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This orange curtain is 50 ft. wide, representing the minimum width of the permanent clearcut corridor. We hiked along the proposed pipeline with the curtain.

January 28, 2009

Mike Redmond
Mt. Hood National Forest
16400 Champion Way
Sandy, OR 97055

Submitted by email to comments-pacificnorthwest-mthood@fs.fed.us

RE: Palomar Pipeline (Docket Nos. CP09-35 (formerly PF07-13))

Dear Mr. Redmond,

Thank you for the opportunity to comment on the amendments required for the proposed Palomar Pipeline. We appreciate the Forest Service opening an additional public comment period beyond the Notice of Intent released in October 2007 by the Federal Energy Regulatory Commission (FERC), the lead agency on the Palomar Pipeline proposal. As well, the Forest Service's willingness to extend the public comment period an extra thirty days to give concerned citizens time outside of the holiday season signals a commitment by our local land managers to allow the public to fully understand and respond to these large changes to our national forest.

Since 1999, Bark has been actively working to protect and restore the ecosystems of Mt. Hood National Forest. Our mission is to bring about a transformation of Mt. Hood National Forest into a place where natural processes prevail, where wildlife thrives and where local communities have a social, cultural, and economic investment in its restoration and preservation. As of writing these comments, we represent over 5,000 Oregonians who support our mission.

We also wish to submit these comments on behalf of other organizations committed to the forest, waters, wildlife and recreation opportunities found in Mt. Hood National

Forest. Please consider these organizations and their contacts as a continuing resource for information and clarification on concerns for the true impacts that the Palomar Pipeline pose to our iconic national forest; **Friends of Mt. Hood, Federation of Western Outdoor Clubs and the Mazamas.**

It has been over a year and half since Bark joined with dozens of citizen groups on the coast and along the pipeline routes, fighting to stop the expansion of Liquefied Natural Gas (LNG) into and through Oregon. When we first looked at the maps for the Palomar pipeline, it was like looking into a keepsake box of Bark's history. Approximately 47 miles of the pipeline crosses Mt. Hood National Forest. It passes through logging projects we stopped and logging projects we lost. It will need the logging roads that we successfully lobbied Congress for money to properly remove after decades of degrading integral watersheds. It crosses over trails we go to when we need inspiration and reminder of our infancy in the natural world. And it will cross streams, creeks and rivers, systems we depend on for our drinking water. More than one-third of all Oregonian's drinking water originates from the slopes of Mt. Hood. This is where Bark draws the line; **no one should ever have to be asked to risk their access to clean drinking water for corporate profit.**

In a letter dated December 18, 2008, Senator Ron Wyden (OR-D) submitted strong concerns to the Forest Service. "In summary, I want to express my deep opposition to the Forest Service's proposal to amend the forest plan which fails to recognize the potential for lasting damage to rivers and streams, as well as to the valuable forest ecosystems that will be bisected by the freeway-wide clear-cut necessitated by this project." (Wyden Letter, 2) We expect that the forthcoming Environmental Impact Statement (EIS) will directly respond to Senator Wyden's specific concerns for these amendments.

In addition, we have recently received notice of the decision by the Fremont-Winema, Rogue River-Siskiyou, and Umpqua National Forest that Forest Supervisor Clifford J. Dils has decided to move forward on a separate EIS for amendments to the Land and Resource Management Plans with regards to the Pacific Gas Connector Pipeline Project (Docket No. CP07-441). "While the FERC Notice of Intent and Draft Environmental Impact Statement both mentioned the need to amend Forest Plans, the actual amendments were not described for the public or analyzed for significance as required by the Forest Service planning regulation part 36 CFR 219." (Forest Service Letter to Paul Friedman, 1) We strongly encourage Mt. Hood National Forest officials to go beyond this scoping letter and complete a separate supplemental Environmental Impact Statement.

The proposed Palomar Pipeline would connect the proposed Bradwood and Oregon LNG Terminals on the coast of Oregon to existing pipeline infrastructure in eastern Oregon more than 200 miles away. Approximately 47 miles of the pipeline crosses the Mt. Hood National Forest. Construction of the pipeline corridor would initially require

more than 700 acres of clearcutting, including through several old growth forests. The pipeline route crosses 15 streams and rivers, as well as countless unnamed tributaries, drainages and wetlands. In addition, the construction and maintenance of this pipeline will require use of currently decommissioned roads, as well as construction of new roads for access to remote parts of the pipeline route.

As stated in the November 14, 2008 letter from the Forest Service, aspects of the proposed pipeline were identified “that would not be consistent with our Forest Plan as amended by the Northwest Forest Plan.” Included in the list of areas in Forest Service management direction that would be amended is the Clackamas Wild and Scenic River corridor. (Scoping letter, 2) Bark will respond to the presented amendments in our response to this scoping letter, including examples on the Forest of sites affected. However, at this time, it is difficult to ascertain the actual changes that will be made, as they were not explained in the scoping letter.

We do not believe that changes to the standards and guidelines of the Land and Resource Management Plan or any other affecting management plan at the project level are appropriate, especially considering such significant changes. These documents were created with the cumulative impact of all actions taken into consideration and are not meant to be disassembled at the project level to suit the interests of that project. The Mt. Hood Land and Resource Management Plan was created in 1990 and amended in 1994 under the *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan). Under the National Forest Management Act of 1976 (NFMA), directives are clear about how to implement changes to the required management plan in Section 6, with regards to “significant” amendments. This process is not in compliance with these directives.

We understand the proposed amendments are happening under the 1982 regulations. The 1982 and 2005 changes to the National Forest Management Act implementing and amendment regulations did not significantly alter the course of action with regards to the changes suggested for the Palomar Pipeline. The scoping letter is providing adequate reasoning to determine that these are “significant” amendments to the 1990 Mt. Hood National Forest LRMP.

