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"Categorical Exclusion" (CE) Logging Riders A Disaster For Public Forests and Not Worth Any Deal on FY2018 Omnibus

"Categorical exclusions", or "CEs", in general began as an exemption from the National Environmental Policy Act (NEPA) for obviously inconsequential federal projects, such as painting the Ranger Station office, or putting up an information kiosk at a hiking trailhead. But, beginning in the George W. Bush Administration, new categories of CEs were created, exempting logging projects of increasing sizes and intensities from environmental analysis and public participation on our National Forests and other federal public lands.

Then, in 2014, an additional CE expansion was tacked on to the Farm Bill, and applied to logging projects up to 3,000 acres in size each on our National Forests, so long as the Forest Service claimed such logging would promote "forest health". The logging industry's main allies in Congress, and the Trump Administration, are now claiming that the existing CEs are not expansive enough, and are promoting logging riders on the 2018 Omnibus appropriations package that would eliminate meaningful environmental analysis and public participation for logging projects of 3,000 or 6,000 acres in size each on millions of acres of our National Forests and other federal public lands. There is no limit on how many of these projects can be done in any given area, so they can be stacked up one next to another next to another. Yet there is no requirement for the cumulative impacts of these projects be analyzed. Because this would be an exemption from NEPA review, there is also no requirement that the documents produced be prepared to the highest standard of scientific accuracy and integrity, and no requirement that the agency respond to public comments or address dissenting scientific opinion.

Aside from the utter failing of analysis being prepared for projects that would otherwise be seen as major federal actions that could significantly affect the environment. Public participation is virtually eliminated. The public receives a notice of a few pages (scoping) with a barebones explanation of what the agency is planning to log and sometimes there is a map. After that, the public sees NOTHING, until the decision has been made. So the public is allowed to see the final documents only after the decision has been made.

In fact, by creating these CE's Congress essentially turns the purpose of NEPA on its head. Instead of starting out by saying okay here is a logging proposal let's look at what impacts this project may have, with a CE the Forest Service starts out by stating Congress has told us there is no potential for environmental impacts from this project (even though we know that there are), so now we have to write a document which justifies this false and manufactured legal construct – logging has no impacts. What this means is, instead of fully assessing how the project will affect the forest ecosystem and wildlife, the Forest Service now completely ignores aspects of a proposed logging project (like the fact that logging will be taking place in occupied California Spotted Owl territories), in order to avoid bringing up a topic which, if discussed, would directly challenge the use of a Categorical Exclusion in the first place.

No number of so-called "environmental sideboards" can remedy the harm of creating new categorical exclusions and eliminating the requirement that federal logging agencies take a "hard-look" at the impacts their actions have on the environment. First, these sideboards, which were supposed to ensure public participation ("collaboration") as well as promote light-touch measure to facilitate reduction of undergrowth and small trees, and thereby maximize retention of larger trees are wholly discretionary. This allows the U.S. Forest Service, which sells public timber to private logging companies and keeps most of the revenue for its budget, to interpret and/or ignore these mitigations as they choose. The result is that the removal of mature and old-growth trees through intensive and destructive logging projects are now being implemented on National Forest lands without the benefit of full environmental analysis and public input and scrutiny. The decision to legislate more categorical exclusion is simply a wholesale abandonment of the National Environmental Policy Act – it is not streamlining or simply scaling-back and it is not benign.

For example, there already exists a 3,000 acre logging CE, which was passed with the 2014 Farm Bill. One such project called the "Sunny South" logging project on the Tahoe National Forest in the Sierra Nevada[1] was recently challenged in Court. The result? Even where "extraordinary circumstances" exist, including logging within nest sites for imperiled species like spotted owls, the court ruled that the Forest Service can refuse to analyze the impacts of logging in these areas, and can refuse to disclose such impacts to the public, reasoning that Congress intended to fully exempt these logging projects from the National Environmental Policy Act.

Even more recently, the Forest Service has begun proposing post-fire clearcutting projects up to 3,000 acres in size each under the currently existing Farm Bill CE provisions (e.g., "Railroad" post-fire logging project on the Sierra National Forest), within nest and den sites of Sensitive Species, including the Pacific Fisher, Black-backed Woodpecker and California Spotted Owl.[2]

Categorical Exclusions for logging projects eliminate all of the fundamental protections of the National Environmental Policy Act, and allow unprecedented damage to our native forest ecosystems without any meaningful oversite. Although the Republican supported categorical exclusions would create logging CE's for projects from 6,000 to 30,000 acres in size each, there are categorical exclusions being supported by some Democrats which are as large as 3,000 acres in size. Regardless of the size of the CE or the party promoting it, CE's that expedite logging projects are a disaster for our national forests, will inhibit our ability to mitigate against climate change impacts, and will not protect communities or reduce fire risk or intensity.[3] There is no rationalization that can cure the damage that this type of legislation will wreak on our native ecosystems, and no omnibus "deal" which includes such provisions which can be called good for the environment.

We urge members of Congress to oppose any policy riders on the 2018 omnibus appropriations package, including any version of the logging CEs described above.

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[1] CBD v. Ilano, Order, 8/16/17, Federal District Court, Eastern District of California, Case No. 16-cv-02322-VC.

[2] https://www.fs.usda.gov/nfs/11558/www/nepa/108234_FSPLT3_4243883.pdf

[3] Bradley, C. M., C. T. Hanson, and D. A. DellaSala. 2016. Does increased forest protection correspond to higher fire severity in frequent-fire forests of the western United States? Ecosphere 7(10):e01492. 10.1002/ecs2.1492