Drainages) are to high severity wildfire in this era of rapidly accelerating, anthropocentrally influenced climate change.

<sup>13</sup> Sustained? Yes! Sustainable? Hardly!

<sup>14</sup> Severe fire weather and intensive forest management increase fire severity in a multi-ownership landscape, 2018, Zald, Harold S., Dunn, Christopher J.

<sup>15</sup> Mixed-severity wildfire and habitat of an old-forest obligate, Lesmeister, Sovern et al, 2019, pg. 1

What is worse, apparently flowing from the attitude that seems to have empowered CBBLM to include the above outrageous "limited suitable habitat" statement (and self-indictment) on page 28 of the EA, here are examples of the dismissive attitude apparently adopted by the agency as regards the conservation and ultimate restoration of the NSO. In Appendix B of that EA, under the heading, itself dismissive, of Issues Not Analyzed In Detail, we read this "q & a" example of circular reasoning:  
**"How would the proposed project affect Northern spotted owl critical habitat?"**

***Rationale for Elimination: The BLM analyzed the effect of timber harvest on spotted owl critical habitat in the Proposed RMP/Final EIS (USDI-BLM 2016b, pp. 992-998) to which this Environmental Assessment tiers. While there would be some loss of spotted owl critical habitat with RMP implementation, the large amount of LSR (approximately 80 percent of BLM landbase in western Oregon), would support the function of critical habitat, and small localized impacts would not affect the overall utility of critical habitat to support spotted owl recovery. This issue will not be analyzed in detail because there is no potential for this project to have significant effects on spotted owl reproduction beyond the effects already analyzed in the RMP EIS, to this this EA is tiered.***

***The proposed timber sales would reduce the amount of critical habitat by approximately 340 acres. All of the proposed Upper Rock Creek units are in land designated as Harvest Land Base in the RMP. As such, the BLM modelled these areas to achieve sustainable timber harvest over time. Low BLM ownership in the immediate vicinity of the sales reduces ability of this portion of the critical habitat to function for demographic support. Because the units in critical habitat are all LITA, there would be 15-30 percent retention, allowing allow the critical habitat to continue to provide dispersal function between subunits and critical habitat units. While the project would alter habitat conditions within critical habitat, it would not limit the functionality of the critical habitat and subunit as a whole.***<sup>16</sup>  
(added emphasis, UW) In other words, BLM will not analyze the march toward extinction of the NSO on this analysis area because there is not suitable habitat to sustain the bird to begin with. But, not to worry, this critical habitat isn't worth a good goddamn, ecologically speaking, anyway. **(Outrageous! For shame, OR/WA BLM! For shame CBBLM! For shame USFWS! For shame Oregon Department and Board of Forestry!)** This and similar disregard explains a great deal as to why NSO reproductive success, and the extirpation it implies, is so very dismal here, as elsewhere. It is yet one more example of of a policy of "death by a thousand cuts." Offering reassurances about the persistence of this listed species across the region are, whether intended to be so or not, misleading in the extreme. Why? Because NSO reproductive success for the year 2018 across the northwest was dismal to non-existent. And what is worse, BLM has deliberately chosen not to disclose this critical metric to NEPA process participants. This purview regarding an ESA listed species is unacceptable and we protest it in the strongest terms!

This request for an all-ownerships discovery and disclosure of key data, for example, NSO reproductive success etc, in detail, is essential for NEPA process participants to assess BLM claims for NSO status on the URC Analysis Area, such as it is. Likewise, such all-ownership data is required in order to evaluate the claims CBBLM has made regarding the actual impacts from its extractive activities on this analysis area; impacts that are, in fact, undeniably **CUMULATIVE** to those

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<sup>16</sup> URC EA, Appendix B, pg. 111

attributable to the clear cut/monoculture plantation activities conducted under aegis of the OFPA on the intervening private industrial timberlands of the Upper Rock Creek Analysis Area. UW made this request for all-ownership NSO data, as well as expressing its concerns for NSO conservation/restoration quite clearly in its EA Comments<sup>17</sup> and well before these three timber sales were advertised.

Again, on pages 18 through 22 of its EA Comments, UW included aerial views of each NSO site identified by CBBLM on page 126 of the URC EA. These photos, taken from the ODF FERNS website, confirm, and graphically so, BLM's own dispiriting and self-accusatory statement, made on page 28 of the EA and quoted above, regarding habitat conditions here. To repeat for obviously needed emphasis: they demonstrate the ironic validity of that statement, yes, while also being a de facto indictment of past and current extractive management practices.

The following EA statements effectively underline the absolute necessity of such an all-ownership discovery and disclosure.

