



April 9, 2020

Ashley National Forest
Roosevelt-Duchesne Ranger District
Attn: Lesley Tullis, Project Contact
P.O. BOX 981 (85 West Main)
Duchesne, UT 84021

RE: Comments on the Mill Park Forest Restoration Project

Comments submitted via email to comments-intermtn-ashley@usda.gov and comments-intermtn-ashley@fs.fed.us

Ms. Tullis,

These comments are submitted on behalf of the Grand Canyon Trust, The Wilderness Society, Yellowstone to Uintas Connection, and Western Resource Advocates, pertaining to the proposed Mill Park Forest Restoration Project (“Mill Park Project” or “Project”).

The Environmental Assessment (“EA”) for the Mill Park Project was published on March 5, 2020. It provides that the Project will involve approximately 3,225 acres of vegetative treatments and stream and meadow restoration activities at the head of Hells Canyon on the Ashley National Forest.¹ The vegetation treatments would consist of: (1) commercial timber treatments on 2,646 acres (methods are sanitation-salvage, overstory removal, clearcut, and shelterwood harvest, along with the construction of up to 8 miles of temporary roads); (2) post-harvest planting on 1,170 acres; and (3) pre-commercial thinning on 379 acres.²

The undersigned collectively oppose the Project due to (1) its impacts to potential wilderness areas, (2) the Forest Service’s failure to adhere to the constrictions of the Roadless Rule, and (3) the Forest Service’s decision to advance the Project ahead of its ongoing revision to the Ashley National Forest Management Plan (“Forest Plan”) in a manner that will interfere with the revision process and undermine public input. We request that the Forest Service forego the Project and not reconsider the Project until the Forest Plan revision process is complete. If the Forest Service decides to proceed despite the ongoing plan revision, we then request that the

¹ Environmental Assessment, Mill Park Forest Restoration Project, 1-2 (2020) (hereinafter “EA”).

² *Id.*

agency remove any areas of the Project that are in potential wilderness and exclude any roadless areas from the Project or, at a minimum, provide sufficient information to determine whether the Project satisfies an exception to the Roadless Rule.

Comments

I. The Mill Park Project will impact potential wilderness units and interfere with chances for an eventual wilderness designation.

The area where the Mill Park Project is proposed would overlap with potential wilderness areas proposed by the Forest Service. Specifically, the Project area overlaps with the Lake Fork Mountain unit currently being considered for wilderness recommendation through the *Ashley National Forest Evaluation of Potential Wilderness Inventory Areas* (May 2019) as part of the ongoing Ashley National Forest, Forest Plan Revision process. Furthermore, the Project would border the High Uintas Wilderness area.

The characteristics of a wilderness area are: (1) the apparent naturalness of the lands; (2) the opportunities for solitude or primitive and unconfined recreation; (3) the presence of ecological, geological, or other features of scientific, educational, scenic, or historical value; (4) that the area has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (5) the area can be managed to preserve its wilderness characteristics.³ By evaluating the Lake Fork Mountain unit, the Forest Service recognized that the unit contains the necessary wilderness characteristics of size, apparent naturalness, and outstanding opportunities for either solitude or primitive and unconfined recreation. The area contains popular trailheads and trails, including the Center Park Trailhead which is a primary access into Garfield Basin in the High Uintas Wilderness. The Lake Fork Mountain unit is also high quality habitat for big and small game species, and contains habitat for known rare plants and bird species. These are some of the reason why the area is currently under evaluation by the Forest Service for inclusion as recommended wilderness in the Forest Plan Revision.

As an evaluated potential wilderness area, the Lake Fork Mountain area could potentially be managed and designated as a permanent wilderness area. In order for that designation to occur, the Forest Service must preserve the unit's wilderness characteristics. The inclusion of portions of the Lake Fork Mountain potential recommended wilderness in this Project could have immediate and even long-term impacts to the identified wilderness characteristics of the area. The Project proposes mechanical timber treatments, including clearcutting and shelterwood harvesting, and pre-commercial thinning. Anyone that has visited areas post-clearcutting or thinning can attest to the unnatural appearance of the disturbed landscape. Importantly, areas impacted by clearcuts and other treatments that appear unnatural are typically excluded from proposed wilderness units, leaving odd shaped exclusions completely surrounded by wilderness. There are many examples of the Forest Service using previous treatment areas as rationale for excluding an area from future considerations for wilderness recommendation, or from management to protect wilderness characteristics. For this reason, Forest Service should exclude

³ FSH 1909.12, ch. 70, § 72.1.

all potential recommended wilderness, including the Lake Fork Mountain potential wilderness unit, from the area for the Mill Park Project.

