

Horsefly Project – Helena-Lewis and Clark NFs

Objection Responses – Alliance for the Wild Rockies, Native Ecosystems Council, American Forest Resource Council

Issue 1: NFMA

Contention 1-1: Failure to meet Forest Plan Elk Standard

Objector(s): AWR/NEC

Response: The objector asserts that the project will not meet the Forest Plan standard for elk habitat effectiveness. The Plan standard states that drainages or elk herd units containing identified summer range/fall range will be maintained at 30 percent or greater effective hiding cover (USDA Forest Service 1986, p. 2-30); and for Management Area (MA) C, effective hiding cover is to be maintained at a minimum of 35 percent (*ibid.*, p.3-16). The Forest-wide standard for elk is to maintain current populations of elk (FP, p. 2-5). The Lewis and Clark National Forest Plan (Forest Plan) also 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 projects must be described in the Finding of No Significant Impact (FONSI) and Decision Notice, and the rationale for making the exception must be described in the project's documentation.

Such is the case with the Horsefly Project, as clearly described in the draft Decision Notice (DDN) and FONSI. The Forest Supervisor is making a site-specific amendment to the 1986 Forest Plan. The long-range goal to give special emphasis to elk habitat management is being achieved through the retention of elk habitat elsewhere in the project area, improving forage in the western area of the project by creating openings and by improving and maintaining aspen stands and meadows, and by promoting resiliency and sustainability of forested stands in the project area (DDN, pp. 19-20). The site-specific amendment is addressed in the Environmental Assessment (pp. 52-54) and in the DDN/FONSI (pp. 5, 12). An in-depth analysis was completed for effects to elk and this report was posted to the [Forest website](#). The reduction of two percent hiding cover is not significant from a NEPA standpoint nor is the project-specific plan amendment significant from a NFMA standpoint, as described in the FONSI. (p. 8). The Forest-wide standard to maintain elk populations is met. Elk security was assessed at the elk herd unit (Project record G), as directed by the Lewis and Clark National Forest Plan.

I conclude the responsible official complied with NFMA.

Contention 1-2: Invalid tiering to the Forest Travel Plan

Objector(s): AWR/NEC

Response: The objectors contend a violation of National Environmental Policy Act, the National Forest Management Act, the Forest Plan, the Administrative Procedure Act and the Endangered Species Act because of recurring road closure violations. They assert this makes assumptions in the Little Belt Travel Plan false, and therefore the project cannot tier to the analysis in the Travel Plan. They further contend reliance on the Little Belt Travel Plan is invalid because the Forest has not disclosed what closures have been implemented.

At this writing, the big game report does not address illegal road use, and the Forest recognizes the need to consider known effective closures and recalculate elk habitat effectiveness. The DDN discloses that illegal road use is handled by Forest Service law enforcement as violations are discovered.

Regarding road closures in the Little Belt Travel Plan, motorized traffic was prohibited yearlong on selected routes. No specific closure device was prescribed. The Travel Plan ROD recognized “The need for further actions to decommission some routes is expected to be addressed in separate analyses as deemed necessary by the District.” (Little Belt Travel Plan ROD, p. 12).

I find the Little Belt Travel Plan valid. Illegal road use is short-term and addressed as soon as it is identified (DDN, p. 5).

Contention 1-3: Failure to meet Forest Plan management direction regarding project size

Objector (s): NEC/AWR

Response: The objectors contend that the agency violated Forest Plan direction by exceeding project size as identified in the Forest Plan, by using a site-specific amendment to Forest Plan direction, and by not addressing the Castle Mountain project in the cumulative effects analysis.

The Forest Plan included the projected acres harvested under regeneration silvicultural systems. These acre projections were based on the 10-year timber sale plan at the time, with project boundaries focused around individual smaller timber sales. Since the 1980s, the Forest Service has shifted to more landscape level projects with emphasis on treatment acres beyond regeneration harvest, including thinning and prescribed burning. The Forest Plan has no standard that places limitations on project size. The EA, Appendix C, identifies all relevant forest plan standards and how this project is consistent with those components.

