

Castle Mountains Restoration Project – Helena-Lewis and Clark National Forest
Objection Responses – Sara Johnson – Native Ecosystem Council

NFMA

Issue 001, Forest Plan Violations

Contention 1: The objector contends the Forest Service is violating the Forest Plan direction without completing any Forest Plan amendments for changing the existing management area direction to management for the historic range of variation, which requires huge changes in management.

Response: The National Forest System Land Management Planning Rule (2012 Planning Rule), specifically CFR 219.13 *Plan Amendment and Administrative Changes* allows that a plan can be amended at any time depending on the need for change, to keep plans current and help units adapt to new information or changing conditions. The responsible official has the discretion to determine whether and how to amend the plan. The NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects. A proposed amendment that may create a significant environmental effect and thus require preparation of an environmental impact statement is considered a significant change in the plan for the purposes of the NFMA.

In the final EIS (pp. 516-519) and draft ROD (pp. 9-10), the site-specific forest plan amendment for two standards is discussed in detail. The standards for hiding cover in the Lewis and Clark National Forest Plan would likely be exceeded when actions are taken to achieve the desired conditions in the project area. The site-specific amendment would allow hiding cover to drop below the forestwide standard in four watersheds, and further reduce hiding cover below the standard in up to eight watersheds that are currently below 30 percent hiding cover. The amendment would also reduce hiding cover below the 40 percent standard on management area C lands and further reduce hiding cover on management area C lands that do not currently meet the standard.

The Castle Mountains NFMA Summary Report (also called the Castle Mountains Landscape Assessment) states “the desired condition can be identified through the review and interpretation of the management direction provided by the forest plan standards and guidelines, and management area direction.” The response to comments (p. 69) for this issue says “the desired conditions outlined in NFMA review under the Castles Mountains Landscape Assessment is not specifically outlined in the Forest Plan, however management area goals and objectives are consistent with proposed treatments and in compliance of forest plan standards. Refer to plan amendment specific to hiding cover.”

I conclude that the responsible official complied with CFR 219.13 (2012 Planning Rule) in amending the Lewis and Clark Forest Plan.

Issue 003, Forest Plan Management Area Direction

Contention 1: The objector contends the project is not consistent with any of the management areas (MA) in the project area except MA-D, so direction to maintain wildlife habitat is being violated for all remaining management areas, in violation of the NFMA. The purpose and need of the project does not include any wildlife management, but instead is for timber and fuels management.

Response: The National Forest Management Act requires that projects and activities be consistent with the governing forest plan (16 USC 1604(i)). This project tiers to the Lewis and Clark Land and Resource Management Plan FEIS and Record of Decision (USDA Forest Service 1986).

The Castle Mountains Restoration Project includes management areas C, D, E, G, H, J, L, and R which are listed and summarized in the Castle Mountain Restoration Project EIS volume 1 (pp 62-63). Of these, management areas C, D, E, and R state that wildlife is a management emphasis. Management areas G, H, J and L include some management direction for wildlife though other resources are emphasized.

The purpose and need for the Castle Mountains Restoration Project is to: Address the departure in fire regime condition class to reduce the future threat of high intensity wildfire and reduce the associated hazards from high intensity wildfire to the public, fire suppression resources, valued structures and community infrastructure such as power corridors and the Willow Creek municipal watershed. From the purpose and need, there are a number of objectives, and from these objectives, there is a link to wildlife habitat. Some stated objectives that maintain or improve wildlife habitat are: Emphasis is to restore landscape resiliency; moving the project area toward a historic natural fire regime; improving overall diversity in forest structure, species, and age class to foster greater landscape resiliency; reducing conifer encroachment into openings, parks and meadows; restoring and protecting sensitive whitebark pine stands within the project area; and emphasis would be given to improving structural diversity, reducing conifer encroachment, introducing whitebark pine seedlings with improved blister rust resistance in some areas as needed, promoting site conditions for natural regeneration, and reducing the risk of mortality from high intensity wildfire. (FEIS, p. 6)

The FEIS states that the project helps maintain and or improve wildlife habitat by improving diversity in forest structure, reducing conifer encroachment into openings, or restoring whitebark pine (FEIS, Vol 1, pp. 6 and 101). For example, by reducing conifer competition in strategic areas, and reintroducing fire across the landscape, these actions would alter big game distribution across the Castle Mountains and on National Forest system lands by providing more productive summer and fall ranges. Treatments in winter range may also improve foraging opportunities for big game by burning stagnant grasses, forbs, and shrubs, allowing for a new seedbed to take hold where more forage may become more abundant, diverse, and contain more nutrients (Final EIS, Vol 1 at p. 512).

