BEFORE THE FOREST SUPERVISOR
OF THE DANIEL BOONE NATIONAL FOREST
UNITED STATES FOREST SERVICE

In Re:
Predecisional Objection of the Final Supplemental Environmental Assessment, Draft Decision Notice, and FONSI for the Greenwood Vegetation Management Project/ Greenwood NNFSR Road 5104 Construction Project, Stearns Ranger District, Daniel Boone National Forest

NOTICE OF OBJECTION

Pursuant to 36 CFR § 218, Kentucky Heartwood is seeking predecisional administrative review by Forest Supervisor Scott Ray of the Final Supplemental Environmental Assessment, Draft Decision Notice, and FONSI for the Greenwood Vegetation Management Project/ Greenwood NNFSR Road 5104 Construction Project, Stearns Ranger District, Daniel Boone National Forest.

Objector is: Kentucky Heartwood, Inc., a forest advocacy group dedicated to the health and well-being of the public forests in the Commonwealth of Kentucky. Kentucky Heartwood submitted comments during Scoping and on the Environmental Assessment.

Respectfully submitted by Jim Scheff on behalf of Kentucky Heartwood.

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Dated July 31, 2023
I. Introduction

The U.S. Forest Service, Daniel Boone National Forest, issued a Draft Decision Notice and Finding of No Significant Impact (Draft DN & FONSI) for the Greenwood NFSR 5104 Construction Project along with the Final Supplemental Environmental Assessment to the Greenwood Vegetation Management Project on June 14, 2023. A final decision approving the Greenwood Vegetation Management Project was signed on October 31, 2017. Kentucky Heartwood submitted detailed comments on April 21, 2023, during the 30-day comment period on the Draft Supplemental EA and scoping notice, which were published concurrently.

This objection complies with the requirements of 36 CFR Part 218. All issues presented in this objection were raised in our April 21, 2023 comments. We have addressed how and why we believe that the current proposal, analysis, and decision violate, or run contrary to, applicable laws, regulations, directives, and plans. We also provide suggestions for resolving these issues.

The proposed action is to replace the existing NFSR 5104 by constructing approximately 0.96 miles of a 30-foot-wide new permanent system road, NFSR 5014, to access approximately 130 acres of timber approved for harvest under the 2017 Greenwood decision. This project and analysis are tiered to the original Greenwood analysis and decision, which we believe is the appropriate context for analyzing the proposal and the consideration of alternatives.

“This environmental assessment (EA) supplements the October 2017 Final Greenwood Vegetation Management Final EA (USDA 2017) by disclosing the impacts of the proposed road construction. The Final Greenwood Project EA, which is hereby incorporated by reference, describes the purpose of and need for the project, alternatives, affected environment, and environmental consequences. That information is not repeated here unless it is needed to clarify the supplemental analysis.”

The National Environmental Policy Act (NEPA) and the Forest Service’s implementing regulations require that the Forest Service consider issues and concerns that are reasonably germane to the proposed action. While the Forest Service does not have to present an exhaustive review of all potential issues, the agency cannot ignore or dismiss issues simply because they are inconvenient. This is especially true for issues the agency has raised elsewhere in the record and in various planning and regulatory documents.

The fundamental purpose of NEPA is to ensure that a deciding agency or official has sufficient information to make an informed decision prior to the committing of federal resources. It also directs agencies to consider a reasonable range of alternatives that may allow the agency to meet its objectives while mitigating issues of environmental and public concern. An informed decision cannot be made when relevant facts, particularly those that call into question the wisdom or benefit of a proposal, are omitted from the analysis – as is the case here.