The Forest Plan ROD (p. 2) recognizes the potential need for and clearly describes the process to follow for future forest plan amendments. The site-specific forest plan amendment for the Horsefly project followed this process.

The Castles Mountain Range is a separate range from the Little Belt Mountains with separate Hunting Districts. The Site Specific Amendment Report (in the project file) discusses the Castles Site Specific Amendment and other cumulative effects.

I conclude that the responsible official complied with Lewis and Clark National Forest Plan direction.

Contention 1-4: Management direction is too old and monitoring is lacking, violating NFMA

Objector(s): NEC/AWR

Response: The objectors express concern that the Horsefly Project would be carried out under the 1986 Lewis and Clark National Forest Plan, which they consider “severely outdated”, stating that by doing so it will ensure environmental harm. The Finding of No Significant Impact based on the assessment of environmental effects from the Horsefly proposed activities does not reach the conclusion of environmental harm. While the Helena - Lewis and Clark NF is in the late stages of forest plan revision, the decision for the Horsefly project is expected to be signed prior to the Revised Forest Plan taking effect, and therefore it is appropriate to apply existing plan direction.

The objectors further contend no monitoring data has been gathered for Management Indicator Species goshawk and three-toed woodpecker, or for big game winter range. On the contrary, there are 15 Forest Plan Monitoring Reports in the project record (A and G), as well as the results from 2019 Forest Plan Monitoring of goshawk and surveys completed in known goshawk territories in multiple drainages in the project area for the years 2015 through 2019.

Forest plan monitoring requirements for cavity nesting habitat (three-toed woodpecker) state that adhering to Forest Plan snag management guidelines and monitoring snag habitat will meet requirements for ensuring three-toed woodpecker habitat is maintained. The “timber compartments” in which the project lies have six to eight times the minimum number of snags required per 100 acres. This is documented in the report filed on the Forest’s project website (HF_WOODPECKERS).

There is no monitoring requirement for big game winter range.

I find the responsible official complied with NFMA.

Contention 1-5: Clearcutting included in the project is in violation of Management Area C

Objector(s): NEC/AWR

Response: It is the objectors’ opinion that clearcutting violates Forest Plan management direction for Management Area C. Management Area Direction at pages 3-17 of the Forest Plan states “...the timber harvest system in the general forest will usually be clearcutting, if management objectives are met.”

Appendix A of the DDN describes how management objectives are met, as does the big game report (p. 8), and the Forest Plan Consistency Table (EA, Appendix C, pp. 84-85).

Clearcutting treatments in the Horsefly Project are consistent with the Forest Plan and NFMA.

Contention 1-6: Failure to identify Elk concentration areas as required in the Forest Plan.

Objector(s): NEC/AWR

Response: The objector claims the responsible official is violating Forest Plan direction by not identifying and protecting important elk concentration areas. Forest Plan direction for MA A states, “Minimize impacts on important identified wildlife habitat while achieving programmed harvest or range management objectives. Important identified habitat includes big-game winter ranges, calving or lambing areas, migration routes, and elk summer concentration areas.” (Forest Plan, p. 3-9) The EA (Appendix C, p. 167) states that design criteria are in place to maintain important habitat. Design criteria such as limiting operations to the first two weeks of general rifle season; limiting operations to a subdivision, watershed or work unit at a time; and protecting calving, nursing or fawning areas identified during implementation (EA, Appendix B p. B-95) would minimize impacts to elk summer range. No calving or fawning areas are known in the project area (Project file, 20191127_Horsefly_BigGameReport).

I conclude the responsible official complied with Forest Plan direction.

Contention 1-7: Failure to demonstrate maintenance or protection of raptor sites in violation of the Forest Plan.

Objector(s): NEC/AWR

Response: The objectors claim that the responsible official does not demonstrate maintenance or minimization of impacts to raptor nests citing violation of Forest Plan MA direction. Forest Plan MA A direction states, “Maintain important identified wildlife habitat. Lengthened timber rotation will increase the diversity of successional stages. Important identified habitat includes T&E species habitat, big-game winter ranges, calving or lambing area, migration routes, elk summer concentration areas, and raptor nesting sites” (Project File, Document A-1 p. 3-4).