*"Most private land in the area is managed for industrial timber production. It is generally clear-cut on a 40-year rotation, and the BLM assumes it would continue to be managed in this way in the future. NSO would likely use this habitat to some extent within their activity centers, especially because, as discussed below, the amount of nesting and nesting/roosting habitat is low in many of the activity centers."*<sup>18</sup> **N.B.:** the operative qualifier in the above excerpt is, obviously, " *...to some extent...* "

Given the ubiquity of recent clear cuts and very young monoculture plantations on the intervening private industrial timberlands surrounding these three timber sales, it is safe to say that that extent is limited, indeed!

*And: "The BLM evaluated the NSO home ranges in the analysis area using the Coos Bay RA10 6 analysis to identify which home ranges have the potential to support a successful reproductive NSO pair. The best available information suggests that a minimum of 40 percent of the home range and 50 percent of the core be in NRF habitat to support a reproductive NSO pair at both scales (summarized in USDI-FWS 2009, USDI-FWS 2011). Private land is harvested on a rotation that is unlikely to allow the development of characteristics that are considered NRF habitat. Therefore, the BLM first evaluated how much of each home range is in BLM ownership."*<sup>19</sup> (added emphasis, UW)

UW could not have stated the necessity of a detailed and credible all-ownership analysis better.

Furthermore, this clear admission by CBBLM of the disgraceful habitat conditions, whether obtaining on public lands designated as critical habitat, on remaining public lands, and, most glaringly, on the adjoining and proximate private industrial timberlands of this analysis area, cries out for mitigation by the only entity on this landscape in a position to do so: the BLM! To repeat what we have maintained over and again: the 1937 O&C Act, regarding protection of watersheds and regulation of streamflows, does not specify, just the public forestlands in designated reserves, and not on the HLB, nor does it say that such protection and regulation should occur only on those public lands and not on the intervening private lands. It demands that watersheds be protected and streamflows regulated, period!

We are well aware that the BLM has long demurred from a serious acknowledgment of this

<sup>17</sup> Please see pp. 17-23 of UW Comments on the URC EA

<sup>18</sup> Ibid pg. 27

<sup>19</sup> Upper Rock Creek Harvest Plan EA, Pg. 27

responsibility and that the agency has for too long ignored our citation of primary historical source material<sup>20</sup> confirming it. Nonetheless, it stands and UW stands behind it. Lacking the intestinal fortitude and sense of fulfilling the public trust to carry this responsibility through, there remains the procedural necessity of discovery and disclosure. This has not been done and, again, we protest it.

In light of this degraded NSO habitat, across all ownerships, but particularly on the intervening private, that the URC EA makes the following unsubstantiated and erroneous claims is astonishing.

*"The BLM also evaluated the habitat impacts at a more local scale, focusing on whether the units would have an effect on the ability of spotted owls to disperse through the project area. The BLM assumes that all of the acres impacted by the proposed project (1,159 acres) could support spotted owl dispersal. **The BLM concludes that the removal of dispersal habitat would be unlikely to reduce the ability of spotted owls to move across the project area for a number of reasons.** The dispersal habitat removed would be spread across the harvest units so there would be no large blocks of non-habitat that owls may avoid. The project extends approximately 10 miles north to south, limiting dispersal loss in any one area. Riparian reserves intersperse the harvest units, dramatically reducing the distance between areas of unsuitable habitat. Spotted owls generally use the lower third of slopes near riparian features (Folliard et al. 2000, USDI-FWS 2011), so they are likely to use riparian reserves in all aspects of their life history, including dispersal. Furthermore, the harvest units are comprised of a combination of low and moderate intensity timber areas, which require from 5-30 percent retention of pre-harvest stand basal area. Thus, even in areas proposed for regeneration harvest, there would be pockets of trees remaining that would provide for spotted owl dispersal."*<sup>21</sup> (added emphasis, UW)