I conclude that the responsible official is in compliance with the National Forest Management Act as well as the Lewis and Clark Forest Plan except for two plan standards that the project is amending. The project file includes documentation for each forest plan standard on whether it is applicable to the project and if so, if it meets the standard. The project is consistent with applicable management goals and objectives to maintain and enhance wildlife habitat.

Vegetation

Issue 002, Meadows

Contention 1: The objector contends that the EIS at 557 states that meadows and openings are inherently incapable of providing treed habitat.

Response: The objector quotes from the final EIS on page 557 that “meadows and openings are inherently incapable of providing treed habitat.” The full quote is; “The greater than 50% canopy cover with greater than 5” DBH trees is a measure used to describe the post-fledging area habitat, and the amount currently available across the entire Castle Mountains is 41 percent; this amount seems within expectation considering the amount of natural meadows and openings in the Castles that are inherently incapable of providing treed habitat.” This statement in the final EIS pertains to meadows producing

enough treed habitat to support post-fledging goshawk habitat. It does not state that all the meadows are inherently incapable of growing any trees.

Issue 004, Timber Harvest on Unsuitable Lands

Contention: The Forest Service is violating the forest plan direction by implementing extensive timber management activities on unsuitable timber lands.

Response: 36 CFR 218.10 states “Objections set aside from review, (4) except for issues that arose after the opportunities for comment, none of the issues included in the objection are based on previously submitted specific written comments and the objector has not provided a statement demonstrating a connection between the comments and objection issues.” The objector did not comment on this issue during public opportunities to comment. Therefore, pursuant to 36 CFR 218.10(a)(4) no further response is warranted.

Issue 005, Roadless Rule – Whitebark Pine Habitat

Contention: The objector contends that the Forest Service is violating the Roadless Area Conservation Rule by implementing management activities within the Castle Mountains Inventoried Roadless Area (IRA) that will degrade “whitebark pine” habitat.

Response: The Roadless Area Conservation Rule prohibits the cutting of timber except under certain circumstances. Within inventoried roadless areas, 36 CFR 294.13 (b)(1)(ii) allows the cutting of timber “[t]o maintain or restore the characteristics of ecosystem composition and structure...” and 36 CFR 294.13 (b)(2) states that “[t]he cutting, sale, or removal of timber is incidental to the implementation of a management activity not otherwise prohibited by this subpart...”

The FEIS explains that the action alternatives are intended to restore whitebark pine, aspen, and meadows and the cutting of small diameter timber is incidental to the implementation of prescribed fire (FEIS, pp. i, 400-401). The FEIS (p. 76) further explains that “[w]hitebark pine is an ecologically significant forest type with a Northern Region designation as a sensitive plant species due to threats from mountain pine beetle, white pine blister rust, lack of fire, and climate change (Federal Register 2011). Within the Castle Mountains, whitebark is primarily in the pole class (5-9.9” dbh). Mountain pine beetle and white pine blister rust have significantly reduced the larger diameter, cone-bearing trees. Succession is leading to a shift in dominance by subalpine fir...”

The FEIS (p. 86) goes on to explain how the proposed treatments would restore whitebark pine. “Whitebark pine restoration requires not only a change in stand condition, but also return of ecosystem processes that created and maintained the system. The range-wide restoration strategy for whitebark pine (Keane et al. 2012) is based on the following actions: 1) promote rust resistance, 2) conserve genetic diversity, 3) save seed sources (putatively rust-resistant trees or plus-trees), 4) employ restoration treatments, 5) grow seedlings, 6) protect seed sources, 7) implement treatments, 8) plant seedlings, 9) monitor activities, and 10) conduct research.” This section of the FEIS describes how the proposed activities would accomplish whitebark pine restoration by removing competing conifers (lodgepole pine and subalpine fir) to reduce inter-tree competition, improve whitebark vigor and growth, and improve resistance to mountain pine beetle.

Table 50 on p. 101 of the FEIS displays the change in whitebark pine presence or relative abundance due to project implementation, with Alternative 5 having an increase of 927 acres.

Project design features that would reduce impacts to individual whitebark pine are listed in the FEIS in Table 18 (p. 28). “To the extent possible, whitebark pine trees of all size classes will be protected from damage. This may include ensuring that designated equipment trails avoid whitebark and trees are directionally felled way when possible... Whitebark pine will be protected from potential fire mortality in prescribed burning areas through techniques such as directional felling of trees away from whitebark, reducing fuel loads adjacent to whitebark by pulling slash away 10 to 20 feet depending on tree size, and designing ignition patterns to limit fire intensity to whitebark individuals. Jackpot fuel piles will be arranged to avoid scorching whitebark trees in the vicinity and target seedlings and saplings of competing tree species, such as subalpine fir, where practical.”