Although the EA and project file do not identify all raptor nesting sites, design criteria for the proposed action would protect raptor sites in the project area (EA, Appendix B, p. B-96). The design criteria states “If raptor nests are identified during project implementation, a wildlife biologist will be contacted and appropriate buffers and Limiting Operating Periods will be established.” Additionally, the limited operation periods in place for implementation would protect raptors like goshawk through the post-fledgling period (Project File G, Document HF Goshawk. p. 10).

I conclude that the proposed action is consistent with applicable Forest Plan management area direction.

Contention 1-8: Improper rationale for elk hiding cover exemptions.

Objector(s): NEC/AWR

Response: The objectors assert that the Forest Service violated NEPA by claiming that the over-population of elk is an indicator of success in elk management, “when in fact, high numbers are an indicator of significant elk displacement from these public forest lands in the hunting season.” The objector further claims the rationale for reducing cover on the edges of meadows, while at the same time exempting elk hiding cover standards and reducing vast acres of cover across the project area, was never identified to the public.

The EA discloses that the current Forest Plan establishes a forest-wide elk population potential of 8,500 elk. “Based on aerial survey data collected by Montana Department of Fish, Wildlife, and Parks staff, there are over 20,000 elk forest-wide within those hunting districts that overlap with a majority of the Forest. This is well in excess of the elk population potential estimated at the time the Forest Plan was crafted.” (EA, p. 53) This observation is meant to illustrate that the intent of the Forest Plan goal of maintaining elk population potential is not compromised by a short-term reduction in elk hiding cover.

Regarding the rationale for vegetation treatment in meadows, the *Vegetation and Fuel Conditions* section of the EA (pp. 4-5) describes the current condition of vegetation in the Little Belt Mountains region which includes the project area. The Little Belt Mountains Assessment (Assessment) conducted in 2014 and field reconnaissance conducted by Forest personnel demonstrate that the condition of vegetation and fuels over much of the project area has departed from its historical range of variability. The Assessment also identified opportunities for management activities aimed at restoring vegetation and reducing wildfire threat. The Assessment and field work informed the purpose and need of the proposed action providing rationale for proposed management activities (*Ibid*). The description of *Alternative 2 – Proposed Action* in the EA (pp. 7-10) further discusses the management activities proposed and what they are designed to achieve in terms of the purpose and need.

See also response to Alliance for the Wild Rockies Contention 1-1.

I find the responsible official adequately disclosed rationale for proposed vegetation treatments and for the forest plan amendment in compliance with NEPA and NFMA.

Contention 1-9: Failure to identify unsuitable timber lands

Objector(s): NEC/AWR

Response: The objector contends that the agency failed to identify where the proposed logging is located in areas designated as unsuitable for timber harvest and that the Forest Plan requires the Forest Service to prove that logging in unsuitable lands provides a benefit to other resources, such as wildlife.

National Forest Management Act - Title 16 U.S. Code Chapter 36 (as found in Forest Vegetation Report, p. 4) states that activities, in addition to salvage sales or sales to protect other resources, are permitted on unsuitable land to meet other resource objectives if the Forest Plan establishes that such actions are appropriate. The Forest Plan under its various management areas allows harvest of unprogrammed amounts of forest products, as well as commercial harvest using intermediate, even-aged, and uneven-aged silvicultural methods. Treatments on unsuitable land are designed to meet the project's purpose and need, not for the purpose of timber production. Suitable forest land, lands designated for timber production, in the 1986 Forest Plan were based on stands within Management Areas A, B, C, O, and R that also were classified as tentatively suitable forest land or commercial (land suitability class 500 – land that is producing or capable of producing crops of industrial wood). Tentatively suitable forest land was classified as unsuitable because it would not be used to produce timber (Forest Plan FEIS, Appendix B, Section II).

