

July 19, 2022

Glenn Casamassa, Regional Forester  
Pacific Northwest Region  
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**Re: Leader's Intent on Re-Opening Pacific Northwest Forests**

Dear Mr. Casamassa,

Thank you for your recent attention to the issue of extended forest closures in the Pacific Northwest Region following wildfires in your Leader's Intent letter to the Regional Leadership Team dated May 3, 2022.

With nearly 7,000 members and 100 locally based affiliate clubs nationwide, American Whitewater represents the interests of whitewater enthusiasts and human-powered recreational river users. Many of our members live in Oregon and Washington or visit the states to enjoy their abundance of spectacular rivers, many of which are on National Forest lands.

Unfortunately, numerous long duration National Forest closures have impeded the public's ability to visit their lands and rivers following wildfires in the Pacific Northwest Region in recent years. Many of these closures date to the 2020 wildfire season and have prohibited public access to public lands and rivers for nearly two years. Other closures, such as that for the Eagle Creek Fire, date back as far as 2017.

A significant number of Oregon's whitewater rivers are currently closed to the public by forest orders. This includes many Wild and Scenic rivers that Congress designated expressly for "the benefit and enjoyment of present and future generations." The area closures that prohibit access to these rivers not only denies the public of their ability to enjoy the rivers and surroundings, but it also concentrates use on the rivers that remain open, leading to overuse issues at some rivers in the region.

We greatly appreciate that you recognize that restoring access to closed areas is a high priority and that there is a critical need to improve the Forest Service's approach to managing risk following fire and other disturbances. We agree that the use of a diverse suite of risk mitigation actions should precede any consideration of the use of closure orders and that when no alternative exists, closures should be specifically targeted to be limited in geographic and temporal scope.

Although we are unaware of any of the region's Forests reopening closed areas due to the direction you provided to the Regional Leadership Team in May,<sup>1</sup> we believe that your Leader's Intent, statement on risk mitigation, and the policy changes are a step in the right direction for addressing the existing closure orders across the region and restoring public access to closed lands and rivers. We look forward to seeing closed areas reopen as soon and as fully as possible.

### **The Changes Detailed in the Leader's Intent Letter Should Be Applied to Future Closure Actions**

It is clearly important for Forest Supervisors to apply the improved risk mitigation and policy changes contained in you Leader's Intent letter to promptly re-open currently closed areas, roads, and trails. It is also very important that they apply the Leader's Intent to their future closure decision-making processes during and after wildfires. The policy changes detailed in the Leader's Intent letter appear intended to apply not only to addressing current closures but to apply also to future actions. However, the letter is unclear as to whether the risk mitigation direction and the table containing potential mitigation options and risk factors to consider applies to future actions. We suggest that the entirety of the management direction included in the Leader's Intent letter be applied to future closures throughout the region and that Forest Supervisors be made clearly aware of this direction.

### **Rivers Present an Opportunity for Prompt Re-Opening Following Wildfires**

Rivers are a unique recreational resource on National Forests and, due to their intrinsic nature as well as agency policies and management standards, they provide an opportunity for prompt re-opening following an emergency wildfire closure. Unlike developed recreation sites or constructed features such as trails and roads, there is no legal standard or policy that directs the Forest Service to provide risk mitigation on rivers. In fact, agency policy states that the Forest Service management role in river safety is "advisory and informational" and that the manager should provide opportunities for river users to become informed about the river and its hazards but that the user "must make the final decision about whether or not to engage in the recreation activity."<sup>2</sup> Except for a limited number of developed river access sites, the entirety of rivers on National Forest flow through general forest areas, dispersed sites, or designated Wilderness for which the agency has no existing policy requiring post-fire treatment or closure. So long as river users can access the river, it can easily be made available for public use. The Forest Service should focus on ensuring that such access is afforded wherever possible and that adequate advisory information about recreating in the post-fire environment is made available to river users. As an organization with communications capacity and a direct connection to Forest users, we would welcome opportunities to partner in communicating information to the public.