I find that the responsible official complied with 36 CFR 294.13 (b)(1)(ii) and (b)(2) and conclude that the proposed activities within the IRA would benefit whitebark pine.

Issue 006, Roadless Rule – Elk Habitat

Contention: The objector contends the Forest Service is violating the Roadless Area Conservation Rule by implementing management activities within the Castle Mountains Inventoried Roadless Area (IRA) that will degrade management indicator species (MIS) elk habitat.

Response: As described in the response to issue 005 above, treatments can occur within inventoried roadless areas under certain circumstances. The FEIS explains that the action alternatives are intended to restore whitebark pine, aspen, and meadows and the cutting of small diameter timber is incidental to the implementation of prescribed fire (FEIS, pp. i, 400-401). Currently within the Inventoried Roadless Area (IRA), “[e]lk use the area during spring, summer, and fall, moving onto adjacent private land during the most severe winter weather” (FEIS, p. 386).

Although the IRA is not explicitly identified in the analysis of hiding cover, the project effects by HUC 7 (Table 189) and timber compartment (Table 190) are disclosed in the FEIS (p. 492). Treatments would reduce the availability of hiding cover, including meadow restoration which would remove significant amounts of hiding cover (FEIS, p. 511). “This is necessary to restore the natural state of these meadows, which exist, in part, to provide more foraging opportunities rather than hiding cover... Effects to elk from the reduction of hiding cover are not anticipated to impact elk viability or cause elk population numbers to fall below MDFWP objectives ...” (ibid.).

The FEIS acknowledges the potential negative impacts on elk (FEIS p. 510): “Big game may avoid treatment units as project activities occur due to human presence, noise, road use, altering their distribution across the Castle Mountains, possibly to nearby private land for unknown periods of time...” The meadow restoration cuts, some of which would occur within the IRA, “...will reduce hiding cover, but these treatments will provide more foraging opportunity than any other treatment because it will greatly reduce conifer encroachment and nutrient sapping from conifer growth...” This would improve big game distribution across the Castle Mountains on National Forest lands (ibid.).

I find that the responsible official complied with 36 CFR 294.13 (b)(1)(ii) and conclude that the proposed activities within the IRA, although they would reduce hiding cover, would benefit elk foraging habitat and elk distribution across the public lands in the Castle Mountains.

Issue 007, Roadless Rule – Goshawk Habitat

Contention: The objector contends the Forest Service is violating the Roadless Area Conservation Rule by implementing management activities within the Castle Mountains Inventoried Roadless Area (IRA) that will degrade MIS goshawk habitat.

Response: As described in the response to issues 005 and 006 above, treatments can occur within inventoried roadless areas under certain circumstances. As explained under the *Existing Condition* section for goshawk in the FEIS, the entire Castle Mountains project area could possibly support sixteen goshawk home ranges (FEIS, p. 551). Although the discussion is not specific to the IRA, pp. 562-563 in the FEIS explain the trade-off between goshawk habitat and the desire to provide more habitat for other species adapted to open-grown forest conditions. “The intent of the Castle Mountains Restoration project is to increase the representation of open-grown mature forest through thinning and underburning... These actions require the reduction of the amount of optimal goshawk habitat. Goshawk habitat would not be eliminated in the Castle Mountains, but we assume it would be less suitable because it would be more open” (FEIS, p. 562). Although there would be a reduction in available goshawk habitat within the project area, there would continue to be habitat to support sixteen pairs of goshawks, including foraging habitat, post-fledging habitat, and nesting habitat (FEIS, p. 563).

I find that the responsible official complied with 36 CFR 294.13 (b)(1)(ii) and conclude that the proposed activities within the IRA, although they would reduce available goshawk habitat, would still retain adequate habitat to support sixteen pairs of goshawks on the public lands in the Castle Mountains.

Issue 008, Roadless Rule, 3-toed and black-backed woodpeckers

Contention: The objector contends the Forest Service is violating the Roadless Area Conservation Rule by implementing management activities within the Castle Mountains Inventoried Roadless Area (IRA) that will degrade MIS three-toed woodpecker and the sensitive black backed woodpecker habitat.

Response: See response to issues 005, 006, and 007 above. Forest Service Manual 2670.12 directs the Forest Service to manage "habitats for all existing native and desired nonnative plants, fish, and wildlife species in order to maintain at least viable populations of such species."