HIKING, CLIMBING AND BOATING THE PROPOSED PIPELINE ROUTE

In June of 2008, with Bark’s coordination, a group of concerned citizens hiked the 47-mile segment of the proposed Palomar Pipeline that crosses through Mt. Hood National Forest.

Forty-six people met up with a group of Bark hikers to support their effort to walk the entire segment of the Palomar pipeline crossing Mt. Hood National Forest. They also came to bear witness to the forests, as they stand today. Many of these people had learned about LNG and the Palomar Pipeline through the news. Some had learned

about it through a letter informing them of the eminent domain process. Most had seen maps of the proposed route, a benign stripe laid over the well-known features of Mt. Hood's foothills. However, it was not until we walked along the Pacific Crest Trail and turned into another old-growth forest that all of us became aware of what we stand to lose by the Palomar Pipeline -- more of our ancient forest ecosystems for a bargain price.

This pipeline has an impact on hundreds of landowners. But when you consider the impacts of crossing public lands, the affected communities become a whole lot bigger. Due in part to the election coverage, domestic and alternative energy supply issues are making news nearly everyday. Although public outcry is beginning to have a considerable impact on the direction for the extractive energy supply industry, the issue of using public lands for energy needs must be uniquely considered in this debate. Currently, a proposal for other energy corridors throughout the western United States on federal public lands crossing over eleven states is going through review. As infrastructure is needed for a changing energy supply, the issue of if and how the national forest system plays into the risks and needs analysis will become not only relevant, but pivotal to the success of some of the proposed solutions.

Right now, Mt. Hood National Forest is just one of the many swaths of public lands seen as a domestic energy supply and transmission opportunity. Adding to the hydropower infrastructure are proposals for biomass and geothermal. With each new project, comes removal of forestlands already denuded by decades of logging, but currently offering valuable carbon sequestration. At what point is the use of our public lands to supply the energy industry not worth the risks to our ecosystems and their recovery? Which vital assets are we willing to sacrifice? These questions, and the challenges they pose to land managers, are some of the most significant public land issues in the 21st century. Yet they are being answered in isolation, in response to a single pipeline proposal, while Mt. Hood National Forest still lacks a plan to deal with these energy issues.

These are not questions that can be answered standing over a map. We value the knowledge gained by getting out into the forest and seeing for ourselves what is at stake. We hope you will consider the following comments with the understanding that we have walked this proposal. We know these places we want to protect.

1. THE PALOMAR PIPELINE IS NOT IN COMPLIANCE WITH NEPA

Bark has had continual frustration with Palomar and the FERC's disregard for the NEPA process and the legal requirements for public involvement. Concerns range from, but are not limited to:

- ★ A lack of useable maps
- ★ Palomar filing for application through the FERC, despite the open Forest Service scoping period not coming to completion

- ★ Certain essential components to Palomar's plans have not been included in publicly-available documents. In particular, neither a Timber Removal Plan nor a list of current, future and closed roads needed for proposed routes have been disclosed for comment.
- ★ No maintenance plan for roads that will be needed for corridor maintenance has been provided to the public.

The analysis of impacts included in the forthcoming Palomar Environmental Impact Statement must address the cumulative and connected impacts of both the proposed Palomar Pipeline, and other foreseeable connected activities within the same area, including the Bradwood and Oregon LNG regasification terminals that the pipeline infrastructure will be connected to. The Environmental Protection Agency provides the following guidance to its reviewers on assessing the range of other activities to be considered in cumulative impacts analysis:

1. the proximity of the projects to each other either geographically or temporally;
2. the probability of actions affecting the same environmental system, especially systems that are susceptible to development pressures;
3. the likelihood that the project will lead to a wide range of effects or lead to a number of associated projects; and
4. whether the effects of other projects are similar to those of the project under review;
5. the likelihood that the project will occur;
6. temporal aspects, such as the project being imminent.

This list would assume that the EIS will analyze the cumulative impacts of recent, present and foreseeable future timber sales that the pipeline would cross through or be adjacent to, other energy transmission projects along this corridor, restoration projects, road decommissioning initiatives, and redesignations of allocations, including off-highway vehicle travel planning. The dismissal or lack of information provided regarding the analysis of any projects in the Mt. Hood National Forest would lead the EIS to be out of compliance with NEPA.

To satisfy NEPA's hard look requirement, the cumulative impacts assessment must do two things. First, the lead agency must catalogue the past, present, and reasonably foreseeable projects in the area that might impact the environment. *Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800, 809–10 (9th Cir. 1999). Second, FERC must analyze these impacts in light of the proposed action. *Id.* If the lead agency determines that certain actions are not relevant to the cumulative impacts analysis, it must “demonstrat[e] the scientific basis for this assertion.” *Sierra Club v. Bosworth*, 199 F.Supp.2d 971, 983 (N.D. Ca. 2002). A failure to include a cumulative impact analysis of actions within a larger region will render NEPA analysis insufficient. *See, e.g., Kern v. U.S. Bureau of Land Management*, 284 F.3d 1062, 1078 (9th Cir. 2002).

Under NEPA requirements, the agency must also look at a range of alternatives to the Palomar Pipeline proposal. There has been specific consideration by the Williams Company for expanding the existing Right of Way (ROW) along the Williams Northwest Pipeline in southern Washington. A consideration of this alternative should be included in all associated Palomar Environmental Impact Statements.