1 See: Final Supplemental EA at 3
We want to make clear that our concerns, and this objection, are not intended as an “end run” to block logging in the Greenwood project. We believe that some of the proposed thinning prescriptions, combined with sufficiently frequent prescribed fire, could result in long-term ecological benefits. We do maintain concerns regarding some prescriptions and locations. And we believe that the construction of NFSR 5014 presents an unnecessary commitment of highly limited resources. It is our hope that our collaborative efforts with the Forest Service to develop the Curt Pond and Pine Creek projects – including our support for some commercial logging prescriptions – demonstrates our good-faith interest in the restoration of fire-adapted woodland and wooded grassland communities in the Daniel Boone National Forest. The time invested in the Cumberland River Fire Learning Network, including time together in the field, the open sharing of perspectives, and building of relationships, was indeed valuable.

II. Scope of Analysis and Consideration of Alternatives

The Forest Service has presented this project as necessary for implementing the Greenwood Vegetation Management Project, with analysis for the construction of NFSR 5014 tiered to the 2017 Greenwood analysis and decision. Alternatives, including not building the road and/or identifying different locations for forest management where road construction would be unnecessary were dismissed because they “did not meet the purpose and need for continued implementation of the Greenwood Vegetation Management Project (USDA 2017) and the Forest Plan.”

The Purpose and Need in the Final EA also states:

The project will be considered and analyzed for consistency with the Forest Plan goals and objectives relevant to the project which include:

- GOAL 12: Provide a road and trail network, buildings, and other facilities that support the Forest’s Desired Future Conditions.
- Objective 12.0.A: Reconstrcut, relocate, close, and stabilize, or obliterate roads and trails that do not meet their management Objective.

The Draft Decision Notice and Finding of No Significant Impact also cite Goal 12 and Objective 12.0.A (and only these two Goals and Objectives) under the Decision Rationale, stating that “It also helps move the area toward the desired conditions of the Land Resource Management Plan for the Daniel Boone National Forest (Forest Plan 2004), which states the following goals and objectives.”

The proposed action does not help the Forest Service move the area toward the cited desired conditions. In fact, it runs contrary to them in violation of the Forest Plan and NFMA. Objective

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2 See: Draft DN & FONSI at 3
3 See: Final EA at 3
4 See Draft DN & FONSI at 2
12.0.A. directs the Forest Service to close or modify roads to limit environmental impacts. “Reconstruction” refers to the rebuilding of existing roads, and relocation refers to relocations needed for resource protection, such as moving a road out of a riparian area. The 2003 Forest Scale Roads Analysis, which was used to inform development of the Forest Plan, makes this clear.

The Roads Analysis offers “Recommendations and Opportunities (that) are directly addressed under Goal 12 of the Proposed Revised Forest Plan (PRFP).” Among the “Highest Priority Recommendations,” the Roads Analysis includes “Across the forest, reduce the number of road/stream crossings and the amount of roads occurring within 100 feet of streams... [PRFP Objective 3.0.C, Objective 12.0.A and PRFP Objective 12.1.A(b)],” and to “Move roads out of areas such as riparian areas... [PRFP Objective 12.0.A and PRFP Objective 12.1A(d)]” (emphasis original).

The remaining Goals and Objectives under Goal 12 with respect to roads focus on minimizing and managing sedimentation and other environmental impacts.

Broad, non-specific claims that NFSR 5014 is needed for access to implement the Forest Plan are also unjustified and incorrect. In its Issue Analysis, responding to commentors that asked the Forest Service to decommission roads in the project area, the agency responded that such concerns were “outside the scope of the project” and that “The district is currently reviewing the travel system through the Forest Service’s Travel Analysis Process.” As we address in more detail below in our discussion on the TAP/TAR, the Stearns District’s review found that “The current road system... provides adequate access to timber stands needing silvicultural treatment.”

Predicating a new road construction project to meet transportation system needs that the District determined are already being met is, at best, arbitrary.

The Greenwood project itself was developed in a manner that would avoid new system road construction. In its Consideration of Comments, the Forest Service responded to concerns relating to roads by stating:

The no action alternative is a no new road alternative. The proposed action is also no new net number of roads alternative. This project does not propose to construct any new Forest System roads. Road construction was considered during project development and scoping. As a result, a proposed action was developed that would minimize temporary road construction and existing road reconstruction.