Both black-backed woodpeckers and three-toed woodpeckers forage opportunistically on beetle outbreaks in recently burned or infested habitats, and consequently are relatively rare in forested areas that are not experiencing significant disturbance events (Project record, 20190315_CastlesProjectEffectsToWoodpeckers.pdf, p. 3). The project analysis acknowledges that there may be a loss of habitat for these woodpeckers (Ibid, p. 10), but there is abundant habitat at the larger scale (Forest scale and Regional scale) for these highly mobile species to maintain viable populations (Ibid, pp. 9-10 and 13-14).

I find that the responsible official complied with 36 CFR 294.13 (b)(1)(ii) regarding treatment within the IRA, and also complied with Forest Service Manual 2670.12 to maintain viable populations of wildlife species. I also conclude that the proposed activities within the IRA, although they would reduce available woodpecker habitat, would still maintain adequate habitat across the larger scale to support viable populations.

Issue 009, Roadless Rule – Wolverine Habitat

Contention: The objector contends the Forest Service is violating the Roadless Area Conservation Rule by implementing management activities within the Castle Mountains Inventoried Roadless Area (IRA) that will degrade wolverine habitat.

Response: See response to issues 005, 006, and 007 above. The restoration of special habitats in the project area such as whitebark pine, aspen, and meadows would increase the diversity of habitats and thereby is expected to increase the variety of prey in the long-term (FEIS, p. 654). As disclosed in the FEIS, "[a]lthough wolverines are frequently found in forested habitats, most researchers have concluded

that they are not necessarily dependent on specific vegetation patterns of the sort that are typically manipulated by timber harvest, prescribed fire, or other forest management practices...” (p. 655). The FEIS also acknowledges that wolverine may be displaced while project activities are occurring due to disturbance from human presence (p. 654). Furthermore the FEIS discloses project effects to maternal habitat, primary habitat (both from Inman et al. 2013), and areas of persistent spring snow (Copeland et al. 2010) (FEIS, pp. 654-655). Table 240 (p. 655) displays the overlap of project activities with these resource indicators. Although the FEIS does not specifically mention the amount of wolverine habitat within the IRA, it does explain that wolverines use higher elevation sites (p. 652) and the Roadless Expanse Report for the project explains that the highest point (Wapiti Peak) is within the IRA (p. 7).

Road maintenance may occur but no road construction, reconstruction of system, or temporary roads are proposed within the IRA (FEIS, p. 401).

I find that the responsible official complied with 36 CFR 294.13 (b)(1)(ii) regarding treatment within the IRA. I also conclude that the proposed activities within the IRA, although they would potentially disturb wolverines while project activities are occurring, are compatible with continued use of the IRA by wolverine.

Issue 010, Roadless Rule, Lynx Habitat

Contention: The objector contends the Forest Service is violating the Roadless Area Conservation Rule by implementing management activities within the Castle Mountains Inventoried Roadless Area (IRA) that will degrade Canada lynx habitat.

Response: See response to issues 005, 006, and 007 above. A biological assessment (BA) was completed and submitted to USFWS on July 31, 2019 for consultation under section 7(a)(1) of the Endangered Species Act. The lynx analysis units (LAUs) are located on the western portion of the project area (Biological Assessment, Map 1, p. 5), which overlaps substantially with the IRA (FEIS, Figure 48, p. 713). Field validation of the lynx habitat map for the project area was conducted (Biological Assessment, pp. 11, 42). The Biological Assessment (pp. 35-39) documents how the project complies with the Northern Rockies Lynx Management Direction and discloses the effects determination of “may affect, not likely to adversely affect” based on the small change in habitat that would result from the project (Ibid, p. 40). Much of the lynx habitat within the project area would remain unaffected (Ibid, p. 40). Consultation under section 7(a)(1) is ongoing.

I find that the responsible official complied with 36 CFR 294.13 (b)(1)(ii) regarding treatment within the IRA and is in the process of complying with section 7(a)(1) of the Endangered Species Act. I also conclude that the proposed activities within the IRA would result in only a small change in lynx habitat and would leave most of the available lynx habitat unaffected by the project.

Issue 011, Roadless Rule – Old Growth Habitat

Contention: The objector contends the Forest Service is violating the Roadless Area Conservation Rule by implementing management activities within the Castle Mountains Inventoried Roadless Area (IRA) that will degrade old growth habitat.

Response: See response to issues 005, 006, and 007 above. The project record contains maps of the timber compartments, designated old growth, and the overlap with treatments (20190417_MapCastlesOldGrowthAlt5.pdf). By comparing to the map on p. 713 of the FEIS, it can be determined that the timber compartments that overlap the IRA are 626, 627, 715, and 716. Table 222 in

the FEIS (p. 612) shows that no acres of old growth on commercial timber lands are affected in any of these compartments.