In addition, the Forest Service included in their comments to Palomar's Resource Reports, a map including amendments to the "Alternative" route proposed. The amendment is in the Fish Creek drainage through Late-Successional Reserve (LSR), a Northwest Forest Plan designation meant to protect and restore habitat for old-growth forest-dependant plants and animals. This is just one of the many recommendations given by the Forest Service for mitigation efforts that could be made. We expect to see these recommendations included for consideration and part of the analysis within the range of alternatives to the current and "Alternative B" routes. (Forest Service comments, 41)

2. THE 2005 ENERGY POLICY ACT DOES NOT MANDATE THE PALOMAR PIPELINE

In 2005, President Bush signed the Energy Policy Act (EPAct). Section 368 of EPAct directs the agencies to designate corridors for oil, gas and hydrogen pipelines and electricity transmission and distribution facilities on federal land, starting with the Western States. Section 368 also directs the agencies to consult with other units of government and "interested persons" as part of the designation process.

Palomar has made repeated claims that this pipeline project has been in progress for many years. However, the 2005 EPAct is intended to ensure the development of a Right of Way transmission grid that will progress the renewable needs of a sustainable future in American consumption. The EPAct does not include a mandate for fast-tracking existing natural gas companies to import and transfer LNG from overseas to the American market.

3. WEST-WIDE ENERGY CORRIDORS DO NOT MANDATE THE PALOMAR PIPELINE

Section 368 of the Energy Policy Act of 2005 requires the Secretaries of Agriculture, Commerce, Defense, Energy and Interior, in consultation with the FERC, other governments, industries, and other interested parties to designate energy corridors on federal lands. The speed at which the federal government is implementing the proposed designations, the limits on effective public scrutiny and the lack of sufficient protections for public lands have led to congressional action, in addition to widespread public concern.

The proposed Palomar Pipeline lies in one of two corridors proposed for Mt. Hood National Forest. However, it was never identified as such. The proposed energy

corridor 230-248 as described in the West-wide Energy Corridor PEIS simply matches the route of the Palomar Pipeline. The only difference is that the corridor proposed in the PEIS would be opened up to all possible transmission options, including above-ground electric transmission. The PEIS states that "a corridor width of 3,500 feet was selected by the Agencies for the Section 368 energy corridors. This width would provide sufficient room to support multiple energy transport systems."(WWEC PEIS, 2-7) This foreseeable change to the Mt. Hood LRMP land allocation must be included in the cumulative impacts of the Palomar Pipeline.

As stated in the West-wide Energy Corridor Final Environmental Impact Statement, "Federal decisions to grant a ROW or designate an energy corridor are made within the context of applicable land use plans developed in cooperation with other federal agencies; state, county, local, and Tribal governments; and the public. Land use plans must comply with all applicable laws, regulations, and executive orders." (WWEC PEIS, 1-32) This includes the National Forest Management Act (NFMA), which has directives on amendments to the Land and Resource Management Plan. As well, the West-wide Energy Corridor PEIS states that corridor construction must comply with the Northwest Forest Plan. (WWEC PEIS, Appendix E)

The 2005 EPAct included Section 1221, which led the Department of Energy to complete the first Congestion Study in 2006. This study looked at the possible points of congestion issues. Although not a critical congestion area, the Seattle to Portland transmission was an area of concern, which brings up the question again of how was the Palomar Pipeline or Energy Corridor 230-248 identified? Under Section 1221, permitting agencies must analyze the 2006 Electric Transmission Congestion Study, examined in-depth historical data, existing studies of transmission expansion needs, and regionwide modeling of the western transmission grid before using other simultaneous expansion of natural gas pipeline expansion. This analysis and process for determination must be included in the cumulative impact analysis in the EIS.

4. THE NATIONAL FOREST MANAGEMENT ACT DOES NOT ALLOW FOR INDISCRIMINATE AMENDMENTS TO THE LRMP

The National Forest Management Act requires the Forest Service to create Land and Resource Management Plans (LRMP) to set standards and guidelines for management of the national forests. The Palomar Pipeline proposal requires significant changes in Mt. Hood National Forest's LRMP standards and guidelines. As part of Mt. Hood National's Forest proposal to amend the LRMP, there are a number of salient issues the Forest Service must better address.

The National Forest Management Act (NFMA) requires revision of forest plans at least every 15 years. Mt. Hood National Forest's LRMP was adopted in 1990 and amended in 1994 by the Northwest Forest Plan. According to the NFMA regulations, Mt. Hood is overdue for its forest plan revision. Furthermore there is precedent for the need to go

through forest plan revision after an LRMP has passed its 15 year statutory lifetime before proposing significant and new projects. (Biodiversity Associates v. U.S. Forest Service, Civ. No. 01-CV 078B (D. Wyoming., filed May 2, 2001)¹

The phrase “significant change” is the determining factor as to whether a project warrants an amendment or a revision. As stated in the Mt. Hood LRMP a forest plan revision is required when changes in or to "policies, goals, or objectives would have a significant effect on forest-level programs." (LRMP, Five-76) The significant changes in forest level programs are mentioned in the scoping notice and include management of LSRs, the Clackamas Wild and Scenic Rivers, and key riparian areas. The standards for determining significance of a change in a Forest Plan for NFMA purposes are found in Forest Service Planning Handbook. For more info regarding amendments see, 16 USC 1604 (f)(4) and Forest Service Planning Manual and Handbooks FSM 1920 and FSH 1909.12. 53 Fed Reg 26807.

Amending the forest plan is not an appropriate way of accommodating the changes needed for the Palomar Pipeline. Energy development is not well-defined in Mt. Hood’s LRMP or on a regional level. Allowing amendments to the forest plan for energy development requires further assessment before setting up a precedent for how national forests will amend or revise forest plans to allow for future projects. While changes of the magnitude required by the Pipeline would necessitate a revision of a current management plan and the regional office has expressed it is not prepared to assist with management plan revisions at this time.² Without clear regional guidance and support, it is irresponsible to make significant changes to the Mt. Hood National Forest LRMP.