The Forest Vegetation Specialist Report (Project file, Document HF_ForestVegetation) discloses which Management Areas are represented in the proposed action, the emphasis for each MA, whether they contain lands within the timber suitable base, and the management activities allowed (p. 3). Forest Plan direction for MA R says "Manage to protect or enhance unique ecosystem values associated with riparian zones. Give preferential consideration to area dependent resources. Timber and range management activities are permitted." (p. 3-88)

The acres of proposed logging on unsuitable timber land are provided in the project files. These locations were included in the analysis of all proposed harvest activities. The Forest Vegetation analysis in the EA (pp. 15-18) provides adequate rationale for how the proposed logging activities would meet the purpose and need of the project. Harvest on unsuitable land is designed to meet resource objectives of improved forest health, landscape resilience, and species and age-class diversity (Vegetation Specialist Report, p. 26). Overall stand health would improve through selective removal of insect damaged, diseased, or stressed trees (Vegetation Specialist Report, pp. 21-22).

See response to Issue 5-8 for the effects to wildlife discussion.

I conclude that the responsible official provided adequate information in the EA and project record.

Issue 2: NEPA

Contention 2-1: Failure to Meet the Purpose and Need

Objector(s): AWR/NEC (Issue 2-1)

Response: The objectors assert the project cannot meet the purpose and need to reduce wildfire hazards, meant to improve conditions for fire suppression resources, public safety, structures and other resources in the event of a wildfire. This assertion is based on literature by Dr. Baker.

Seventy-one percent of the project area is within the wildland urban interface (WUI) as designated by Meagher County. Dr. Baker advocates allowing large, high-severity fires to occur on the landscape, and to get homes and infrastructure protected or out of fire prone settings. The Forest Service has no influence over the actions of homeowners or the ability to prohibit development of private land adjacent to National Forest Service lands, although there is a campaign ([Firewise USA](#)) to educate homeowners who choose to live in the WUI. Given the scenario of this landscape, with private land and homes within and adjacent to the project area, fuel reduction is a rational proposal, and supported by the community (Project record D1).

The Fire and Fuels specialist report (Project File G6) and the EA (pp. 23-27) provide an analysis of the efficacy of fuel reduction treatments on fire behavior, based on well-established models and scientific literature. Flame lengths and fire intensity influence the ability of firefighters to attack a wildfire much more than the rate of spread. Logging slash is a short-term fuel hazard, prior to being either piled and burned, masticated, or broadcast burned.

The Decision Notice outlines the way the project meets the purpose and need and is well supported by the analysis completed by the fire and fuels specialist for the project.

Contention 2-2: Failure to properly respond to comments, in violation of NEPA

Objector(s): AWR/NEC

Response: The objectors complain that their individual questions and comments were not specifically answered, and that this is a NEPA violation. I will include a few examples, and again remind the objectors of the regulations supplied by the Council of Environmental Quality at 40 CFR 1500.

Objectors asked if the Forest Service conducted ESA consultation for the Meagher County Community Wildfire Protection Plan (CWPP). The plan, as titled, is a product of Meagher County. There is no impetus for the Forest Service to consult on the CWPP. Objectors asserted a full environmental impact statement must be completed for the Horsefly project. The purpose of an EA is to determine the need for an EIS or to prepare a FONSI (40 CCR 1501.4). The FONSI was published with the Draft Decision Notice. Objectors stated that the EA failed to disclose how the project complies with the Roadless Rule, and that the Forest did not respond to their comments regarding that topic. The project area does not include any inventoried roadless area, therefore this topic was not discussed within the EA.

An EA or and EIS is meant to focus on relevant issues. The CEQ provides guidance on how agencies are to respond to comments when preparing a final EIS (40 CFR 2503.4). For this environmental assessment, the agency need only show that comments were considered, and that important evidence was not overlooked. To that end, a table in the project record (D-D5) records how the interdisciplinary team and responsible official considered comments.

I find the responsible official complied with NEPA.

Contention 2-3: Failure to disclose impacts to and from climate change.

Objector(s): AWR/NEC

Response: The EA (p. 21) recognizes the influence of climate change on the project area, as well as the impacts of the project on carbon balance (p. 27). An in-depth analysis is contained in the project record (G-Carbon). The effect of the project on climate change is not significant, therefore more detail is not necessary (40 CFR 1500.4(c)).