The Greenwood project was developed over several years with substantial review and public input. Acres of timber harvest were reduced by approximately 600 acres between scoping and

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5 See: Forest Scale Roads Analysis, Daniel Boone National Forest, April 16, 2003 at vi.
7 See Kentucky Heartwood comments at 3 & Travel Analysis Report for the Stearns Ranger District, 2016.
8 See: Consideration of Comments - July 17, 2017, p 53 in response to comments by Dick Artley
publication of the EA to address resource concerns.\(^9\) As stated in the Greenwood (2017) DN & FONSI, “Alternative 4 was the original actions put forth in the scoping notice. This was revised based on comments received and additional analysis to create the current proposed action.”\(^10\)

And as we stated in our prior comments, the Decision Rationale for the Greenwood project addressed concerns about roads in the project area by stating:

> “Some concerns were raised regarding construction of roads in the project area. This alternative proposes no new permanent specified road construction. This decision will not be additive to our existing transportation system and will not require a commitment of additional future funds for maintenance actions.”\(^11\)

In response to our comments on this project, the Forest Service stated that:

> “The silvicultural prescriptions of forest stands in lands outside the project area and cost-benefit considerations are outside the scope of this road construction project. These were covered under the original Greenwood Vegetation Management Project EA and Decision Notice.”

The latter part of this statement is correct. The vegetation management prescriptions were covered under the original Greenwood EA and Decision Notice. And those documents describe a process where silvicultural and other treatments were developed with the explicit goal of not building new system roads. It is a reasonable supposition that the harvest units along NFSR 5104 would have been eliminated from the proposed action had it been known or disclosed that building NFSR 5014 as is now proposed would have been a requirement.

Put another way, while the Forest Service has argued here that building NFSR 5014 is necessary for implementing the Greenwood project, it is just as true – and perhaps more so – that building NFSR 5014 *runs contrary to* the implementation of the Greenwood project.

Deciding to build NFSR 5014 nullifies the aforementioned portion of the Greenwood (2017) Decision Notice and Finding of No Significant Impact and the Forest Service’s own analysis and intent. It requires that the Forest Service take another look at whether the 130 acres of timber harvest along NFSR 5104 is, on balance, a necessary and prudent allocation of federal resources. The assertion that “The silvicultural prescriptions of forest stands in lands outside the project area… (is) outside the scope of this road construction project” is not defensible. The scope of “the project” is the Greenwood project area. This road construction proposal is not a standalone

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\(^9\) See Greenwood (2017) Decision Notice and Finding of No Significant Impact, stating: “Alternative 4 was the original actions put forth in the scoping notice. This was revised based on comments received and additional analysis to create the current proposed action.”


project, but is explicitly supplemental to the Greenwood project making that the appropriate level of analysis.

The Forest Service has also recently approved the Curt Pond Wooded Grassland Restoration Project within the Greenwood project area, and the timber is currently advertised to potential buyers. In fact, the Daniel Boone National Forest FY2023 Timber Sale Schedule sent to potential bidders included both Curt Pond and the Buck Knob sale (which includes the harvest units to be accessed via NFSR 5014) for the April through June 2023 period.12

The Curt Pond project will create 480 acres of open forest, woodland, and wooded grassland conditions within the Greenwood project area.13 Kentucky Heartwood advocated for management around Keno Road and Curt Pond throughout the development of the Greenwood Vegetation Management Project, including addressing it in our predecisional objection. To resolve this issue, Supervisor Dan Olsen, stated that “In addition, the Stearns district biologist plans to consult with KSNPC and others, including KY Heartwood, to further assess the two areas specifically mentioned above for inventory needs and future management options regarding rare plants and communities.”14 The two areas referenced are the Curt Pond/Keno Rd. and Grassy Gap sites.