In the EA, the Forest Service recognizes that the Project falls within the Lake Fork Mountain potential wilderness area, but wrongly concludes that the Project would not have any lasting effects that compromise wilderness characteristics. Instead, the EA asserts that the Project “would result in some temporary degradation to some [wilderness] attributes” but that “there would be no permanent or significant effects on any of these attributes.”⁴ This conclusion is not supported by the EA. A vegetation treatment project of this scale can have both short-term and long-term impacts on the resources present, including wilderness characteristics. This is especially true in high elevation areas like the lands proposed for treatment here. There are old clearcuts in other high elevation areas on the Ashley National Forest where the flora never returned. These include clearcuts in the Rasmussen Lakes area of the West Fork Whiterocks drainage from 1968 and clearcuts just north of Pole Creek Lake from 1969. In each of these examples, the effects from the treatments are still visibly noticeable.

To mitigate some of these impacts, the Forest Service should first seek to avoid impacts to wilderness characteristics to the full extent practicable, primarily by excluding the Lake Fork Mountain unit from the Project area. But if the Forest Service does proceed with this Project, it should develop and implement appropriate design features and mitigation measures specifically for lands with wilderness characteristics. These design features and mitigation measures should ensure that the wilderness characteristics present in the Project area are not degraded by the Project, and that the impacts are only temporary as envisioned by the EA.

Such design features and mitigation measures could include, but are not limited to:

- Timing limitations to prevent unnecessary conflicts with hunting season (to ensure that existing opportunities for primitive and unconfined recreation in the form of backcountry hunting opportunities are minimized).
- Prohibiting the creation or authorization of new motorized vehicle routes as a result of this Project to ensure that the naturalness of the unit is retained.
- Any vegetation treatment projects conducted in potential wilderness must not negatively affect wilderness characteristics or the visitor experience and must minimize impacts, particularly through the incorporation of techniques and type of equipment to ensure minimal impact to wilderness characteristics.

The EA should be explicit that these types of mitigation measures, and any others necessary to protect the existing wilderness characteristics and visitor experience of the area, will be incorporated into the Project. Any impacts to wilderness characteristics must only be temporary and must not prematurely foreclose on future management decisions to recommend the area as wilderness or to otherwise protect the wilderness characteristics present in the area.

⁴ EA, 16.

The EA also notes that the Project would border the High Uintas Wilderness, but would have no effects on the wilderness area because the Project is not within the wilderness area.⁵ This misses the point. Even though the Project may not directly impact the High Uintas Wilderness, the Project would compromise any efforts to designate a wilderness area that borders the High Uintas Wilderness. A wilderness area bordering the High Uintas would effectively create a large, intact wilderness area, benefitting landscapes and ecosystems alike. This opportunity would be much more difficult if lands bordering the High Uintas were treated under this Project.

The Mill Park Project has the potential to impact lands with wilderness characteristics and impair chances of future wilderness designations. We request that the Mill Park Project be discarded, but if not, then the Project should not occur in any potential wilderness areas.

II. The Mill Park Project presents a potential violation of the Roadless Rule.

The Mill Park Project falls within two inventoried roadless areas (“IRA”). Although the EA cites what it believes are applicable exceptions to the Roadless Rule, we do not agree. We believe that neither of the exceptions cited are applicable to this Project and, as such, the Project violates the Roadless Rule.

The EA identifies two exceptions to the Roadless Rule that it maintains allow for this Project. The first is an exception for removal of generally small diameter timber if the activity will maintain or improve one or more of the roadless area characteristics and is done for the purpose of maintaining or restoring the characteristics of ecosystem composition and structure.⁶ The other exception used is one for removal of timber when that removal is incidental to implementation of a management activity that is not otherwise prohibited by the Roadless Rule.⁷

Beginning with the exception for small diameter timber, the EA invokes the exception but contains no restrictions on the size of timber that may be cut.⁸ Further, given the extensive acreage the project contains, it is necessary that the Forest Service provide data concerning the size, species, and distribution of trees likely to be removed. No such data was included in the EA and therefore the record does not support the agency’s claims. It is likely that many large diameter trees would be felled considering actions like clearcuts which are not selective. Furthermore, the EA does not specify how roadless area characteristics would be maintained or improved by the Project. The Roadless Rule defines roadless area characteristics as:

Resources or features that are often present in and characterize inventoried roadless areas, including:

- (1) High quality or undisturbed soil, water, and air;
- (2) Sources of public drinking water;
- (3) Diversity of plant and animal communities;

⁵ EA, 16.

⁶ 36 CFR 294.13(b)(1)(ii).

⁷ 36 CFR 294.13(b)(2).

⁸ EA, 15-16.