I find that the responsible official complied with 36 CFR 294.13 (b)(1)(ii) regarding treatment within the IRA. I also conclude that the proposed activities would not result in a reduction of old growth within the IRA.

Issue 012, Aspen Management

Contention: The objector contends that restoration of aspen will require removal of livestock, not conifers.

Response: The 1997 Castle Mountains Range Analysis Final Environmental Impact Statement and Record of Decision provide required direction for management of livestock grazing allotments in the Castle Mountains. (FEIS, p.350) The Multiple-Use Sustained-Yield Act (1960) – [16 U.S.C 528] states “it is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes.” This act also authorizes the Secretary of Agriculture to develop the surface renewable resources of national forests for multiple uses and sustained yield of the services and products to be obtained from these lands, without impairment of the productivity of the land. This act is applicable to this project because implementing vegetation management activities would have an effect on the sustained yield, and productivity of livestock forage. (FEIS, pp. 349-350)

According to the 1986 Lewis and Clark National Forest Plan (USDA 1986), a forestwide objective for range is that forage production and grazing permits will be continued at a level that slightly increases available forage for a portion of the year-round needs of the local livestock industry, and this increase will come from better distribution and use of forage through the application of range improvement practices and more intensive management (Forest Plan, p. II-6). To achieve this objective, the Forest Plan also identified the following applicable management standards (Forest Plan, p. II-38):

- Cooperate with permittees in constructing range improvements.
- Share range improvement cost to increase or maintain the grazing level.
- Use prescribed fire for control of sagebrush and tree encroachment and other vegetation manipulation as needed to meet outputs. (FEIS, p.342)

Aspen is generally seral to conifer species which, through expansion and increased density, are outcompeting it in many locations. A lack of disturbance, primarily fire, has also reduced aspen regeneration which is essential to maintain the species and replace the existing, mature aspen cohort. (FEIS, p.77)

In 1997 it was estimated that approximately 500 acres of grassland had been invaded by lodgepole pine (*Pinus contorta*) and Douglas-fir (*Pseudotsuga menziesii*) tree seedlings, resulting in reduced forage production for both livestock and wildlife. Since 1997 this acreage has most likely increased substantially and has continued to result in further reductions in forage productivity and loss of grazing lands within the analysis area. (FEIS, p.341)

Potential implication of reduced forage productivity, especially within important forage producing areas such as the sagebrush-grasslands and grasslands, is that increased grazing pressure and impacts could occur elsewhere such as important plant communities found in riparian areas and within aspen stands. (FEIS, p. 343)

The FEIS estimates that across all allotments there would be an average 10 percent increase in animal unit months of grazing but that the gain in capacity is not expected to result in additional livestock numbers on the allotments. The treatments are expected to result in better livestock grazing distribution, and improvements in rangeland health where needed. Examples would include allotment riparian areas and aspen stands that are currently being impacted by cattle use due to grazing distribution problems. It is expected that proposed meadow restoration and prescribed burning treatments would make forage more palatable and available, and would help attract livestock away from riparian areas and aspen stands that are in need of improvement. (FEIS, p.344)

The proposed action includes a design feature (Range 3) that requires “Fencing, either temporary or permanent, may be needed to limit cattle access to stands after burning, and stands of aspen regeneration, areas where natural barriers have been lost due to harvesting and/or along new trail construction that allow cattle movement to areas not permitted. This will be coordinated with the Helena - Lewis and Clark National Forest wildlife biologist, if the rangeland management specialist deemed necessary” (FEIS, p.33)

I conclude the responsible official complied with the proper aspen and range analysis. Design measures are stated to fence areas as need, and post-treatment surveys of the aspen sites will be completed to monitor regeneration and overstory tree conditions.

Issue 013, Old Growth Forest Plan Standard

Contention: The objector contends the Forest Service failed to inventory old growth to meet forest plan standard

Response: The final EIS contains methods and analysis of old growth (FEIS, pp. 605-618). CEQ Regulation 40 C.F.R. §1502.2 states: “To achieve the purposes set forth in §1502.1 agencies shall prepare environmental impact statements in the following manner:

... (b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted. . . .”

The Lewis and Clark Forest plan **standard** – E-4(9) minimum of 5 percent of the commercial forest land within a timber compartment should be maintained in an old-growth forest condition. A minimum stand size of 20 acres is recommended for old-growth management. In management areas included in the regulated timber harvest base (management areas A, B, C, and O) a rotation of at least 200 years is recommended on the 5 percent of the commercial forest land to be maintained in an old-growth condition.

- Management Area (MA) R is also included in management areas where the objective was timber management. MA R was not mapped but includes an estimated 1,412 acres of suitable lands (Forest Plan, pp. 3-88).