The 480 acres of open forest, woodland, and wooded grassland habitats that are being developed collaboratively with Kentucky Heartwood more than makeup for the 130 acres of these habitats that the Forest Service would develop with the construction of NFSR 5014. The Forest Service erred in failing to consider how the Curt Pond project affects the need for NFSR 5014, as well as direct, indirect, and cumulative effects.

To address this issue, the Forest Service needs to consider how other management actions and conditions within the Greenwood Vegetation Management Project area, including the Curt Pond project, allow the Forest Service to meet the purpose and need for both the Greenwood project and Forest Plan while avoiding unnecessary costs and environmental impacts associated with the construction of NFSR 5014.

III. Failure to Consider Financial Costs and Commitments

Kentucky Heartwood raised concerns in our comments on the Draft Supplemental EA regarding the immediate and long-term commitment of financial resources required to build and maintain NFSR 5014, and we asked that these costs be disclosed in the analysis. This was not done in the Final Supplemental EA. The Response to Comments states that:

“(C)ost-benefit considerations are outside the scope of this road construction project.”

13 See: EA for the Curt Pond Wooded Grassland Restoration Project Environmental Assessment, April 2022
14 See: Resolution to Issue 1 on p 3 of the October 26, 2017 objection resolution letter for the Greenwood Vegetation Management Project sent by Forest Supervisor Dan Olsen to Kentucky Heartwood and other objectors
36 CFR § 212.5 – Road system management, states:

(b) Road system – (1) Identification of road system… For each national forest… the responsible official must identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest lands… The minimum system is the road system determined to be needed to meet resource and other management objectives adopted in the relevant land and resource management plan, to meet applicable statutory and regulatory requirements, to reflect long-term funding expectations, to ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.\footnote{15 See: 36 CFR § 212.5(b)}

Dismissing cost considerations associated with building NFSR 5014 is arbitrary and capricious and inconsistent with 36 CFR § 212.5, the Greenwood (2017) analysis and decision, the 2005 Travel Management Rule, and findings of the Forest Scale Roads Analysis and Travel Analysis Process (TAP/TAR). We address issues specific to the 2005 Travel Management Rule, Forest Scale Roads Analysis, and TAP/TAR later in this objection.

The Forest Service’s Response to Comments states further that:

“As always our primary concern is for implementation of resource management activities, not what the profit margin on a timber sale is. However, it is anticipated that the value of the commercial products sold will fully cover the cost of the road construction. Because the road is planned for administrative use only, future maintenance (sic) needs will be minimal.”

The Forest Service responded to comments from the Independent Stave Company stating that “The road construction design… has been completed and reviewed by engineers.” We know that engineers’ cost estimates are regularly factored into timber bid prospectuses and timber valuations. We also know that the timber from the Buck Knob sale has been marked and the volume estimated. It is likely that the Forest Service already possesses an estimate of the value of the timber. If those estimates do not already exist, we know that the Forest Service can and will provide them in the near future as part of any bid prospectus.

The 2017 Greenwood EA includes an analysis of Economic Resources and provides an estimate of the direct costs and revenues associated with implementing the Greenwood project in Table 5.\footnote{16 See: Greenwood Vegetation Management Project Final EA at 31, Table 5. Gross Costs and Revenues and Net Costs and Revenues for each Alternative in Today’s Dollars for full implementation.} This includes costs of NEPA/Planning, Project Admin, and other activities, and revenues from timber harvest. The net revenue for Alternative 2 (the Proposed Action) was estimated to be $207,679. Table 6 presents a more speculative “Net Present Value and Benefit-Cost-Ratio for
Each Alternative,” factoring in longer-term accounting and estimating a net revenue valued at $339,832.\textsuperscript{17}

As stated previously in this letter, the Forest Service has made it clear that the environmental analysis for NFSR 5014 is supplemental to, and incorporates, the original Greenwood analysis. Consideration of the financial costs and revenues associated with the construction of NFSR 5014 is clearly, and explicitly, within the scope of the analysis and needs to be presented in the Supplemental EA. This includes direct and long-term costs associated with road construction and maintenance and the NEPA/Planning costs associated with this proposed action.