The proposed Palomar Pipeline route clearcuts through the units of the once controversial old-growth logging project, the Solo Timber Sale. The proposed logging was found to be illegal by the courts and was never cut. Today, the trees stand as a reminder of how far we have come from the days of controversy over old-growth logging. Last year, the courts found the last remaining old-growth timber sale on Mt. Hood National Forest, Slinky, also to be illegal. And today, Bark and other citizen watchdog groups are able to use persistent public involvement to work with the Forest Service as we revise our national forest’s priorities and incentives away from destructive logging and towards restoration of the remaining wild places. The Palomar Pipeline will be a significant step backwards in the trust-building that is now occurring between federal land managers and the public.

If this project were proposed as a timber harvest, it would be illegal. Why should we hold a natural gas company to a different standard?

¹ Overview of Forest Planning and Project Level Decision-Making. USDA Office of the General Counsel, Natural Resources Division, June 2002.

² December 12, 2008 meeting with Regional Forester, Mary Wagner.

5. SPECIFIC CONCERNS FOR PROPOSED AMENDMENTS TO THE MT. HOOD LRMP

The scoping letter lists Standards and Guidelines that the proposed Palomar Pipeline would not be in compliance with. This list is not as specifically laid out as the comments submitted by the Forest Service to the FERC, regarding their draft resource reports. This document included an extensive spreadsheet with recommendations for changes to their reports, areas of concern, lacking information, as well as a more detailed list of the specific *forestwide* guidelines that the pipeline is currently not in compliance with:

FW-018 – “The combined cumulated detrimental impacts, occurring from both past and planned activities, or detrimental soil compaction, puddling, displacement, erosion or several burned soil should not exceed 8 percent of the activity area.”

FW-019 – “Landings, non-transportation system roads, and dispersed recreation sites should be included within the 8 percent.”

FW-020 – “Ground machine yarding of logs should not occur.”

FW-022 – “The combined cumulated detrimental impacts, occurring from both past and planned activities, or detrimental soil compaction, puddling, displacement, erosion or severely burned soil should not exceed 15 percent of the activity area.”

FW-023 – “Landings, non-transportation system roads, and dispersed recreation sites should be included within the 15 percent.”

FW-080 – “Within 100 feet of a riparian management area, no more than 10 percent of a project activity area (e.g. timber harvest unit or recreation site) should have exposed or compacted soils.”

FW-081 – “No more than 5 percent of a project activity area (within a riparian area) shall be in a compacted, puddled, or displaced soil condition.”

FW-082 – “At least 95 percent ground cover (e.g. vegetation, duff or litter) shall be maintained within all project activity areas (within riparian areas).”

FW-083 – “Ground disturbing activities should not occur in saturated soil areas.”

FW-104 – “Special aquatic habitat (e.g. alcoves, secondary and overflow channels, ponds and wetlands) and associated subsurface aquatic habitat (hyporheic zone) shall be maintained in natural condition or enhanced in both quantity and quality.”

FW-498 – “Within recreational segments, a VQO of Partial Retention in the foreground and middleground shall be prescribed – as seen from the river, river banks, U.S. and State Highways, Forest Highways and roads, trails and recreation facilities within the corridor.” The corridor refers to a Wild and Scenic River corridor.

However, the proposed Palomar Pipeline crosses through the following land designations:

A4: Special Interest Area

A7: Special Old Growth

B5: Pileated Woodpecker/Pine Marten Habitat Area

A9: Key Site Riparian
B10: Deer and Elk Winter Range
B2: Scenic Viewshed
B6: Special Emphasis Watershed
B8: Earthflow
C1: Timber Emphasis
DV: Designated Viewshed

How does the Forest Service plan to address these specific land allocations and the Palomar Pipeline's noncompliance with them? The scoping letter appears to only address forestwide Standards and Guidelines (other than reference to Designated Viewsheds, where it fails to show which viewsheds are affected) and does not go into the other Standards and Guidelines for these specific designations.

A. WILD AND SCENIC RIVERS: THE CLACKAMAS RIVER

The scoping letter references eligible and current Wild and Scenic River Corridors to be requiring amendment for the Palomar Pipeline to be in conformance. Although the scoping letter is not specific about what will be amended or how it will be amended, several larger questions are of great concern.

Section 7 of the Wild and Scenic Rivers Act specifically prohibits the FERC from permitting transmission projects that would interfere with the outstanding wild, scenic or recreational value of a designated or study (such as Fish Creek) river:

“The Federal Power Commission [FERC] shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the national wild and scenic rivers system.” (Technical Report, 1)

Therefore the following questions must be addressed in the forthcoming Palomar Pipeline EIS. Has the Federal Power Act of 1920, as amended in 1935 and 1986 to add new requirements incorporating fish and wildlife concerns in licensing, relicensing, and exemption procedures, been amended to include natural gas transmission

projects? Is the Forest Service considering addressing Section 7 with regards to the Westwide Energy Corridor PEIS/ROD that allocates this corridor to also be a transmission corridor that fits the addressed powerline corridors being referenced above? Amendments to this law would not be addressed without Congressional approval. Does the FERC or the Forest Service have any authority to be "amending" this act through NEPA, under the Energy Policy Act, NFMA or the Federal Lands Policy Management Act?

The Clackamas River has a "scenic" classification for this part of the 47 miles of the Wild and Scenic designation. The river has five categories that were determined to be "outstandingly remarkable": recreation, fish, wildlife, historic, and vegetation.

The course of the proposed pipeline route across the Clackamas River exemplifies the majestic qualities of the river. Forty-seven miles of the Clackamas in Mt. Hood is designated a Wild and Scenic River

Corridor and for obvious reasons. Old-growth forests push up against the banks, hundreds of years of usnea and lichen progress hanging from branches, carelessly swaying in the wind. The river rocks that have piled up on the beach display Mt. Hood's diverse geology, smoothed by regular, seasonal flooding. A side channel extends out from the rush of the main river, shaded by a grove of red alders and provides ideal, slow-moving spawning grounds for the late winter run of threatened coho salmon. Birds of prey soar overhead, perching on two-hundred foot snags. Dippers, killdeer, mergansers and other waterbirds skim above the rapids. **We cannot lose this vital ecosystem.**



The Palomar Pipeline is proposed to cross the Clackamas River at this point.