The Lewis and Clark Forest Plan identified the need for old growth forest inventory in the additional data requirements section on p. 2-16. “There is currently no inventory of timber stands on the Forest which meet the old growth forest definition. These stands will be identified as a part of resource program and project level wildlife inventories and evaluations.”

The forest plan provides direction for a minimum stand size of 20 acres of old growth because in smaller patches, edge effect negates the benefit of old growth for most species that depend on it for their life processes (FEIS, p.606).

The FEIS explains the methodology used for surveying old growth in the project area. (FEIS, p.606) The Castle Mountains Restoration FEIS project record contains old growth surveys for all compartments within the project area (G02_Wildlife/Old_Growth). Old growth criteria are provided by Old Growth

Forest Types of the Northern Region (Green et al. 1992, errata 2011). Also, within the project record (G02_Wildlife/Old_Growth) there are maps of old growth locations in relation to activity units. (20190417_MapCastlesOldGrowthAlt5.pdf). The Lewis and Clark National Forest Old Growth Inventory and Allocation Process document. (G02_Wildlife/Old_Growth - 20160419_LCNFIInventoryAllocationOldGrowth.pdf) in the project record explains the process that the Lewis and Clark National Forest uses to inventory and allocate old growth forest.

The FEIS states “Due to a lack of complete inventory of old growth, and to be conservative in designating stands of old growth to retain, in many places where old growth was found adjacent to potential old growth the entirety of old growth and potential old growth was grouped as timber to designate and retain as old growth.” (FEIS, p.607) Incomplete information pertinent to old growth is disclosed in the FEIS (ibid)

The FEIS states “Only in those timber compartments where we have more old growth than needed to meet the standard or we have found old growth on non-commercial lands would old growth forest be affected by the action alternatives” (FEIS, p.618).

I conclude the responsible official complied with forest plan direction for old growth inventory and allocations as it relates to the Castle Mountain Restoration Project. The responsible official also complied with the regulation 40 C.F.R. 1502.2 by providing information within the EIS that explains the methods of inventory, how the forest plan is being met, and identifying the known incomplete information pertaining to old growth surveying within the project area.

Issue 014, Old Growth Wildlife Analysis

Contention: The objector contends that the Forest failed to evaluate project impacts on old growth associated wildlife including MIS goshawk.

Response: The final EIS contains both an analysis of old growth effects (pp. 605-618) and effects to goshawk (pp. 539-568). Old growth effects are also mentioned in other species’ analyses in the FEIS (migratory birds, pp. 527 and 534; Townsend’s big-eared bat, pp. 644-646). CEQ Regulation 40 C.F.R. 1502.2 states:

“To achieve the purposes set forth in §1502.1 agencies shall prepare environmental impact statements in the following manner:

. . . (b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted. . . .”

With respect to proportional analysis, the EIS states, “There is relatively little old growth forest that would be affected by the proposed actions...The Castle Mountains Restoration project action alternatives were designed to designate and retain old growth...project action alternatives were also designed to recruit and develop old growth for the future” (p. 616).

Although effects to old growth and implications for goshawk are covered in the FEIS, goshawks can use other stand conditions and old growth is not a necessary component (FEIS, p. 544). The Lewis and Clark National Forest Plan standard E-4(9) on page 2-44 of the forest plan states “A minimum of 5 percent of the commercial forest land within a timber compartment should be maintained in an old growth forest condition. A minimum stand size of 20 acres is recommended for old growth management.” The project’s action alternatives would not reduce the amount of old growth below forest plan standards (Final EIS, pp. 611-612). The forest plan monitoring report for item C-8 for goshawk, located in the project record,

indicates that the population on the Lewis and Clark National Forest is stable (20190228_ForestPlanMonitoringItemC8Goshawk, p. 6). Taken together, this indicates that goshawk populations are stable on the Lewis and Clark National Forest under current management, which includes the aforementioned forest plan direction.

The objector contends that treating stands adjacent to old growth may result in impacts to old-growth associated species. Edge effect was considered in the FEIS, for example on p. 613 in the old growth section where it states edge effects include, "...changed microclimates which leads to changed vegetation and possibly higher predation on wildlife species using the old growth stand."

I find that the responsible official complied with CEQ Regulation 40 CFR 1502.2 regarding the level of detail needed in the old growth and goshawk analysis. The level of effects to old growth is relatively small (i.e. few acres treated, and proposed activities are consistent with forest plan standard E-4), and the analysis contained within the FEIS is adequate to disclose those effects and inform both the responsible official and the public.