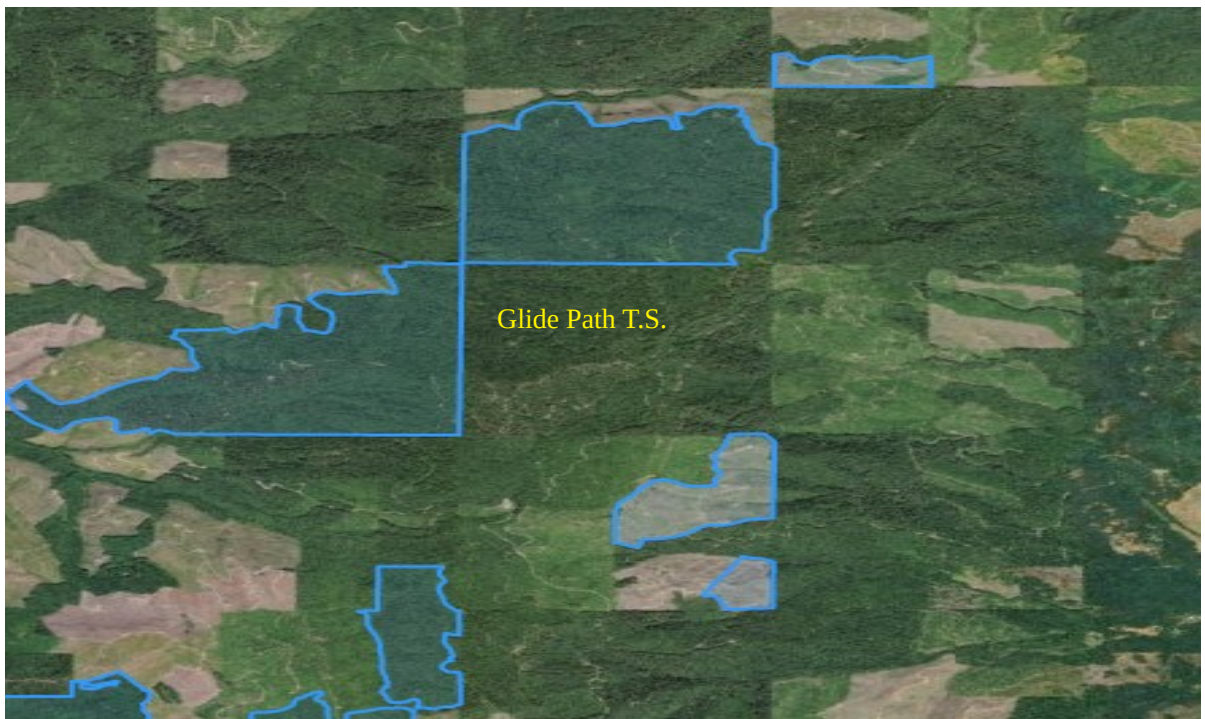
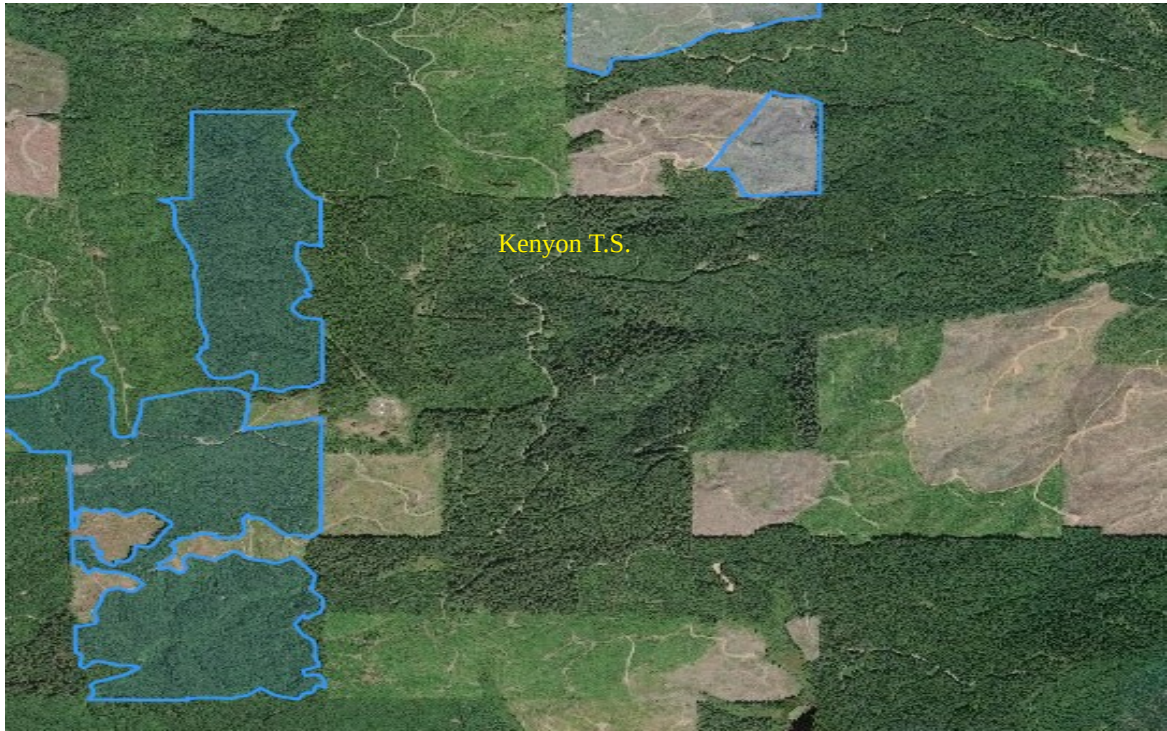
*"The BLM concludes that the removal of dispersal habitat would be unlikely to reduce the ability of spotted owls to move across the project area for a number of reasons."* Follows three aerial photographs taken from the ODF FERNS website, one each, for each of the three timber sales named in this protest.