I find the responsible official adequately disclosed relevant climate change effects.

Contention 2-4: Failure to use best available science for fire and population viability.

Objector(s): AWR/NEC

Response: As cited in the objection, the objectors recognize CEQ requirements for professional and scientific integrity of analyses (40 CFR 1502.24). They also cite 36 CFR 219.3, which involves the role of science in planning during Forest Plan development, revision and monitoring. The 219 regulations apply to the site-specific Forest Plan amendment, and the draft Decision Notice includes the declaration of use of the best available science in evaluating effects of the amendment. The 219 regulations do not apply to project analysis. It is the objectors' opinion that Dr. William Baker is the sole authority on fire science. Dr. Baker's research was conducted in southwest Colorado, and the fuel specialist documented how the literature submitted by the objector was considered and whether it was applicable to this project in central Montana (project record G6). All submitted documents are in the project record.

The analysis for fire regimes, fuels and fire behavior exhibits professional and scientific integrity in the application of relevant research from Fischer and Clayton (1983), Hood et al. (2012), Barrett (1993), Werth et al. (2011), and Baker (2009). Historical forest composition was determined by researching work by Leiberg in 1904.

Population viability is sustained at the Forest level. However, the EA addresses population viability for plants (pp. 27-31), and the maintenance of viable populations of sensitive species and species of conservation concern (pp. 36-42). ESA requires the use of best available science in biological assessments; the BA for the Horsefly Project includes over 50 scientific references.

I conclude the responsible official complied with NFMA, NEPA, and ESA.

Contention 2-5: Project scale is too large to provide a reasonable level of detail in the analysis and implementation schedule is not identified.

Objector(s): NEC/AWR

Response: The objectors contend there is a lack of specific information in the NEPA analysis for the Horsefly Project, and that how the project is to be implemented is not identified.

An environmental assessment is meant to be a concise public document that serves to briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significance (40 CFR 1508.9).

While the project area may be large, it is not highly variable, it does not present conditions that are unusual, and it does not propose novel treatment approaches. Forest conditions are described in the EA (pp. 4-5), disclosing that extensive areas in the Little Belt Mountains have suffered mortality from bark beetles and spruce budworm. True restoration of the area cannot be achieved with modest efforts. This project meets the spirit of NEPA by reducing paperwork and reducing delay in moving the area toward desired conditions with a single assessment.

The analysis provides enough detail to support the finding of no significant impact. A great deal of data, research and scientific literature to support the conclusion in the EA can be found in the project record (G) and on the Forest project website.

Regarding implementation, it is disclosed that timber harvest and road use will occur in the first six years (EA, pp. 44, 55). Design criteria at page 95 discloses that, *Logging activity would be confined to one sub-division, watershed or work unit at a time with all work completed in the shortest time frame possible. These drainages or work units will be defined and delineated though consultation with a wildlife biologist.*

Burning “windows” are limited in this geographic area, and therefore completion of prescribed burns is expected to take longer than six years.

Contention 2-6: Project timeline is beyond what is acceptable under NEPA.

Objector(s): NEC/AWR

Response: The objector believes that the project timeline of 20 years is too lengthy. There is nothing in the NEPA nor its implementing regulations that speaks to limits of implementation schedules. Should conditions change that would indicate a different scenario of effects, the Forest Service Handbook directs that the responsible official shall consider changed conditions (1909.15, section 18).

I conclude the responsible official complied with NEPA.

Contention 2-7: Inadequate range of alternatives

Objector(s): NEC/AWR

Response: The objectors assert the EA presented an inadequate range of alternatives.

The objectors' suggested alternatives were included in the EA (p. 12). The purpose of an alternative to a proposed action is to avoid or minimize adverse effects of these actions on the human environment (40 CFR 1500.2(e)). Given that the proposed action will create no significant impact on the human environment, there was no need to fully consider alternatives to the proposed action other than no action.

I conclude the responsible official complied with NEPA.