### **The Forest Service Should Provide Opportunity for Public Involvement in Closure Decisions**

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<sup>1</sup> We appreciate that the Riverside Fire closure on the Mt. Hood National Forest (Forest Order 06-06-05-22-02) includes an exception for the State Hwy 224 corridor and the river access sites utilized by the whitewater boating community but adjoining Forest Service lands remain closed to the public.

<sup>2</sup> Forest Service Manual 2300 Ch. 2354.41b.

We are concerned that the Forest Service is not providing opportunities for public involvement in decisions related to the closure of National Forest lands. While it may not be practicable to involve the public in the closure decision process during an active wildfire emergency, each of the ongoing wildfire-related closures orders in the Pacific Northwest Region was issued as a subsequent order *after* the wildfires were out and the active emergency had ceased. Thus, there has been ample opportunity for the Forest Service to involve the public in these post-fire closure decisions, but the agency has decided not to do so, and we believe this is contrary to federal regulation and agency policy.

Although the Forest Service may apply its categorical exclusion at 36 CFR § 220.6(d)(1) to orders issued pursuant to 36 CFR § 261, the CE simply eliminates the requirement to conduct further analysis in an EIS or EA, absent extraordinary circumstances as defined at 36 C.F.R. § 220.6(a). The Forest Service must still comply with NEPA and agency regulations that require public notice and scoping of a proposed action consistent with 36 CFR § 220.4(e). Agency policy also requires scoping as directed by the Forest Service Handbook 1909.15 Ch. 31.3 (“Scoping is required for all Forest Service proposed actions, including those that would appear to be categorically excluded.”).

Further, the same section of the FSH clearly identifies scoping as “the means to identify the presence or absence of any extraordinary circumstances.” Without conducting scoping, the Forest Service is not fully informed about the potential presence of extraordinary circumstances. This is significant in the context of Wild and Scenic rivers which are a resource condition that must be evaluated for extraordinary circumstances before the Forest Service may properly invoke a categorical exclusion for a closure action as defined at 36 CFR § 220.6(b)(1)(iii).

More broadly, public involvement in agency decision making results in better informed decisions and greater acceptance of the decision by the public.

### **The Forest Service Should Follow the Same Procedures for Closure Actions as it Does for Other Actions and Strive for Consistency in Approach**

Although the regulatory and policy framework for decision-making on closure actions is substantially the same as it is for other types of agency actions, the Forest Service uses a different and varied approach to making closure decisions.

The Forest Service should use the same procedural processes for closure decisions as it uses for other land management decisions. This includes:

1. Public notice scoping as required by regulation and policy,
2. Consultation with affected Indian tribes,
3. Evaluation of extraordinary circumstances using a CE checklist with sufficient detail to determine whether a CE may be applied,
4. Preparation of a case file and issuance of a decision memo or other decision record,

5. Use of a project web page to provide information and supporting documentation to the public, including geographic information system data for closed areas, roads, and trails.

Additionally, there are no objective standards for determining whether a closure is necessary nor for its appropriate size and duration. The Forest Service should develop and use a clear, consistent approach to ensure that closures are used only when necessary and that they are applied to the minimal area and for the shortest duration necessary.

## Conclusion

We acknowledge that recent wildfires have caused considerable challenges for the Pacific Northwest Region and its management of the public lands and waters it stewards for all Americans. Your Leader's Intent letter is a step in the positive direction towards reopening closed National Forest land and its tenets should also be applied to future closure decisions. Additionally, the Forest Service should be involving the public in closure decision processes and using a clear, consistent approach to ensuring whether closures are necessary and that they only close the smallest amount of land for the shortest time necessary.

The impacts of wildfires can be plainly seen on the landscape but the impacts that ripple out into communities from long-term closures may be more difficult for the agency to discern yet equally significant. We appreciate your attention to re-opening closed lands and look forward to an improved agency approach for managing risk and access in the post-fire environment.

Please feel free to contact us to discuss this issue in greater detail. We are prepared to assist in any way possible and to provide our expertise and experience regarding river access and recreation.

Sincerely,



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