



West
Virginia
Highlands
Conservancy

P.O. Box 306
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February 3, 2021

Mr. Richard Raione, District Ranger
Gauley Ranger District, Monongahela National Forest
932 North Fork Cherry Road
Richwood, WV 26261
(sent via e-mail to richard.raione@usda.gov)

Re: Proposed Gauley Healthy Forest Restoration Project

Dear Mr. Raione:

We write to you as representatives of the Allegheny-Blue Ridge Alliance (ABRA) member groups who submitted a Freedom of Information Act (FOIA) request concerning the proposed Gauley Healthy Forest Restoration Project (GHFR) on July 31, 2020. The Forest Service provided its response to the FOIA request on November 16, 2020.

We thank the Forest Service for providing the information contained in the November 16 response. We have completed our review of the information, and based on that information, we have identified several concerns with the proposed project. Because we were excluded from the project scoping process, we were not able to identify these concerns until we received the information in response to our FOIA request. We would now like to engage in the scoping process with the Forest Service so that these issues may be resolved prior to the agency making a final decision on the project. Our concerns are summarized below.

The Project Does Not Fit the Healthy Forest Restoration Act Section 603 Categorical Exclusion

The Forest Service has proposed categorically excluding the project from documentation in an Environmental Impact Statement (EIS) or Environmental Assessment (EA) using the Categorical Exclusion (CE) established by Section 603 of the Healthy Forest Restoration Act (HFRA), as amended. However, information contained in the FOIA response suggests that the project does not fit the Section 603 CE.

Of foremost concern is the CE's requirement that a project "*maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote*

stands that are resilient to insects and disease; considers the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity...” (FSH 1909.15_32.3; HFRA, Section 603(b)(1)(A)). As noted in the information contained in the FOIA response, the proposed project includes over 350 acres of clearcuts. None of the information that was provided to us provides an explanation of how the proposed clearcuts fit the requirement to maximize retention of old-growth and large trees, nor does the information explain how clearcutting would maintain or restore ecological integrity, structure, function, composition, and connectivity. Under natural conditions, mixed hardwood forests of the Monongahela National Forest are dominated by uneven-aged, old-growth stands (see Monongahela National Forest Final Environmental Impact Statement for Forest Plan Revision, USDA Forest Service 2006, p. 3-108). While clearcutting may meet objectives established for timber production or habitat enhancement for early successional species, it does not constitute ecological restoration in the forest types of the project area. Therefore, the inclusion of substantial amounts of clearcutting preclude the use of the Section 603 CE.

Also concerning is the apparent lack of actionable insect and disease activity in the project area, and the lack of a convincing argument that the proposed activities would reduce vulnerability to future insect and disease outbreaks. The Section 603 CE is intended to be used for *“a project that is designed to reduce the risk or extent of, or increase the resilience to, insect or disease infestation in the areas”* (FSH 1909.15_32.3; HFRA, Sections 602(d) and 603(a)). Information contained in the FOIA response states that the project area does not have enough insect and disease activity to develop units aimed specifically at treating insect and disease problems (see November 5, 2019 meeting notes in FOIA response pp. 50-53). The vegetation effects analysis says that less than 25 percent of the volume to be removed in thinning harvests and less than 10 percent of the volume in clearcut harvests would consist of dead and dying trees (see FOIA response pp. 503-513). The description of the integrated pest management (IPM) strategy asserts that the proposed harvests are part of the IPM strategy because they would remove diseased and infested trees and promote young trees that are less susceptible (FOIA response p. 487). But no rationale or citations are offered to support this conclusion, which would seem to be at odds with the other statements indicating that widespread insect and disease activity is not occurring or threatening to occur in the project area. This information suggests that the project is not specifically aimed at controlling insect and disease problems, and therefore should not be covered under the Section 603 CE.

The Public Involvement Requirements of the Section 603 CE Have Not Been Met

The Section 603 CE requires more extensive public involvement than most other Forest Service CEs. The CE requires that projects be *“developed and implemented through a collaborative process that—*

*includes multiple interested persons representing diverse interests; and
is transparent and nonexclusive; or
meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125).”* (FSH 1909.15_32.3; HFRA, Section 603(b)(1)(C))

The CE also requires that “*the Secretary shall conduct public notice and scoping for any project or action.*” (FSH 1909.15_32.3; HFRA, Section 603(f)).