But a “back of the envelope” estimate for the value of timber accessed from NFSR 5014 would be around $70,000. This is based on 132 acres of sale units, an average basal area target resulting in a little over 50% removal (average BA targets as follows: Commercial thinning at 65 ft\(^2\)/ac, Woodland thinning at 40 ft\(^2\)/ac, and Shelterwood at 15 ft\(^2\)/ac), and an estimated $1033/ac stumpage value in Kentucky forests.\textsuperscript{18} Maybe this is way off. The Forest Service can, and should, provide the actual numbers.

It is also clear to us that constructing NFSR 5014 will be expensive. A 30-foot-wide, fully-graveled road grade is a substantial piece of infrastructure to construct. The Supplemental EA emphasizes the first (southern) half of the road, which follows the existing grade. However, where the proposed route leaves that grade and crosses the stream branch, slopes on either side of the streambed are quite steep. It will require some well-thought engineering to enter and leave the ravine. Several sections leading up the slope are also quite steep.

The stream crossing presents its own costly difficulties. The EA references Stringer et al. (2018) with regard to Kentucky Best Management Practices. Table 8.2. Recommended Pipe Diameters for Streams and Ephemeral Channels in the BMP guide recommend that a culvert diameter of 54” be used in this location (we estimate the watershed area to be approximately 100 acres). The BMP guide also states: “Economic feasibility requires that the value of what is skidded or hauled over a crossing can support installation, use, and removal of an elevated crossing.” If removal is not anticipated, as is the case here, maintenance should be considered.

It is hard to believe that the value of the timber will exceed the costs associated with building NFSR 5014, especially when factoring in the costs of analysis, administration, and maintenance. Even if it can be determined that “the value of the commercial products sold will fully cover the cost of the road construction,” this does not mean that there are no costs incurred. The money is coming from somewhere – whether it is an appropriation, K-V expenditure, deducted from the timber value, or elsewhere. It is still a cost, and represents funds in the 10s of thousands of dollars, that cannot be applied to road maintenance needs elsewhere.

\textsuperscript{17} See: Greenwood Vegetation Management Project Final EA at 32, Table 6: Net Present Value and Benefit-Cost Ratio for each Alternative.

\textsuperscript{18} See: Kentucky Forest Sector Economic Contribution Report 2021-2022, UK College of Agriculture, Food and Environment Forestry and Natural Resources Extension, stating “On average each harvested woodland acre in Kentucky generates $1,033 for the owner.”
The Forest Service must ameliorate this deficiency by providing the very reasonable information and analysis described above.

**IV. Failure to Consider the DBNF Forest Scale Roads Analysis and TAP/TAR**

The Forest Scale Roads Analysis for the Daniel Boone National Forest\(^\text{19}\) was published April 16, 2003 and used to inform the development of the 2004 Forest Plan.\(^\text{20}\) The 2003 analysis was later used to fulfill the requirement of developing a forest-level roads analysis following the 2005 Travel Management Rule. Under the Travel Management Rule, the federal government sought to “right-size” the NFS road system, including the identification of, and commitment to, a minimum road system (MRS) that realistically reflects Forest Service budget constraints. Among its provisions, the rule states that “for designation of National Forest System roads” the agency needs to consider “the availability of resources for that maintenance and administration.”\(^\text{21}\)

The Forest Scale Roads Analysis found that:

On average, the Southern Region of the USDA Forest Service allocated $566,000 annually to the Daniel Boone National Forest for road maintenance and construction/reconstruction since 1998. Our estimate of the most efficient budget level is $2,200,000. Current budgets of the Daniel Boone National Forest cannot meet maintenance requirements of the existing road system under the present maintenance level and management objective classification (USDA Forest Service 1995).\(^\text{22}\)