B. NORTHWEST FOREST PLAN: HISTORIC TRUST-BUILDING

The 1994 Northwest Forest Plan is a benchmark in public lands management. Identifying the need to strengthen the range of the Northern Spotted Owl through a regional directive, the northwest implemented a set of Standards and Guidelines that specifically identified areas that provided current and future habitat for the late-seral dependent species. Identifying Late-Successional Reserves (LSR) and key watersheds that could recruit future habitat and supporting ecosystems for the Northern Spotted Owl and other late-seral dependent species has become a key component to managing federal public lands for more than ten years now.

i. LATE-SUCCESSIONAL RESERVES PROTECT RARE SPECIES

The Northwest Forest Plan is clear about logging in LSRs: "There is no harvest allowed in stands over 80 years old." (NWFP, C-12) The proposed route passes through an LSR unit that runs adjacent to the Clackamas River with stands that are clearly older than 80 years old. The loss of these forests would have lasting impacts to the ecosystem and undeniably degrade habitat in this watershed. The proposed pipeline corridor construction would require a total loss of forest characteristics, including removal of all snags, downed woody debris and other integral decadent components to terrestrial habitat. This degradation would further put the Palomar Pipeline out of compliance with the Northwest Forest Plan.



These photos were taken on either side of the proposed centerline through the LSR along the west bank of the Clackamas River.

When the Northwest Forest Plan was implemented, expectations were developed for amending the standards and guidelines. In the forthcoming environmental impact statement for the Palomar Pipeline, we will expect all amendment analysis as well as any replacement LSR units to include an update to the *North Willamette Late-Successional Assessment* that follows the same protocol outlined for amendments at the time of this assessment.

Amendments to the standards and guidelines of LSR Standards and guidelines should be refined at the province level, prior to development of Late-Successional Reserve assessments. Late-Successional Reserve assessments should generally include:

- (1) a history and inventory of overall vegetative conditions within the reserve,
- (2) a list of identified late-successional associated species known to exist within the Late-Successional Reserve and information on their locations,
- (3) a history and description of current land uses within the reserve,
- (4) a fire management plan,
- (5) criteria for developing appropriate treatments,
- (6) identification of specific areas that could be treated under those

criteria,

(7) a proposed implementation schedule tiered to higher order (i.e., larger scale) plans, and

(8) proposed monitoring and evaluation components to help evaluate if future activities are carried out as intended and achieve desired results.

(NWFP, C-11)

In 2007, the Department of Fish and Wildlife drafted a Northern Spotted Owl Recovery Plan. This Plan has become a controversial document for its shortcomings. However, the decline of the Northern Spotted Owl is indisputable. The Northern Spotted Owl Recovery Plan is mandated under the Endangered Species Act (ESA). Under this act, all listed species must have a recovery plan in place. A plan was sidetracked by the 1994 inception of the Northwest Forest Plan. However, the Northwest Forest Plan provides a management framework for protecting the ecosystems that this species, as well as others, are dependent on. Under the 2008 Final Northern Spotted Owl Recovery Plan, the need for protection of the owl's habitat is critical to the species' recovery. The Plan creates Managed Owl Conservation Areas (MOCAs). The proposed Palomar Pipeline would cross through a MOCA-1 designated area. How does the Forest Service and the FERC intend to comply with the Department of Fish and Wildlife's recovery plan?

The Spotted Owl is declining faster than predicted by the Northwest Forest Plan. Therefore, stronger measures to protect habitat should be in place than even the final recovery plan is providing. Adopting proactive conservation measures is essential for dealing with multiple threats the owl now faces, including continuing habitat loss, competition from the Barred Owl, and climate change. Owls need more habitat today than they did when the Northwest Forest Plan was first adopted because of their more rapid than predicted decline in habitat in the Western Cascades each year.

Where the Palomar Pipeline crosses the Clackamas River the forests are designated Late-Successional Reserves (LSR). The forests of the Clackamas River Basin are some of the rare, remaining old-growth stands on the westside of Mt. Hood. In 1994, the Northwest Forest Plan identified these forests as current or potential old-growth forests that provide much-needed habitat to species dependent on decadent tree stands. Today, LSRs remain as islands of healthy forests. LSR forests are a benchmark in public lands history. They represent essential trust-building between environmentalists and the federal agencies acting on behalf of the public's interests. By clearcutting through a LSR in the name of energy company profits, the Palomar Pipeline threatens more than just old growth forests.

ii. RIPARIAN RESERVES: FISH CREEK

Under the Northwest Forest Plan, watershed restoration had clear priority management directives. The Northwest Forest Plan required land agencies to identify

key watersheds and complete comprehensive watershed analysis. These watershed analyses guide managers in balancing watershed health in a cumulative and landscape-level view. Through the Aquatic Conservation Strategy, regional directives were set to improve watershed health throughout the Northwest.

On the Mt. Hood National Forest the Palomar Pipeline crosses through six key watersheds: Fish Creek, Upper Clackamas, Oak Grove Fork of the Clackamas River, Clear Creek, East Fork of the Hood River and the White River. These Tier 1 watersheds each have a watershed analysis associated with them. In addition, the proposed route of the Palomar Pipeline crosses through Key Site Riparian Areas, where rights-of-ways are prohibited, and more than a dozen Riparian Reserves.

Riparian Reserves, as stated under the Northwest Forest Plan are designated around the following types of water bodies: fish-bearing streams, permanently flowing nonfish-bearing streams, constructed ponds and reservoirs, wetlands more than 1 acre, lakes, natural ponds, as well as any water body seasonal or intermittent that is on unstable or potentially unstable area. (Northwest Forest Plan, 7) These categories each have directives on how to determine a buffer of no action around the water. However, with a right-of-way there is no distinguishing such a buffer.