<sup>20</sup> Price, Frank N., 2005, Pg. 3, Protecting Watersheds, Regulating Stream Flow, and Providing Recreational Facilities: The Intent of this Language in the O & C Act, Early Interpretation and Historic Context.

<sup>21</sup> Upper Rock Creek Harvest Plan EA, Pp. 110, 111





Since it is axiomatic that a picture is worth a thousand words, UW will let these speak for themselves, only adding that new private clear cuts can occur whenever short (and ever-shortening) rotations and unpredictable but environmentally unrelated financial influences dictate; noting as well that the areas outlined in blue indicate recent, current and/or future clear cut/monoculture fiber farm activity on the private industrial lands bordering each and everyone of these timber sales.

Furthermore, considering the nexus between Barred Owl competition with the NSO and provision of suitable habitat for its preservation, UW responds with an excerpt from recent research that appears to run counter to the conclusion offered by the 2016 PRMP/FEIS, in the rationale portion of this Q & A, below:

***"How would the proposed management activities affect competition between Northern spotted and barred owls?"***

***Rationale for Elimination: The 2016 PRMP/FEIS (pp. 947-948), to which this document tiers, described the effects of competition from barred owls on Northern spotted owls and concluded that current research provides no evidence that the BLM can manage individual forest stands to provide Northern spotted owls with a competitive advantage over barred owls.***<sup>22</sup>

***"Based on our study, the removal of Barred Owls from the Green Diamond Resources (GDR) study area had rapid, positive effects on Northern Spotted Owl survival and the rate of population change, supporting the hypothesis that, along with habitat conservation and management, Barred Owl removal may be able to slow or reverse Northern Spotted Owl population declines on at least a localized scale.***<sup>23</sup> (added emphasis, UW)

It is UW's position that this recommendation (***...along with habitat conservation and management...***) is entirely appropriate on the URC Analysis Area, particularly on those portions designated as Critical Habitat. We note that there is no critical habitat designated on the intervening private industrial timberlands, nor, for that matter, is there much regard evidenced thereon for the conservation of this or any other imperiled species, ESA listed or not, on those cut over, well sprayed, fiber farm private holdings. Thus, the importance of public forest conservation becomes doubly important. This is particularly true on landscapes lacking Barred Owl management.

A further consideration of critical habitat is offered by the URC EA, thus:

***"The critical habitat units were designed to ensure spotted owl's ability to disperse across the landscape and for demographic support. Even with the loss of 340 acres of Critical Habitat, spotted owls would continue to be able to disperse across the landscape. As modelled in the RMP, even with the harvest of some habitat that may function as NRF in the future, there is sufficient habitat remaining across the landscape that would be managed to promote spotted owl nesting, roosting, and foraging at a landscape scale.***<sup>24</sup> (added emphasis, UW)

Yes, these critical habitats may well have been intended, at least initially, to ensure NSO dispersal opportunities across the landscape, etc. However, the extractive activities of CBBLM on some **340 acres**, and elsewhere on URC, will create still more relatively large canopy openings. Obviously, these will be **CUMULATIVE** in their deleterious impacts to the harmful impacts to NSO viability

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<sup>22</sup> URC EA, Appendix B, pg. 110

<sup>23</sup> The effects of habitat, climate, and Barred Owls on long-term demography of Northern Spotted Owls, 2016, Dugger, Forsman et al.

<sup>24</sup> URC EA, Appendix B, pg. 111



represented by those private land clear cuts and young plantations clearly displayed by UW on pages 8 and 9 of this protest. Pages 18 and 19 of this protest, show closer views of each of the three timber sales, which are the subject of this same protest. Looking at those six aerial views, the claim made above that "*spotted owl's ability to disperse across the landscape and for demographic support*" is ensured by BLM's considerations ring hollow indeed! Given a landscape like this, god help dispersing Spotted Owls!