The Roads Analysis presents “Recommendations and Opportunities (that) are directly addressed under Goal 12 of the Proposed Revised Forest Plan (PRFP).” Among the “Highest Priority Recommendations,” the Roads Analysis states, “Across the forest, reduce the number of road/stream crossings and the amount of roads occurring within 100 feet of streams… [PRFP Objective 3.0.C, Objective 12.0.A and PRFP Objective 12.1.A(b)],” and to “Move roads out of areas such as riparian areas… [PRFP Objective 12.0.A and PRFP Objective 12.1A(d)].”\(^\text{23}\)

The proposed construction of NFSR 5014 includes building a new system road in a riparian zone and across a stream, directly in opposition to the recommendations of the Roads Analysis. And yet, as discussed above in this objection, the Forest Service argues that this road proposal is needed to implement, specifically, Forest Plan Goal 12 and Objective 12.0.A.

A July 2012 FAQ from the U.S. Forest Service for implementing the Travel Management Rule describes how forests need to identify an “economically and socially sustainable road system”

\(^{19}\) Forest Scale Roads Analysis, Daniel Boone National Forest, April 16, 2003.

\(^{20}\) See: DBNF Forest Plan at 1-2, “Other sources which helped guide development of this Plan included… (the) Forest Scale Roads Analysis, Daniel Boone National Forest, (USDA Forest Service 2003)”

\(^{21}\) See: 36 CFR § 212.55 Criteria for designation of roads, trails, and areas.

\(^{22}\) Forest Scale Roads Analysis at v.

\(^{23}\) See: Forest Scale Roads Analysis at vi.
that “can be maintained within budget constraints,” with a minimum road system (MRS) that must “Reflect long-term funding expectations.”

A letter to Southern Region (R8) forests relating to “Southern Region Expectations” for implementing the Sub-Part “A” Travel Analysis (TAP) states that “TAP analysis identifies risks and benefits of individual roads in the system, but especially cumulative effects and affordability of the entire system.” (Emphasis original). The letter further states that roads should “provide for an optimum balance of access needs and cost” and that “Ultimately units must balance the costs of maintaining the identified system such that the recommendation will not result in accrual of deferred maintenance on roads and bridges once the TAP is implemented.”

The Travel Analysis Process Report for the Stearns Ranger District was produced in 2016 and signed in 2017 by District Ranger Reed and Supervisor Olsen. The report states that the Stearns District requires an estimated $248,780 annually to maintain and repair roads, culverts, and bridges, but typically receives only $92,626 to meet those needs.

“The cost difference is $156,154 annually. This is a significant problem for the long term use and management of the transportation system. The transportation system is not sustainable without an increase in funding, a decrease in the number of system miles, or reduction in maintenance levels.”

The report also states, “The current road system… provides adequate access to timber stands needing silvicultural treatment.”

“The current road system is favorable for managing the suitable timber base and other lands, and provides adequate access to timber stands needing silvicultural treatment. A minority of system roads need reconstruction for managing resources and, generally, system road maintenance is all that’s needed to improve the roads for timber haul. The current road system provides a good base for any temporary roads that need to be constructed to access timber stands in need of silvicultural treatment.”

The 2016 Stearns Travel Analysis Report was developed concurrently with the original Greenwood analysis, and signed by District Ranger Reed and Supervisor Olsen on January 17, 2017 – just 14 days before the publication of the Greenwood Draft EA.

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25 Sub-Part “A” Travel Analysis (TAP), Southern Region Expectations, Revised to align with 2012 Chief’s Letter
26 Travel Analysis Report for the Stearns Ranger District, 2016
27 Id
28 Id
The Forest Service’s analysis supporting the construction of NFSR 5014 avoids any discussion whatsoever of the 2005 Travel Management Rule, the findings and recommendations of the Forest Scale Roads Report, and the findings of the Stearns District TAP/TAR. This is a clear violation of the requirements of NEPA to consider relevant information in the analysis of this proposal. The Forest Service must consider the proposed action in the context of these aforementioned documents and directives.

V. Failure to Consider Realistic Maintenance Requirements

As we addressed in our prior comments, the Forest Service has relied upon faulty assumptions to determine that environmental effects will be minimal or mitigated through maintenance and the gating of NFSR 5014.