The Northwest Forest Plan acknowledges rights-of-way with regards to the Aquatic Conservation Strategy. It requires that adjustments be made "to eliminate adverse effects that retard or prevent the attainment of Aquatic Conservation Strategy objectives. If adjustments are not effective, eliminate the activity." (NWFP, C-37) In the forthcoming Environmental Impact Statement, we will expect to see an analysis of how the FERC was able to adjust the route to enable attainment of the ACS.

Currently, the proposed Clackamas River crossing is within fifty feet of a stewardship restoration site for future salmon spawning habitat. This site is a restoration project that was successfully funded through community involvement in stewardship contracting within the past three years. It will make up for a degradation of spawning grounds down river. As the FERC analyzes the cumulative impacts of the pipeline corridor on ecosystem health, there will also need to be an acknowledgement of the Watershed and Habitat Restoration objectives of the Northwest Forest Plan. "Do not use mitigation or planned restoration as a substitute for preventing habitat degradation." (C-37)

The two most controversial river crossings in the Mt. Hood National Forest, Clackamas River and Fish Creek, are both virtually unavoidable if the pipeline is to cross the south of Mt. Hood National Forest. Additionally, the forests around them are managed as Riparian Reserves in Key Watersheds. With regards to Fish Creek, Bark feels that the Forest Service has described our concerns best in their comments to the FERC:

"The Fish Creek Watershed has the greatest potential for landslides compared to other watersheds on the Mt. Hood National Forest.

"Fish Creek also provides important habitat for several fish species: Endangered Species Act-listed winter steelhead, coho salmon, and spring Chinook; Pacific lamprey; and cutthroat trout. The high value salmon and steelhead fish resources in Fish Creek were broadly recognized beginning in the late 1970s, which led to basin-wide fish habitat restoration efforts (that) took place through the 1980s. Substantial restoration work was completed to restore large wood to the stream where it had been removed to increase pool habitat, spawning habitat and off-channel habitat complexity. Given its high value fisheries resources combined with its very unstable geology, Fish Creek was indentified as a B6 Special Emphasis Watershed in the 1990 Mt. Hood National Forest Land and Resource Management Plan. In the 1994 Northwest Forest Plan, Fish Creek was again identified - this time as a Tier 1 Key Watershed.

"The Fish Creek Watershed experienced a 100-year flood event in February of 1996 which resulted in some of the most large-scale landslides and debris torrents anywhere in the Pacific Northwest. A total of 236 landslides occurred throughout the watershed and 15 miles of stream channels were scoured and rearranged by debris torrents. This powerful flood swept away a 100 foot long, steel and concrete road bridge on Wash Creek and the mainstem Fish Creek bridge at Music Creek had an abutment damaged by flood scour. A landslide study conducted after the 1996 storm event (DeRoo and others, 1998) found that landslide incidence on roads was 0.5 landslides per road mile, and landslide incidence within young harvest units was 12.2 landslides per square mile. A pipeline corridor across Fish Creek watershed will likely create conditions similar to roads and young harvest units. It should also be noted that similar large floods occurred in Fish Creek causing geologic reshaping and damage to human infrastructure in 1927 and 1964.

"Faced with miles of damaged roads, altered streambeds, and acres of bare land from hundreds of landslides, Forest Service managers used the best science available to make decisions about the watershed's future. Based on an adaptive management approach, independent science team recommendations, and environmental analysis, an unprecedented effort was undertaken to restore the entire Fish Creek Watershed between 1998 and 2001. Forest Service officials undertook the following suite of restoration actions, totaling over \$2 million, to allow for the long term recovery of the watershed:

- ★ Decommissioning of 105 of the 143 miles of road in the watershed, including stream crossing restoration (approximately 73% of the roads in Fish Creek);
- ★ Repair and storm-proofing of the remaining 38 miles of road in the watershed;
- ★ Reforestation of 50 acres of landslides, plus thinning thousands of acres to promote accelerated growth of young trees primarily within the large wood recruitment zones of riparian reserves; and
- ★ Restoring fish habitat at key locations where accumulations of large wood naturally occur.

This suite of actions constituted a set of restoration measures aimed at setting the Fish Creek watershed along a recovery trajectory that would allow watershed processes to function in a more natural or unaltered state. The significant scale and comprehensive nature of this watershed restoration effort was unprecedented at its time in the Pacific Northwest. It is due to these concerns and watershed management history discussed above, the USFS requested PGT to identify and analyze alternate routes to avoid crossing the Fish Creek Watershed." (Forest Service Comment Letter, 38-40)

Fish Creek is home to one of the most successful road decommissioning projects in the Pacific Northwest. After flooding in 1996 caused massive damage to the aging road system along the Fish Creek basin, depositing huge sediment loads into the Clackamas River, the Forest Service was forced to choose between adding to the growing backlog of maintenance or permanently remove the financial burden of over 100 miles of deteriorating roads. For over a decade, the Fish Creek area has been left to recover from the steep cutslopes of road beds. Absent of culverts, creeks and streams have begun to redefine their natural paths, native shrubbery reinforcing the banks of the waterways. Access to the fishing holes upstream are now reserved for those on foot. But now the Palomar Pipeline threatens to clearcut through the basin, bringing roads for construction and long-term access back to the Fish Creek Basin.

In 2008 the Western Governor's Association policy resolution *Restoring and Maintaining a Sustainable Road System on National Forest Lands* was established, stating "The capacity of our National Forests to provide clean water is diminished because of deteriorating roads that pollute streams with sediment." In addition, for several years now, Bark has used the issue of roads and the backlog of maintenance that plagues the Forest Service budget as common ground to build trust between environmentalists, recreationalists and the agency. As we continue to invest major resources into avoiding the destructive consequences of an aging road system under the strain of increased storm activity from climate changes, we cannot afford the risks of these landscape level projects. The Palomar Pipeline threatens this tenuous relationship between diverse stakeholders to implement real restoration work in Mt. Hood.