**Protest Point #4: Lack of useful, representative and credible data for intervening private industrial timberlands as they relate, CUMULATIVELY, to extractive actions on adjoining and proximate public lands vis a vis a strongly inferred and chronically depleted low summer flow condition, as well as opinions wrongly presented as fact regarding this same condition, as discovered and disclosed by the Perry-Jones Study.**

On page 98 of the Upper Rock Creek EA, Appendix B, **Issues Not Analyzed In Detail** under the **Hydrology** heading we read this question, purporting to address what is, for the authors of this EA, listed as an issue not needing to be looked at closely (i.e., given the requisite "hard look" acknowledgment and critical importance such an existential condition demands):

*"How would the proposed regeneration and thinning harvest in the Low Intensity Timber Area (LITA) and Moderate Intensity Timber Area (MITA) affect summer water availability for aquatic habitat?"*

CBBLM then commences its discussion of the strongly inferred chronically depleted low summer flow issue in great detail, and continues that discussion, in depth, for most of seven pages! Here is what the first paragraph of that detailed examination tells us: "*The effect of proposed BLM harvest on low flow (i.e., summer streamflow) is considered but not analyzed in detail in part because stand ages that maintain and restore summer water availability (amount, duration, and spatial distribution) already occur or are on a trajectory to occur on much of the BLM-administered lands within the planning area for the 2016 RMPs for Western Oregon and much of the BLM-administered lands within the analysis area (the four subwatersheds containing the proposed harvest units).*"<sup>25</sup>

It is important to note here that, according to the RBBLM<sup>26</sup>, **the BLM manages only 30%** of the forested landscape on the Upper Middle Fork basin. Where is the absolutely critical stand age data for the remaining **70%** of this forested landscape? For the BLM to maintain that discovery and subsequent disclosure of such data is beyond its ken and would amount to no more than speculation is belied by the following: "*Second, the BLM used change detection methods rather than rule set described in Step 3 in the Planning Criteria to calculate the early-successional forest on non-BLM-administered lands. Using the Landscape, Ecology, Modeling, Mapping, and Analysis (LEMMA) satellite imagery and vegetation classification the BLM identified new regeneration harvest ares on non-BLM-administered lands for the base period with available imagery, 1996 to 2006, for each identified rain-on-snow subwatershed. The BLM projected this rate of regeneration harvest forward in 10-year increments for 50 years.*"<sup>27</sup> (added emphasis, UW) Judging from this statement from OR/WA BLM, such data is available. That it has not and never has been discovered and disclosed by CBBLM is a significant component of this protest.

<sup>25</sup> URC EA, App.B, Pg. 98

<sup>26</sup> Olalla-Camas Regen. Harvest EA (RBBLM), Appendix F, Table F.2, pg. F-2

<sup>27</sup> DEIS RMP, Vol. #1, Pg. 300

*"Hydrologic recovery to what end is also an important consideration. **The proposed LITA and MITA harvests mostly in 50–80 year old stands represent a cessation of hydrologic recovery towards historical low flow conditions.**"*<sup>28</sup> (added emphasis, UW) This declaration is noteworthy in itself. It takes on added significance when one considers that the adjoining and proximate private industrial timberlands on this analysis area will, if the present trend continues into the future, never progress *"... towards historical low flow conditions."* Given that the Headwaters of the Middle Fork of the Coquille River suffers from a number of undesirable characteristics<sup>29</sup> at this time such as reduced Dissolved Oxygen, undesirable pH, Sediment and Temperature exceedance, as well as, according to the Oregon DEQ, high e-coli bacterial counts, particularly during summer low flows, the representative concerned citizen who either lives in or frequents these watersheds, would not appreciate a recovery that would return and maintain this basin at these already degraded conditions, rather than ameliorating them.

Regarding such an all ownership accounting and a subsequent amelioration of an already degraded summer flow condition we get the following doubtful assurance: *"...possibly..."* : *"Retaining individual trees and aggregate groups of trees outside of and in addition to the Riparian Reserve reduces harvest intensity and reduces the potential for adverse effects of regeneration on summer water availability for aquatic habitat. Retained portions of the stand would exhibit declining transpiration with increasing age possibly offsetting some of the increased transpiration from younger vegetation."*<sup>30</sup>

In UW's estimation, this seems to be yet another instance of the BLM again "pretending" to itself (and concerned NEPA process participants) that important ecological parameters (**e.g., stand age and timing of hydrologic recovery, harvest intensity, stream periodicity, harvest practice, stream buffers and riparian reserves and watershed content etc.**) are regulated and applied in the same way landscape-wide, across all ownerships as they are on the lands under administrative authority of the CBBLM. That is, CBBLM appears to be saying, once again, that since either the strictures of the Northwest Forest Plan or those of the FEIS, NCO/ROD remain in place on BLM lands, that all is well, hydrologically speaking, across these watersheds.