As described elsewhere in this letter, the Stearns District TAP/TAR report estimated that the District needs $248,780 annually to maintain and repair roads, culverts, and bridges, but typically receives only $92,626, to meet those needs. In other words, the District only has 37% of the needed financial resources to maintain this infrastructure. Evidence of this unfortunate maintenance backlog, and the environmental impacts stemming from this backlog, can be found across the District and the Daniel Boone National Forest as a whole. Clogged and crushed culverts, road slumps, erosion ditches, and other degraded infrastructure contribute to ongoing sedimentation and other resource issues. The Forest Service argues that gating NFSR 5014 will limit the need for substantial maintenance. However, we have observed gated and otherwise closed roads in several locations across the District (and many more across the Daniel Boone National Forest) where a lack of maintenance has led to sedimentation and other resource degradation.

As we addressed in our prior comments on this project, the Soil Effects and Hydrologic analyses predicate their findings of limited environmental impact on an assumption that the road and culvert will be properly maintained. The Soil Effects report describes how “the erosion hazard for unsurfaced road and trails in the project area is severe” but that “when a road is surfaced with gravel, as in this proposed action, the erosion hazard is reduced significantly.” The report adds:

“Best management practices, including maintaining the gravel cover, and keeping the culverts and ditches clear will minimize the duration and magnitude of erosion.”
(Emphasis added)

And that:

“Considering the road will be graveled, maintained, designed for proper drainage, and culverts used, the erosion delivered from the new section, in addition to what is currently being delivered from the existing road network, will not be enough to negatively impact the long-term soil productivity in the affected area.” (Emphasis added)
The Hydrology report similarly states that:

“Long-term indirect impacts (degraded aquatic organism habitat and changes to downstream water quality) are not expected because BMPs (see Table 1) will allow stormflow and sediment to pass through the culvert and water to adequately drain from the road. A properly sized and placed culvert that is well maintained will decrease the likelihood of catastrophic failure.” (Emphasis added)

Both specialists’ reports describe how limiting long-term impacts to soil and water resources, including aquatic habitats, is predicated on the Forest Service properly maintaining the road, including gravel surface and culverts. But this assumption cannot be met given the Stearns District’s road maintenance backlog.

A recent site visit illustrated how woody debris, leaves, and sediment naturally create blockages in the stream channel at the proposed road crossing site. These natural blockages will periodically clog any culvert. As the Hydrology and Soil reports state, without regular monitoring and maintenance, such clogs will lead to high flows going over the roadbed or breaching the road and crossing. And with the District having only 37% of the average annual funding needed to maintain this infrastructure, it is not a defensible assumption that issues will be identified and addressed in a timely manner.

Figure 1. Proposed NFSR 5014 stream crossing showing natural debris jam (looking upstream)
Instead of addressing this issue in the Final Supplemental EA, the Forest Service has continued to rely on broad and baseless assumptions. For example, the Final Supplemental EA states, “Once construction is complete, a locked gate would be placed at the entrance to NFSR – 5104 to prevent illegal usage and resource damage.” However, illegal access by users driving around gates on forest roads is a major issue on the District. The Stearns District recently solicited comments on the North End Unauthorized OHV Closure project. The Purpose and Need for the North End project states:

“The need for this project is for the Forest Service to close and rehabilitate numerous unauthorized OHV trails on the northwest side of the Stearns Ranger District. Unauthorized trails are causing resource damage to forest vegetation and are contributing to soil erosion and sediment deposition into creeks and streams. User created trails also provide access for other unauthorized activities, including impacts to cultural resources, trash dumping, arson, illegal drug activity, etc.”

While we appreciate that the Forest Service has acquired funding for these closures at this time, such funding is ephemeral while maintenance challenges and budget shortfalls will no doubt continue.