Issue 015, Elk Forest Plan Amendments

Contention: The objector contends the Forest Service limited the analysis of project effects on snag-associated wildlife to attainment of the Forest Plan standard for snags...the agency is also violating the NEPA, NFMA and APA by falsely claiming that the proposed forest plan amendments on elk hiding cover will have no impact on snag habitat.

Response: See response to issue #17

The National Forest Management Act requires that projects and activities be consistent with the governing Forest Plans (36 CFR §219.15 (d)). NEPA requires among other things, that federal agencies consider the environmental impact of proposed actions and identify adverse environmental effects which cannot be avoided should the proposal be implemented. The Administrative Process Act (5 USC 551-559) is a federal statute that governs the way in which administrative agencies of the federal government of the United States may propose and establish regulations and grants U.S. federal courts oversight over all agency actions.

The FEIS contains the big game analysis and a separate analysis of the site specific amendments as well as the effects on other resources of amending the standards. In summary, there would be no effects to sensitive plants, hydrology, soils, fisheries, scenery, roadless, range, recreation or heritage resources. The exception would be beneficial to the fuels and vegetation resources because by excepting the project from the standards the purpose and need of the project can be met, resulting in a more resilient forest and grassland ecosystem with a reduced threat of high intensity wildfire and increased management options in the future..." (FEIS, p. 519).

The analysis for the potential effects to snag habitat was disclosed in the FEIS (vol 1, pp. 648-671) and in the Castle Mountain Restoration Big Game Report (USDA Forest Service 2017a). All action alternatives would reduce snags but continue to meet forest plan standard for snags. The Forest plan standard directs a measurement of snags per 100 acres by timber compartment. Table 231 estimates the number of snags/100 acres remaining after implementation of each action alternative by timber compartment (FEIS, Vol 1, p. 633). Alternative 5 shows all timber compartments above forest plan standards.

I find that the responsible official complied with NEPA, NFMA, and the APA.

Issue 016, Goshawk Analysis

Contention: The objector contends that the analysis of project impacts on the goshawk is invalid.

Response: Please see the response to issue 007 and 014.

The FEIS contains a goshawk effects analysis on pp. 539-568. The National Forest Management Act of 1976 directs the Forest Service to provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives. The forest plan contains forestwide management standard C-5 to monitor populations of Management Indicator Species (MIS) on the Forest.

As summarized on pp. 563-564 of the FEIS, although goshawk habitat would be impacted and the amount reduced within the project area, there would remain enough habitat and “[t]he needs of the northern goshawk will be accommodated by the project under any action alternative to the extent that resident goshawks will remain on their home ranges after project implementation.”

The FEIS concludes that the project would maintain viability of goshawk in the project area as well as at the forest level (FEIS, p. 567). Monitoring of goshawk territories on the Forest does not indicate a decrease in the number of territories or active nests over the monitoring period (20160000_LCForestWideGoshawkMonitorSummaryTable1.pdf in the project record).

I find that the responsible official complied with forest plan monitoring direction, as well as NFMA. Please also see the response to issue 007 and 014.

Issue 017, Elk Analysis (Wildlife)

Contention: The objector contends that the agency is violating the NEPA and the NFMA by failing to evaluate what are clearly significant impacts on elk, a Management Indicator Species (MIS), from the planned amendments to remove hiding cover standards forestwide and for Management Area C; the analysis of project impacts on various habitat features for elk are invalid due to a failure to use the current best science to measure impacts.

Response: The FEIS contains a big game effects analysis (pp. 475-515 and an analysis of the site-specific amendment for hiding cover (pp. 516-521). The National Forest Management Act requires that projects and activities be consistent with the governing forest plans. The NFMA provides that forest plans may be amended in any manner, but if the management direction results in a significant change in the plan, additional procedures must be followed. The Lewis and Clark National Forest Plan provides that if it is determined during project design that the best way to meet the management area goals of the forest plan conflicts with a forest plan standard, the Forest Supervisor may approve an exception to that standard for that project; such exceptions must be described in the Finding of No Significant Impact/Decision Notice for the project, and the rationale for making the exception must be described in the project’s documentation (Forest Plan, pp. 2-23 and 5-3). The National Environmental Policy Act requires, among other things, that agencies consider the environmental impact of proposed actions and identify adverse environmental effects which cannot be avoided.

The project proposes two site-specific forest plan amendments that would apply only to the Castle Mountains Restoration Project (FEIS, pp. 36-37). The first exception would exempt the project from management standard C-1 (5) which requires that drainages containing identified summer/fall elk range be maintained at 30 percent or greater effective hiding cover (as defined in the forest plan). The second exception would exempt the project from management direction for management area C lands that

requires maintenance of effective hiding cover percentages by timber compartment at an average of 40 percent, with a minimum of 35 percent for any individual sub-compartment. These amendments would allow the purpose and need of the project to be met, which is to move the Castle Mountains toward more resilient forest and grassland ecosystem conditions by restoring a more mosaic-like vegetation and fuel structure across the landscape (FEIS, p. 6).