C. MT. HOOD LRMP CANNOT BE REVISED BY PALOMAR

Most importantly, a precedent should not be set that allows for piecemeal management plan amendments to be made in response to project proposals. The public deserves the opportunity to consider comprehensive management issues on Mt. Hood National Forest and whether the current forest plan is in line with the public's priorities.

i. Viewsheds

The Mt. Hood LRMP states the following guidelines for Visual Quality Objectives:

“Within landscapes where Retention VQOs are prescribed, the maximum percent of the seen area visually disturbed should not exceed 8 percent at any one time or 4 percent per decade.” (LRMP, Four-113)

“Level 1 trails shall have prescribed VQOs of Retention, Partial Retention and Modification in near foreground, far foreground and middleground distance zones, respectively.” (LRMP, Four-115)



The flagging that marked where the Palomar Pipeline is proposed to cross the Pacific Crest Trail

How could the Palomar Pipeline corridor possibly comply with this management directive? There is no retention in the Right-of-Way. The Palomar Pipeline crosses two Level 1 trails, the Pacific Crest Trail and the Clackamas River Trail.

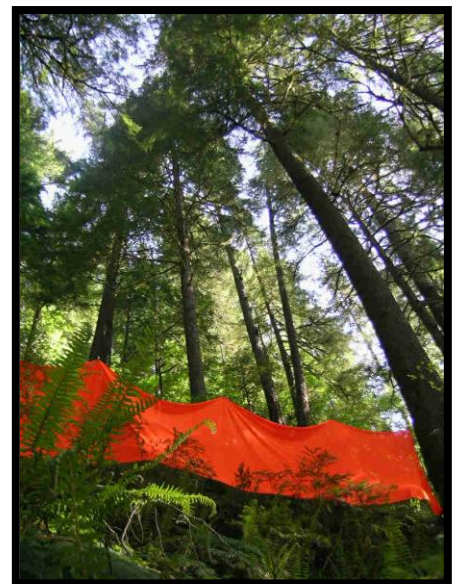
In addition, the route of the Palomar Pipeline crosses through at least six allocated B2 Scenic Viewsheds. Directives state, “Landscapes inconsistent with prescribed VQOs shall be planned and scheduled for rehabilitation.” (LRMP, Four-224) The Palomar Pipeline corridor would be treated as a permanent Right-of-Way with no plan or schedule for restoration or rehabilitation.

The Palomar Pipeline route would travel through the Timothy Lake recreation area, crossing over this extensive trail system, including the nationally-recognized Pacific Crest Historic Trail, spanning 2,600 miles from Mexico to Canada. Timothy Lake is one of the most popular recreation destinations in Mt. Hood, enticing hundreds of families

each summer to the headwaters of the Oak Grove Fork of the Clackamas. The area also marks the transition zone from the wet, westside forests to the drier, eastside of the Cascades. The species diversity creates a dynamic ecosystem that attracts people year after year.

ii. Earthflows

The scoping letter does not cite any conformance issues with the forestwide standard FW-017, "On low risk earthflow possibilities of reactivating or accelerating movement shall be minimized." However, the proposed pipeline also goes through a B8 designation, indicating moderate to high risk earthflow. Under B8-045 the LRMP states that, "Special uses shall not be allowed to reactivate or accelerate earthflow movement." Additionally, under B8-029, "Created openings for silvicultural purposes on earthflows shall not exceed 10



The slope on east side of Fish Creek in a high risk landslide area

acres in size in high risk areas and 20 acres in moderate risk areas." How will the proposed Palomar Pipeline conform to these Standards and Guidelines? Additionally, we expect to see a more rigorous look at the conformance to other LRMP land designations.

D. OTHER ISSUES OF NONCONFORMANCE

i. Travel Planning

The proposed route for the Palomar Pipeline follows north past Timothy Lake, taking a sharp turn east towards McCubbins Gulch, avoiding crossing the Warm Springs Reservation. Despite this, the Confederated Tribes of Warm Springs have expressed concerns over the route. The route makes its way east, never more than a quarter mile from the boundary of the reservation. In addition to the concerns Warm Springs shares with us about cumulative impacts to fish, the increasing presence of off-highway vehicles (OHV) in the national forest has raised conflicts with "off-forest" holdings. (Letter FERC from Warm Springs, 2)

The pipeline route poses continued concern for the growing abuse of public lands by off-road vehicles. The majority of OHV use occurring in Mt. Hood National Forest is on lands which have been previously cleared for past timber extraction or road building. The high rate of OHV riders illegally using "open areas" has led the Forest Service to invent management techniques to keep OHVs out of these areas. For example, in implementation of the No Whisky Record of Decision in the Clackamas River Ranger District, the timber sale administrator directed trees to be hand-thinned along known OHV routes so that an undergrowth barrier would not be trampled by logging equipment and expose the newly thinned forest to OHV use. Given the permanency of the pipeline clearing, such techniques are not viable and the risk of illegal OHV use is



Part of the McCubbins OHV area is this trail along existing transmission line corridor. The pipeline route would expand the corridor, allowing for more use of the corridor by OHVs.

heightened. The Palomar Pipeline proposal will degrade quiet recreation in Mt. Hood National Forest, while encouraging illegal off-road vehicle use and resource destruction.