This effectively ignores the graphic differences in environmental protections of all kinds, not just riparian, that exist (or not) for the clear cut extraction and monoculture fiber farm plantation model practices on adjoining and proximate timberlands under aegis of the Oregon Forest Practices Act. Clearly, they are not the same. This glaring juxtaposition more than obviates the claims made and discussed in the nearly seven pages, in Appendix B of the URC EA, of detailed denial of the chronic depletion of summer flow so strongly inferred by Perry-Jones, 2017. This persistent myopic assessment of watershed condition and the extractive practices imposed on those watersheds remains an essential part of UW's protest of this timber sale.

Claims are made for progression of stand age away from those cited by Perry-Jones as having the most influence on low summer flows, for hydrologic recovery etc. *"Perry (2007 p. 102) does suggest, based on limited information from entirely clearcut catchments, that stand level transpiration may*

<sup>28</sup> URC EA, App.B, Pg. 99

<sup>29</sup> Olalla-Camas Regen. Harvest EA (RBBLM), Table 3.13, Pg. 56

<sup>30</sup> URC EA, App.B, Pg. 102

*return to near old-growth levels by 130 years in Douglas-fir dominated stands*<sup>31</sup> 130 years certainly seems to be wishful thinking when one considers the short (and shortening) clear cut rotations currently practiced on the vast adjoining and proximate private industrial timberlands of this analysis area. As well, when one considers the ubiquity of early seral and nearly mid seral stands on the Upper Rock Creek analysis area, across all ownerships, and the obvious paucity of mature and late seral stands thereon, again across all ownerships. At the same time, the presence of large industrial clear cuts and/or young monoculture Douglas Fir plantations, with the certainty of more, on the private timberlands adjacent and proximate to the public lands of the Upper Rock Creek Analysis Area must be factored into this summer streamflow analysis as well. To the best of our knowledge, it has not been and thus this protest point remains.<sup>32</sup>

And, for the NEPA record, please tell us where claims for the intervening private industrial lands, concerning predictable cycles of low flow surplus and deficit are made in Perry-Jones. It seems to UW, that for such a statement to enjoy much, if any, credibility, BLM would need to have prior scheduling knowledge of private industrial clear cutting and subsequent heavy plantation restocking with monoculture Douglas Fir; this schedule driven, as ever, by unpredictable market forces. The possible expression, via extractive management, of such external forces, it must be said, is hardly comparable to the kind of useful and relevant stand age consideration disclosed by BLM in its decadal figures (e.g., DRMP/EIS, Vol. I, Figure 3-30, page 239), age class distribution tables (e.g., DRMP/EIS, Vol. I, Table 3-55, page 240) etc, for the public lands under its management authority. Indeed, most if not all of the protective hydrological practices discussed in the EA, are most emphatically not related, by BLM, to extractive management as conducted under aegis of the environmentally retrograde OFPA, on the proximate and adjoining private industrial timberlands of the Upper Rock Creek analysis area, in the Glide Path, Slater 21 & Kenyon T.S. vicinity or anywhere else on the infamous and most unfortunate checkerboard of alternating ownerships, that we know of.

When the 2016 PRMP/FEIS CBBLM so often says that it "tiers to" concluded that timber harvest under the Proposed RMP would not have a measurable effect on low flows at the subwatershed or watershed scale due to the maintenance of riparian vegetation and the limited extent of the Harvest Land Base (USDI BLM 2016, pp. 408-409), UW notes yet again, that whatever conditions may or may not prevail on CBBLM's HLB, this LUA is most often sited smack dab in the middle of a plethora of recent and very large clear cuts and/or very young monoculture fiber farm plantations on the intervening private industrial timberlands within the checkerboard of alternating ownerships.

In light of that obvious glaring influence on ecological functioning, including hydrologic, we find the follow statement of limited value to an effective participation in the NEPA process:

*Seventy-six percent of BLM's acres managed under the 2016 RMPs for Western Oregon are 50+ years old (USDI BLM Volume 1 p. 310), and are either hydrologically recovered or recovering." In our estimation, this unsubstantiated claim sounds like wishful thinking to our ears.*

And that leads us to refer back here to a position we have made clear to the agency, over and over and over again and which we stand behind still: *"The 'BLM is attempting to use the presently degraded*

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<sup>31</sup> Upper Rock Creek Harvest Plan EA, App. B, page 99

<sup>32</sup> See UW comments, Upper Rock Creek Harvest Plan EA, pp. 11, 12, 13, 14