Contention 2-8: Inadequate cumulative effects analysis, failing to consider past projects in the surrounding landscape.

Objector(s): NEC/AWR

Response: The objectors assert that there was no analysis of cumulative impacts of the Horsefly Project within the larger landscape where previous logging and burning has occurred in the past.

Effects must overlap in time and space to be cumulative. Cumulative effects boundaries vary by resource and are described in the EA and specialists reports (Project record G), as disclosed in the EA (pp. 14-15). For example, effects to goshawk are based on goshawk territories (EA, p. 36), effects to Canada lynx are based on lynx analysis units (EA, p. 45), and effects to grizzly bear considers an area totaling 82,700 acres (EA, p. 43).

Based on the information provided in the EA and specialists reports, it is clear that cumulative effects were considered and were based on the scale appropriate to the resource. The responsible official complied with NEPA.

Issue 3: ESA

Contention 3-1: Failure to consult on listed species and critical habitat.

Objector(s): AWR/NEC

Response: Objectors state that the responsible official failed to consult on lynx, lynx critical habitat, grizzly bear and wolverine. Section 7 of the Endangered Species Act requires consultation for federal agencies to complete a biological assessment (BA) to determine the effects of the proposed actions on listed and proposed species. A BA for the Horsefly project (Project file, HF_Biological_Assessment) was prepared for Canada lynx, lynx critical habitat, grizzly bear, and wolverine. The BA discloses that there is no lynx critical habitat in the Little Belt Mountains or the project area (BA, p. 5). The BA was transmitted to the USFWS for informal consultation on May 11, 2020 (Project file, document C2_Wildlife: 20200511_CoverLetterBA_request). The responsible official will not sign the final decision before receiving concurrence from the United States Fish and Wildlife Service (USFWS).

I conclude the responsible official complied with ESA by initiating informal consultation with the USFWS on listed species and critical habitat.

Contention 3-2: Failure to consult on wolverine

Objector(s): NEC/AWR

Response: Objectors state that the responsible official needs to complete site-specific consultation on wolverine. Please see response to Contention 3-1.

The responsible official applied the wolverine programmatic BA and updated consultation to include a site-specific analysis in the project BA for wolverine.

I conclude the responsible official appropriately initiated consultation with the USFWS on wolverine.

Issue 4: Old Growth

Contention 4-1: Invalid claims that logging will maintain old growth

Objector(s): NEC/AWR

Response: The objector contends that the proposed logging in old growth stands will not maintain adequate Old Growth habitat to meet forest plan standards and that the inventory done to date is inadequate.

Project records include an example of the marking guidelines for improvement cutting in old growth that are designed to exceed the minimum characteristics for old growth. The guidelines would be applied to the proposed action. The EA (p. 16), Forest Vegetation Specialist report (p.22), and Wildlife Specialist report (pp. 4-8) explain how improvement cutting would improve old growth characteristics, stand health and duration.

The old growth inventory process and results are well documented in the EA (p. 20) and the project record. Additional surveys completed since the publication of the EA (project record) show that all timber compartments will meet the forest plan standard for old growth.

I conclude that the Horsefly project is designed to meet old growth habitat requirements set forth in the Lewis and Clark Forest Plan and that the responsible official has met minimum inventory requirements and continues to build on these efforts.

See response to Issue 5, Contention 5-3 for information concerning the 1991 Whitford thesis, old growth surveys, and the 2004 and 2006 Forest old growth monitoring reports.

Issue 5: Wildlife

Contention 5-1: Failure to evaluate or disclose impacts to owls.

Objector(s): NEC/AWR

Response: The objectors claim that nesting will be destroyed for great gray, boreal and saw-whet owls in the project area and that the project did not analyze impacts to these owls in the project area. MIS represent a suite of species that are expected to experience similar effects from any proposed action. Great gray, boreal and saw-whet owls are not listed as sensitive species or Management Indicator Species on the Helena-Lewis and Clark, however habitat conditions (i.e. snags) for great gray, boreal and saw-whet owls are considered through impacts to birds of concern (Project file, Document HF_WILDLIFEGENERAL) and the woodpecker analysis (Document HF_WOODPECKERS).