The current elk population in the hunting districts overlapping the project area is above Montana Fish, Wildlife & Parks' (MFWP) objectives, and the estimated hunter days are well above that predicted in forest plan outputs. Additionally, the hunting season has been extended to address issues with high population numbers (FEIS, pp. 518-519).

Tables 189 and 190 (p. 492) of the FEIS disclose the effects of the project on hiding cover at the HUC 7 and timber compartment scales, respectively. These disclose where the amended standards would apply. The methodology for determining hiding cover is disclosed in the FEIS (pp. 487-488). Given the overall status of the elk population relative to MFWP objectives, even with the amended standards, "The forest plan objectives of maintaining at least 8,500 elk, and at least 63,700 hunter-days on lands administered under the Lewis and Clark National Forest Plan would continue to be met or surpassed" (FEIS, p. 519).

Not only does the final EIS contain the big game analysis and a separate analysis of the site-specific amendments, but the effects on other resources of amending the standards "...are embedded in the effects of alternatives 2, 3 and 5 for each resource. In summary, there would be no effects to sensitive plants, hydrology, soils, fisheries, scenery, roadless, range, recreation or heritage resources. The project would be beneficial to the fuels and vegetation resources because by excepting the project from the standards, the purpose and need of the project can be met, resulting in a more resilient forest and grassland ecosystem with a reduced threat of high intensity wildfire and increased management options in the future..." (FEIS, p. 519).

The objector also claims that there was no analysis for the one alternative that would not require a forest plan amendment (Alternative 4). As stated in the FEIS (p. 22), "Alternative 4 was considered and developed as an action alternative but then eliminated from further detailed study. It was determined that by treating only a minimal amount of acreage (approximately 4 percent of the project area and only about 15 percent of what the proposed action would treat) would not meet the overall project purpose and need." Additionally, the objector contends that there was no alternative that would not road or log adjacent to the IRA, or that would not remove hiding cover within the IRA. The no action alternative (alternative 1) meets these criteria.

The objector also contends that the FEIS did not appropriately use the document "U.S. Forest Service and Montana Department of Fish Wildlife and Parks Collaborative Overview and Recommendations for Elk Habitat Management on the Custer, Gallatin, Helena, and Lewis and Clark National Forests" produced in 2013 (document located in the project record). The project analysis of temporary roads (FEIS, p. 506) is consistent with the 2013 USDA and MFWP document (p. 15) with regard to excluding "closed routes or low intensity, occasional private or administrative travel and management activity on routes closed to the public..." when identifying security areas.

Additionally, the objector contends that treatments in winter range were not analyzed. Table 193 in the FEIS (p. 494) displays the percentage of elk winter range treated by alternative, with further discussion of effects provided in the final EIS (p. 512). Further, the FEIS contains an analysis of understory vegetation, which equates to forage (pp. 495-504, 506-507, and 512) that concludes "[v]egetation treatments that result in beneficial impacts to foraging opportunities may better distribute big game within the project area. This may offset some disturbance caused by elk spending portions of a season on private lands" (FEIS p. 512).

The objector further contends that the elk logging recommendations from the appendix to the forest plan were not analyzed with regard to treatments on winter range and impacts to thermal cover. Standard C-1(4) in the forest plan states, “Incorporate recommendations from the Montana Cooperative Elk-Logging Study in the planning of timber sales and road construction projects” (Forest Plan, pp. 2-30). Those recommendations are in appendix F of the forest plan (pp. F1-F10). The FEIS for this project states, “Consideration of appendix F Montana Cooperative Elk Logging Study Management Recommendations, with a complete discussion of the recommendations in relation to the Castle Mountains Restoration Project can be found in the project record” (FEIS, p. 491). The project record shows that Appendix F was considered during the development and analysis of this project. Thermal cover is discussed on page 508 of the FEIS, and again on page 512 where it states, “...treatment may reduce canopy cover in the short term, impacting thermal cover on winter range.” The FEIS concludes, “[t]his amount of treatment would minimally alter forage species composition, thermal cover, hiding cover, and other habitat attributes specific to winter range. Treatments would not likely contribute to any change in wintering use of the project area indirectly...” (p. 514).

I find that the responsible official complied with NFMA regarding the proposed site-specific forest plan amendment, and the analysis contained within the FEIS and project record is thorough.