The Forest Service has met none of these public involvement requirements.

The information contained in the FOIA response presents a variety of past and ongoing collaborative efforts with partners as evidence of meeting the collaboration requirements for GHFR (pp. 58-61, 72-78, 112-120). But all of the efforts presented constitute separate projects that had nothing to do with the design of the GHFR project, and most of them are not even specific to the GHFR project area.

The FOIA response contains notes from five meetings that were specific to the GHFR project (pp. 531-535). These limited meetings involving a few hand-picked stakeholders did not constitute “multiple interested persons representing diverse interests,” and it is clear that the entities involved were not allowed to contribute to the design of the project. Three of the meetings were held with local government agencies and civic groups that have little or no involvement in National Forest vegetation management projects. These groups asked a few implementation-related questions, but did not contribute to the design of the project. The other two meetings involved the National Wild Turkey Federation and The Nature Conservancy. Both offered suggestions for modifying project design, but the evidence indicates that the suggestions were rebuffed. In all cases, the meetings opened with the FS describing the project, basically telling participants what it had already decided to do. Also, the FOIA response contains no documentation that the Forest Service engaged environmental advocacy groups in any way, despite the fact that West Virginia Highlands Conservancy, Friends of Blackwater, West Virginia Rivers Coalition, and others have been deeply involved in reviewing and contributing to Monongahela National Forest projects for years (including substantial comments on all recent EAs, and formally objecting to one recent project).

Finally, no available documentation indicates that public notice and scoping ever occurred. The FOIA response contains early talk of holding a 14-day public notice scoping period (pp. 43-49, 50-53), but the Forest Supervisor later decided against holding a comment period (pp. 58-61). No rationale has been provided for ignoring a plainly worded requirement in Section 603 of the HFRA.

The Effects Analysis Indicates the Potential for Significant Effects to Several Resource Areas

For some resource areas, the FOIA response contained two substantially different versions of the effects analysis, one presumably older analysis that identified serious concerns, and another presumably newer analysis that minimized those concerns or ignored them entirely. The available information gives no indication that the project design was changed to address the concerns, and the second versions of the reports contain no objective information or rationale to support the conclusion that the problems do not exist or are not significant (in contrast to the well-referenced, logically-supported conclusions in the earlier versions).

- The first hydrology analysis indicates long term substantial adverse impacts to watershed hydrology, whereas the second report downplays the impacts.

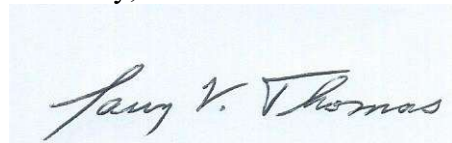
- The first soils report indicates long-term substantial adverse impacts to soil productivity due to skid roads, and acid deposition/nutrient depletion impacts related to soil disturbance, timber removal, and burning of brush piles. The second soils report glosses over these impacts.
- The first Wild & Scenic Rivers (WSR) analysis gives the impression that the project could impact the Outstandingly Remarkable Values of the WSR-eligible North Fork of the Cranberry, whereas the second version of the WSR report contains a conclusory statement that the WSR-eligible segment would not be impacted.
- The aquatic organisms analyses do not have conflicting versions, but the conclusions reached about lack of effects are largely lacking supporting evidence and reasoned rationales. This is especially true of the effect determination for the endangered candy darter. The conclusion of “not likely to adversely affect” appears to be at odds with the grave concerns raised by the hydrology and soils analyses.

Remedy Requested

Because the GHFR project (1) does not qualify for the HFRA Section 603 CE, (2) has not followed the requirements of that CE, and (3) has the potential for significant effects, the project should not proceed under a CE. We request that the project be re-scoped as an EA, and that full and open public involvement be conducted.

Should you have questions or wish to discuss these concerns further, please contact Larry Thomas, President of the West Virginia Highlands Conservancy, at 304-567-2602, or larryvthomas@aol.com. You may also contact Kent Karriker, Chair of the West Virginia Highlands Conservancy Public Lands Committee, at 304-636-8651, or bykarriker@suddenlink.net.

Sincerely,



Larry Thomas, President, West Virginia Highlands Conservancy

Angie Rosser, Executive Director, West Virginia Rivers Coalition

Lew Freeman, Executive Director, Allegheny-Blue Ridge Alliance

Cc: Shawn Cochran, Forest Supervisor
Gina Owens, Regional Forester