Burrowing owl and flammulated owl are sensitive species on the Helena-Lewis and Clark National Forest (HLC) but were not included in detailed analysis, because they do not occur in the project area or the Little Belt Mountains (Project file, document 20191010_HorseflySensSppMISable). Burrowing owl and flammulated owl are suspected to occur on the HLC (USDAFS2011NorthernRegionSensListRT). Belt Mountains and project area have low Boreal owl habitat suitability (MTNHP2019BorealOwlHabitatSuitabilityRT). Little Belt Mountains is outside the range of the flammulated owl and there would be no effect on burrowing owl (HF_WildlifeGeneral, pp. 5 and 7).

I conclude the responsible official adequately evaluated and disclosed the effects of the proposed action on owls.

Contention 5-2: Failure to disclose impacts to Northern goshawk.

Objector(s): NEC/AWR

Response: The objectors state that the project fails to disclose the following for goshawk: analysis of impacts to goshawk foraging habitat; analysis regarding the extent of red-tailed hawks will replace goshawks due to habitat modification of the treatments; analysis for how the project would affect Post-Fledgling Areas (PFAs) in the project area; goshawk monitoring data was used for the project.

The EA and project file explicitly disclose impacts to nesting and post-fledgling habitat in the project area (Project File, document HF_Dcoument and 2019_Horsefly_Goshawk_PrelimAnalysis_Final p 6). The analysis addresses recommendations for goshawk habitat by Reynolds et al. (1992) and discusses effects and post implementation distribution of nesting and PFAs (Project file, documents HF_Goshawk, 20190930_Horsefly_GOSHAWK_PrelimAnalysis_FINAL.docx, p.6). The documents disclose and support the assumption that nesting areas also provide PFAs, yet the analysis breaks out nesting and PFA habitats relative to project effects.

The *Goshawk Preliminary Effects Analysis* document (Goshawk Report) in the project file discusses goshawk foraging habitat (prey species habitat) in detail relative to the various vegetation treatments (Project file, document 20190930_Horsefly_GOSHAWK_PrelimAnalysis_FINAL.docx, p.14). Thinning and fire treatments in some stands are estimated to improve foraging habitat for goshawk (20190930_Horsefly_GOSHAWK_PrelimAnalysis_FINAL.docx p.14). The Goshawk Report also discusses competition from Red-tailed hawk and other predators as a result of forest treatments (p.15).

Monitoring data indicates there are 7 known home ranges in the project area and no activities would occur in these nesting stands (EA, p. 37). Surveys for goshawk appear to have been conducted between 2015 and 2019 (Project file, Folder HorseflyProjectGoshawkSurveyFormsScanned). The EA cites the forestwide monitoring data (p. 39) which is included in the project record (Project File, Document 20190228_ForestPlanMonitoringItemC3GoshawkRT).

I conclude the responsible official adequately considered and disclosed impacts from the proposed action to Northern goshawks.

Contention 5-3: Failure to disclose impacts on old growth and snag habitat associated wildlife species.

Objector(s): NEC/AWR

Response: The objectors claim there will be additional impacts to old growth and wildlife habitat that were not disclosed to the public. This claim is based on assertions that old growth in the project area was not disclosed and amounts are inconsistent with forest monitoring reports. The document 20200306_HorseflyCommentClarification_Murphy (in project file) clarifies these differences, addresses other definitions of old growth and the limitations of these definitions compared to Green et al. (1992) which was used for the project. The project file discloses the location of old growth in the project area (Project file, documents 20200219_HorseflyExistingOldGrowthMapForVegSpRpt.pdf; 20200330_HorseflyOldGrowthAnalysisProcess.pdf)

The objector is concerned the project will treat existing old growth to the minimum number of large trees necessary and eliminate associated characteristics of old growth used by wildlife. However, analysis of impacts to old growth attributes was conducted and documented in the Vegetation Specialist Report (Project file, document HF Vegetation Report) and in the Woodpecker and snag analysis (Project file, document HF Woodpeckers). After implementation the proposed action would more than meet the Forest Plan snag standards for any timber type. See Snag Calculations for Forest Plan Standards document. Furthermore in the Woodpecker and Snag Habitat analysis (Project file, document HF_Woodpeckers, p. 9), species who rely on snags for habitat are discussed and it is concluded that adequate snag habitat would remain for species who rely on snags due to adherence to Forest Plan snag standards and design criteria. Multiple design criteria for snag retention are found in Appendix B (p. 94) in the Horsefly EA.