29 See: Final Supplemental EA at 7
30 North End Unauthorized OHV Closure project proposal, June 29, 2023
Figure 3. OHV road circumventing gate on NFSR 5096

Figure 4. OHV trail circumventing gate on NFSR 851
VI. Agency Already Allocated Resources, Decision is Prejudicial

As described in our prior comments (Comments at 3), the Forest Serviced approved timber harvest along NFSR 5104 based on an incorrect assumption that an easement would be acquired from a willing landowner. The Forest Service’s Response to Comments states that “The loss of the easement to the original road was not reasonably foreseeable during the 2016 Greenwood EA analysis.” This is an untrue statement. Action 15 of the Greenwood project stated that “A road easement would be acquired for NFSR-5104 across approximately 0.4 miles of private land.” The Forest Service cannot lose an easement that it never had.

Since submitting our comments in April, we learned that the Forest Service had already committed resources to mark timber in the sale units despite not having acquired an easement. This was not disclosed in the Draft or Final EA. In Forest Service’s Response to Comments, responding to comments from Independent Stave Company, the agency states:

“The road construction design for the Buck Knob Timber Sale, NNFSR 5104, has been completed and reviewed by engineers.”

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31 Forest Service Response to Comments on the National Forest System Road 5104 Reconstruction Project and the Greenwood Vegetation Management Supplemental EA, June 2023
32 See EA (2017) for the Greenwood Vegetation Management Project at 11
33 Forest Service Response to Comments on the National Forest System Road 5104 Reconstruction Project and the Greenwood Vegetation Management Supplemental EA, June 2023
The DBNF FY2023 Timber Sale Schedule (dated November 9, 2022) sent to prospective bidders lists the Buck Knob sale for the April through June 2023 period, with an estimated volume of 3922 CCF. During a July 2023 site visit by Kentucky Heartwood, we saw that timber had been marked. The condition of the marking paint, and lack of paint on this season’s growth of vegetation, suggests that timber was marked in 2022 or earlier.

We previously raised how unfortunate it is that the Forest Service assumed easement acquisition during the development, analysis, and approval of the Greenwood project in 2017. In retrospect, that analysis should have considered what course of action the agency should take if that access was not granted. It is now evident that the Forest Service compounded its problems by continuing to sink resources into the marking, planning, and possibly preparation of the Buck Knob sale without having access. And then, the Forest Service sunk further resources by preparing a Draft EA prior to soliciting any public feedback through scoping, which could have identified issues and alternatives limiting the need to fully analyze this road construction project. According to the Final Supplemental EA, at least 13 staff officers, including engineers, surveyors, and various resource specialists, participated in the production of the analysis.\(^{34}\)

The Forest Service appears to have fallen victim to the fallacy of sunk costs and seems unable to consider any reasonable and rational alternatives to sinking even more resources with the construction of NFSR 5014. From a personal and professional perspective, the desire to avoid walking away after resources have been committed and work done is understandable. It may factor into why the analysis avoids a reasonable disclosure of costs and presents a too-rosy assessment of long-term maintenance needs. However, this is not a sound basis for a decision and is why NEPA requires sufficient analysis be undertaken before actions are approved and implemented.

At the very least, to ameliorate this issue, the Forest Service needs to be transparent in disclosing the full extent of resources that the agency has already expended toward selling the timber along NFSR 5104 and building NFSR 5014.

**VII. Resolution of Issues**

Kentucky Heartwood proposes that the Forest Service resolve the issues raised in this objection by adopting the No Action alternative. While the analysis could be corrected by incorporating disclosure and consideration of each of the issues we have raised, we believe that implementation of the proposed action would be contrary to both Forest Plan direction and the analysis and decision supporting the Greenwood Vegetation Management Project. As we illustrated, the implementation of the Curt Pond project within the Greenwood project area allows the Forest Service to exceed the management goals of the Greenwood project while avoiding the costs associated with constructing NFSR 5014.

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\(^{34}\) See: *Table 2. List of Interdisciplinary Team Members*, Final Supplemental EA at 13