*low summer flow, chronic in our estimation, as the base line from which to gauge the impact of its management proposals.*” The “non-response response” in the Upper Rock Creek EA and in the three Decision Records for the Glide Path, Kenyon and Slater 21 Timber Sales , made to UW's above assertion remains and is effectively worthless, if one is trying to determine whether or not this and other similarly impacted watersheds are indeed experiencing the kind of chronically depleted low summer stream flows so strongly inferred by the Perry-Jones Study. Indeed, UW protests this example of unresponsive circular reasoning as unworthy of a NEPA document, because, of course, there is nothing in such an illogical scheme (I.e., that the existing condition was used in determining effects to streamflow and other resources.) with which to compare current streamflow or anything else, with historic streamflows. **That is, historical flow data is not even considered and, after all, it is precisely a decline from that historic summer streamflow rate which preceded the liquidation of primary old growth/mature forest on these watersheds, and its subsequent and wide spread conversion to monoculture Douglas Fir plantations across all ownerships with which the Perry-Jones Study, as well as UW's EA comments and this protest have been, and are still, to a significant extent, concerned.**

Again, for emphasis: as posited by UW in numerous other NEPA submissions to RBBLM: discovery and disclosure of, then subsequent comparison with, actual historic streamflow data or credible modeling, where such data is lacking, is the only way we can see to arrive at a verifiably useful conclusion regarding the inference of a chronically depleted summer flow regime. After all, garden variety common sense strongly indicates that comparing same to same, temporally speaking, is no real comparison at all.

Interestingly, addressing this inferred and chronically depleted summer flow condition, CBBLM's Upper Rock Creek EA (DOI-BLM-ORWA-C040-2016-0007-EA) states the following: "*Private industrial forestlands account for 67 percent of the acres in the analysis area, and the BLM assumes that the relatively young private age class distribution that we see today is very likely the age class distribution that we will see in the future—a distribution resulting from one or more rotations of relatively high intensity, short duration forestry. Over time, private would produce relatively small contributions to older forest age classes due to access and productivity limitations, and maturation of Riparian Management Areas, and this would benefit low flows. Clearcutting most of a young stand on private, 40 years for example, would produce low flow surplus relative to the 40 year old stand and a much older stand, 130 years for example, due to reductions in interception and evapotranspiration. As the clearcut “matures” to rotation age (40 years for example) it may undergo little to no low flow deficit relative to the previous young forest of vigorously growing trees, but it would exhibit low flow deficit relative to the historical low flow condition at rotation age. Private, therefore, cycles between low flow surplus for a few years post-harvest and current low flow conditions (low flow deficit inferred from Perry and Jones’ analyses of clearcutting 130+ year old forests).*"<sup>33</sup> (Emphasis, UW) Here we see CBBLM specifically and pointedly referring to summer flow deficits as measured from a "historical low flow condition."

Thus, it is not just UW recognizing this sine qua non for riparian health, although we have identified the use of this unacceptable base line for measurement of impacts to summer low flow etc. in numerous

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<sup>33</sup> Upper Rock Creek EA, App. B, Pp. 101, 102

other NEPA submissions to the BLM. Here is what UW included in its comments on the Upper Rock Creek EA: "*Finally, regarding the issue of a chronically depleted summer flow condition, we repeat yet again, what we stated in UW's Protest of the Canyon Breeze T.S.: 'Again, for emphasis: flowing from the above-mentioned "tunnel vision," and as carefully demonstrated by UW in its aforementioned comments, BLM is attempting to use the presently degraded low summer flow, chronic in our estimation, as the base line from which to gauge the impact of its management proposals. By UW's best reckoning, BLM appears to hold that the unfortunate and severe environmental consequences of the vast conversion of primary forest to plantation, on lands public and private across this analysis area, for decades, in conjunction with the persistent clear cut/plantation activities currently conducted on private holdings, actually collectively constitute that very baseline, degraded as it may be. Forcefully, and not for the first time, we say no. Such a chronically depleted baseline cannot, does not, and must not be allowed to be used in this way. By not referring NEPA participants to actual, accurate historic low streamflow data (or credible modeling, where such data is unavailable); historic data with which to credibly compare current low summer streamflow data, BLM is, in effect, attempting to "pull the wool" over participants' eyes. (In the event, UW prefers to think that such obfuscation, by BLM, is not deliberate, but simply the result of long practice, however mistaken and ill-informed; and perhaps due, in part, to loss of institutional memory.)*" 15 (For further clarification of its position on the chronically depleted summer flow issue, UW very much recommends review by RBBLM of this entire section of UW's Canyon Breeze T.S. Protest, pages 2 thru 15.)"<sup>34</sup> UW stands by this observation, notes its recognition as an issue by the CBBLM, and chooses to continue to present it as a significant portion of this protest.