Currently, McCubbins Gulch has routes that are designated for OHVs, including some routes under existing powerline corridors. After years of trying to disperse the use, the Forest Service has recently moved towards a containment solution, designating large tracks of lands and roads to be open to off-roading, while the rest of the national forest is closed to this type of use. There has been no increase in law

enforcement and trail development to entice riders is often resulted from ongoing user-created trails being enveloped into the allowed use, rather than discouraged.

ii. Extensive Edge Habitat Increases Bird Predation and Exotic Plants

As more land is developed and continuous swaths of habitat are replaced with small, isolated habitat patches, many studies have emerged focusing on ‘edge effects’ that occur around the narrow transition zones between biological communities in these habitat patches (Chen et al. 1992). Habitat fragmentation and the creation of edge habitat occur in forestry, development, and as a result of natural disturbances, such as wildfire and storms. Intense study on the effects of commercial logging and the resulting increase in edge habitat on forest processes (e.g. Franklin et al. 1987, Trombulak et al. 2000, Chen et al. 1995 and 1996) has provided much of the information currently known about the negative effects of habitat fragmentation.

Species’ response (which can be neutral, positive, or negative) to disturbance and edge creation is determined by the relative amount of available resources, which include: food, nest sites, service-providers such as pollinators and seed dispersers, or abiotic resources such as light and moisture (Ries et al. 2004). The creation of an edge causes highly contrasting microclimates between clear-cut and interior forest habitats, including changes in wind speed, air and soil temperature, humidity, solar radiation, and soil moisture (Chen et al. 1995). Changes in light availability and creation of soil conditions similar to those induced by fire or other disturbances, can favor more shade intolerant species (Luken et al. 1991) and maintain a forest structure characteristic of early successional habitat (Forrester et al. 2005). In addition, changes in microclimate variables, possible elimination of previous regulating factors, and frequent disturbance have been shown to increase the presence of invasive species (Forrester et al. 2005).

Because many animals are thought to select breeding habitats based on vegetation structure and resource availability, the creation of edge habitat also affects animal diversity and composition (Niemi and Hanowski 1984). A common trend is the increased presence of shrub-dependent birds in disturbed areas (Mills et al. 1991). Edges can also see an increase in species’ abundance and diversity when adjacent habitats both contain complementary resources. For example, brown-headed cowbirds forage in open pasture (represented by clearcut), but parasitize forest bird nests (Brittingham and Temple 1983). Edge avoidance (decreases in abundance) occurs in many forest “interior” species, those that favor stable conditions and avoid hostile changes in the environment near edges (Ries et al. 2004). Examples found in the Pacific Northwest include the ovenbird, the Red-eyed Vireo, the Northern Spotted Owl, and the plant, *Trillium ovatum* (Ries et al. 2004).

Therefore, increasing amounts of forest edge can have a positive effect on some species, while others (such as forest interior species) can be driven to local extinction

as a result of competition with edge species, nest parasitism, or lack of sufficient habitat (Luken et al. 1991).

Several studies (Chen et al. 1996, Ries et al. 2004, and Ewers et al. 2006) have suggested that edges are not created equal and, hence, their effects on the surrounding environment should not be expected to be equal. Different types of edges are becoming common as human development encroaches on more undisturbed natural areas. An edge that has become a major feature of landscapes across the US is created by the construction of utility right-of-ways or energy corridors (Blois 2004). Energy corridors are parcels of land that can accommodate pipelines (for utilities such as oil, gas, or hydrogen) and electricity transmission lines.

Corridor cuts are different from typical forestry cuts in their duration of existence (permanent), disturbance level (constant), and shape (long and continuous) and several studies have examined the specific effects of corridor construction and maintenance on animal and plant communities in Mexico and the east coast of the U.S. (e.g. Luken et al. 1990, Blois et al. 2004, Forrester et al. 2005, Niemi and Hanowski 1984, and Rich et al. 1994).

Repeated clearing of vegetation, whether by herbicide use or mechanical devices, selects for species with higher sprouting rates (Luken et al. 1991). The corridor, characterized by frequent disturbance and fluctuating resources, can become a focal site for the invasion of exotic species, especially those that have dispersal mechanisms (e.g. wind-born and animal-carried seeds) that are especially advantaged by movement along disturbed corridors (Forrester et al. 2005). Unlike forestry clearcuts, which are designed to promote the movement of animals between isolated habitat patches, pipelines are distinct cuts across an entire landscape, blocking (or promoting) the movement of many animals and plants (Forrester et al. 2005).

The temperate rainforests of the Pacific Northwest are home to many species that rely on intact habitat for survival (CLS 2000). The Palomar Pipeline is proposed to cross some of the few remaining areas designated as old-growth forest in MHN by the National Forest. Old-growth forests contain rich communities of plants and animals that depend on the structural complexity of these areas for survival, including the Northern Spotted Owl, the lichen *Lobaria oregona*, as well as many arthropod species (CLS 2000). As much of the biological diversity of the Pacific Northwest is associated with late-successional and old-growth forests, it is important that we have a clear understanding of the potential effects pipeline construction and maintenance will have, especially when the proposed route crosses areas specifically set aside as refuges for rare and endangered species.

Despite the common presence of energy corridors on private and public forested land in the Pacific Northwest, there has been little or no study done on potential effects to the surrounding biotic community in this area. Results from studies in other parts of

the country suggest that the effects of pipeline and energy corridors are different than typical disturbances, including logging and fire, because they become a permanent edge with constant disturbance. Therefore, they have both short-term and long-term impacts on the environment and on the inhabitants therein.

Thank you for taking the time to consider our concerns. Please see our online Flickr account for more photos of our hike along the Palomar Pipeline by going to <http://www.flickr.com/photos/barkformthood/>. We understand the Palomar Pipeline to be one of the biggest single threats to Mt. Hood National Forest ecosystems. Please do not hesitate to contact me with any questions or for clarification.

Sincerely,

Amy Harwood
Program Director
Bark

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Secretary of State Kate Brown
State Treasurer Ben Westlund
Clackamas County Board of County
Commissioners
Forest Supervisor Gary Larsen
Forest Service Chief Gail Kimball

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