- (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;
- (5) Primitive, semi-primitive nonmotorized and semi-primitive motorized classes of dispersed recreation;
- (6) Reference landscapes;
- (7) Natural appearing landscapes with high scenic quality;
- (8) Traditional cultural properties and sacred sites; and
- (9) Other locally identified unique characteristics.⁹

The EA mentions that roadless characteristics (1), (5), and (7) *may* be improved and that there will be no change to the other characteristics.¹⁰ This is false because virtually all of these characteristics could be harmed by logging, especially characteristics (1), (5), and (7). Vegetation removal disturbs sensitive soils and leads to increased erosion, which in turn loads waterways with sediment. The trees that will be removed act as carbon sinks and once cut down, the carbon will be released into the atmosphere, affecting air quality. Moreover, ground disturbing activities such as those advanced by the Project lead to increased fugitive emissions and dust. Roads, even temporary roads, adversely impact air and water quality and the intensive use of these roads during the Project will exacerbate these impacts, while also threatening wildlife and ecosystem values. Lastly, the character and integrity of the landscape is transformed into an unnatural area of human interference. Contrary to the Forest Service's statements, which are again unsupported by the record, the Project will harm roadless area characteristics.

The second exception used is one for removal of timber when that removal is incidental to another management activity. But this Project does not authorize the removal of timber as incidental to a different management activity. Timber management is the activity proposed and, under the Roadless Rule timber cutting, sale, and removal are prohibited. The preamble to the Roadless Rule list examples of activities not otherwise prohibited by the Roadless Rule, including trail construction or maintenance; removal of hazard trees adjacent to classified roads for public health and safety reasons; fire line construction for wildland fire suppression or control of prescribed fire; survey and maintenance of property boundaries; other authorized activities such as ski runs and utility corridors; or for road construction and reconstruction where allowed by this rule.¹¹ This Project does not fit in those types of activities.

We are concerned by the lack of documentation regarding the Project's purported consistency with the Roadless Rule. The Forest Service must explain in its EA how the Project will comply with the Roadless Rule's requirement that logging in roadless areas for any purpose will "be infrequent." It must also provide information explaining how the Project will comply with the exceptions to the Roadless Rule. There is no satisfactory explanation in the current EA, and without one, the Project will violate the Roadless Rule.

III. The Mill Park Project should not proceed until the new Ashley National Forest Management Plan is complete.

⁹ 36 C.F.R. 294.21.

¹⁰ EA, 15.

¹¹ 66 Fed. Reg. 3244, 3258 (2001).

The land management plan for the Ashley National Forest is currently being revised. At the end of the revision process, an entirely new land management plan would be created to govern activities on the Ashley. As part of that revision, certain land designation decisions will be made, not least of which are designations for wilderness. This Project should not proceed because it would interfere with and influence this Forest Plan revision and designation process.

We are concerned that any wilderness inventory area that overlaps with the Project would receive a down-graded score in the wilderness evaluation in the categories of apparent naturalness and/or manageability. Regarding apparent naturalness, we are concerned that stripping the area of vegetation and leaving behind stumps, slash, and other such byproducts would impair an area's natural appearance and therefore result in a lower wilderness evaluation score. Any lands identified in the wilderness inventory that overlap with the Project should not receive a down-graded manageability score simply because the Forest Service wants to conduct this Project prematurely.

Additionally, the Project requires an amendment to the current land management plan to allow for the Project's proposed activities.¹² It is unwise to move forward with a project that would have to first go through the lengthy process of a plan amendment. In other words, there is no point in amending the current plan when the current plan is soon to be revised.

To avoid these problems, the Forest Service should halt the Mill Park Project until the new Forest Plan is complete. At that time, the Project could be reintroduced in a manner consistent with the revised Forest Plan and applicable laws.

Conclusion

We oppose the Mill Park Project because it has the potential to significantly impair the wilderness characteristics of lands that are currently under consideration for a wilderness designation. The Project also violates the Roadless Rule based on the facts and information provided in the EA. Lastly, this Project is untimely because it is being proposed during on ongoing land management plan revision for the Ashley National Forest while at the same time proposing an amendment to the current forest plan that is soon to be replaced. The new management plan directly implicates the Project, making it unwise and premature to proceed until the new Forest Plan is finished.

We are grateful for the opportunity to participate in this Project. Please do not hesitate to reach out to the undersigned if you have any questions about anything contained in this set of comments. We hope that the Forest Service truly takes our comments to heart and thoroughly analyzes the effects of the Mill Park Project proposal before proceeding. Thank you for the time and attention to this matter.

Sincerely,

¹² EA, 3.

Kamran Zafar
Field Attorney
Grand Canyon Trust
970-399-9565
kzafar@grandcanyontrust.org

Scott Miller
Senior Regional Director, Southwest
The Wilderness Society
303-468-1961
scott_miller@twc.org

Jason Christensen
Director
Yellowstone to Uintas Connection
435-881-6917
jason@yellowstoneuintas.org

Joro Walker, Esq.
General Counsel
Western Resource Advocates
801-413-7353
joro.walker@westernresources.org