Another aspect of this strongly inferred, chronically depleted summer flow regime is directly related, by simple logic, to the studies cited by UW on page 15 of this protest, under the heading **Further Significance of Degraded NSO Habitat**. That is, the same logic informing these two recent in-depth data based scientific studies is suitably applied to the low flow issue as well. The one paper (Zald and Dunn) concluded that in tact late seral/mature habitat was more resistant to the rapid spread and intensity of wind driven wildfire than intervening plantations , while the other study we cited on page 15 of this protest concluded: "*Pre-fire nesting/roosting habitat had lower probability of burning at moderate or high severity compared to other forest types under high burning conditions. Our results indicate that northern spotted owl habitat can buffer the negative effects of climate change by enhancing biodiversity and resistance to high-severity fires, which are predicted to increase in frequency and extent with climate change.*"<sup>35</sup> By application of geometric logic and by reasonable extension then, habitat that is conducive to NSO persistence must also be conducive to historically equivalent summer flow regimes. When CBBLM tells us on page 28 of the URC EA that: "*The BLM selected the Upper Rock Creek sale area in part because there is limited suitable habitat for NSO reproduction, reducing the likelihood of resident NSO and thus incidental take of NSO.*" (added emphasis, UW) **it is a tacit admission that this analysis area, across all ownerships is at once at risk of more intense and rapidly spreading wildfires, but that, by simple logic, it exists in a currently adverse summer flow condition.**

Finally, we draw BLM's attention to the most worrisome fact that near the end of November, 2018,

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<sup>34</sup> UW Comments, Upper Rock Creek EA, pp. 10, 11

<sup>35</sup> Mixed-severity wildfire and habitat of an old-forest obligate, Lesmeister, Sovern et al, 2019, pg. 1



rivers and their tributaries in the Umpqua Basin, the Coquille and beyond experienced drastically diminished flow regimes, very nearly the rates one might well expect them to have at the end of a typically dry summer. While it is true that 2018 has been described as a year of extreme drought for Coos, Douglas and other counties in western Oregon, onrushing climate change identified as a principal reason for the continuing drought, the implications of the strongly inferred chronically depleted summer low flow regime highlighted by the Perry-Jones Study argues forcefully that those implications deriving from that condition be considered adverse and harmful until proven otherwise. UW has made this position, plainly and emphatically, to BLM in more than one NEPA document. To date, BLM has not responded in a manner that reflects the environmental gravity of this critical situation. That lack of commensurate response is a significant portion of this protest point.

**Protest Point #5) a) Failure, to date, of the BLM to address the issue of onrushing, anthropocentrally influenced climate change in a serious and effective manner, as well as failure of the BLM to discover and disclose the harmful impacts to carbon sequestration and climate change mitigation attributable to the adjoining and proximate private industrial timberlands of the URC Analysis Area, in general, or in the Decision Documents for these timber sales, in particular. That is, as these harmful private timberland impacts relate **CUMULATIVELY** to the carbon sequestration/climate change impacts emanating from extractive activities on the public forestlands of the URC Analysis Area in general, and to these three timber sales, in particular.**

UW clearly stated its positions on these existential issues in its URC EA Comments, pages 26, 27, 28, 29 and 30, as well as in numerous other NEPA submissions to the BLM. We direct CBBLM's attentions there.

#### **Climate Change and Other Factors Concerning Jordan Cove and the PCGPL.**

We would add that the construction of the PCGPL and the construction and operation of the Jordan Cove Liquefaction Plant and its ancillary power generation facilities can only exacerbate and not mitigate the catastrophic impacts of this onrushing anthropocentrally influenced climate change crisis. We protest BLM's seeming persistent acquiescence in this outrageous and damaging proposal. Making matters worse, is the word we have received that the BLM will not be offering actual meaningful mitigation for the environmental harms imposed by construction of this dangerous and unnecessary gas pipeline. The fact that, instead, BLM will set aside hundreds of acres of public land for the ownership of a foreign entity, Pembina/Jordan Cove, which must still be managed by the BLM is outrageous and compromising of agency integrity on its face and we include it as part and parcel of our Protest Point #5.

Making matters even worse, the presence of this pipeline on the forested public lands and through waterways sited on those lands that are under the management authority of the BLM represents an unwanted and considerable threat to safety in the form of explosion and fire. We strongly protest BLM's effective complicity in this proposal.



**Protest Point #6: Roads**

On pages **30, 31** and **32** of its URC EA Comments, UW clearly stated its positions vis a vis the proposal to add more forest roads to the already extant spider web of these intrusive and ecologically damaging constructions to this analysis area.

Sincerely,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke ending in a vertical bar.

Joseph Patrick Quinn  
Volunteer Conservation Chair,  
Umpqua Watersheds, Inc.