I conclude the responsible official adequately considers and discloses impacts to old growth and snag habitats.

Contention 5-4: Failure to provide accurate analysis of project impact to elk – hiding cover and security.

Objector(s): NEC

Response: The objector states that an incorrect definition of hiding cover was used, and that 40% canopy cover was used in error to classify hiding cover.

The objector states that forest canopy measured from above is not synonymous with hiding cover from a ground position. The process used to determine effective hiding cover for the Horsefly analysis is documented in a 2016 guidance paper titled *Process for analyzing Big Game Cover*. The paper explains how to implement direction in the Lewis and Clark Forest Plan (Project file, Document USDAFS2016UpdatedCoverAnalysis). Effective hiding cover is defined as, “Vegetation capable of essentially hiding an adult elk from the view of (sic) at a distance equal to or less than 200 feet. Effective hiding cover is based on percentages of PI (Photo Interpreted) types which meet this definition as determined by the Montana Cooperative Elk/Logging Study.” (p. 1) In 2014, Vmap (Vegetation Mapping Program which is based on satellite data) was used to assign Photo Interpretation types to stands which were used and inspected for the project area using aerial photography (Project file, document USDAFS2016UpdatedCoverAnalysis).

The objector states that the standard definition of hiding cover “which conceals 90% of an elk at 200 feet was not used in the analysis”. However, the Big Game Report in the project file (USDAFS2016UpdatedCoverAnalysis) cites the process used to connect Vmap and canopy cover to the forest plan definition for cover (cited as USDAFS2016UsersReport: NRGG_UG_LCNF_ElkPI_01_19_2015 v1.1).

I conclude the responsible official correctly applied the Forest Plan definition of “effective hiding cover” in the analysis of effects to elk.

Contention 5-5: Impacts to big game species require a Forest Plan Amendment and preparation of an EIS.

Objector(s): NEC

Response: The objector claims there is no disclosure of information on big game winter range and that a forest plan amendment is needed for large scale burning. The Big Game Report in the project file (20191127_Horsefly_BigGameReport) discloses that no winter range habitat for elk is known to exist or is mapped in the project area (p. 10). Therefore, is not affected by the project. For mule deer “There is some winter range within the project area (see figure in project record) but generally mule deer winter outside of the project. White-tailed deer also occur in the project area; although winter range is not present in or near the project area” (p.

22). Cover would be affected on mule deer winter range; however, design criteria would retain the minimum 40%.

The objector states that burning requires a forest plan amendment. Forest Plan standard C-1 incorporates the Montana Cooperative Elk-Logging Study recommendations, however the project does not affect elk winter range and is consistent with these recommendations and thereby with standard C-1.

Significance under NEPA for preparation of an EIS is based on context and intensity. The proposed action would have temporary effects (5 to 20 years) on habitat components for deer and elk (Project file, document 20200430HF_BIGGAMEHUNTEDSPECIES). Conclusions that there would be no significant effects to big game or big game winter range are supported by the wildlife analysis and documented in the DDN/FONSI (p. 8).

The potential impacts to big game species do not require a Forest Plan Amendment or preparation of an EIS.

Contention 5-6: Failure to adequately analyze and disclose effects to mule deer habitat.

Objector(s): NEC

Response: The objector alleges that impacts to mule deer habitat are not adequately analyzed and project impacts to winter range, thermal cover, and forage are significant and require an EIS.

The EA states the proposed action would only treat a portion of existing winter range and would include design criteria to maintain a minimum of 40% canopy cover with objectives of maintaining 40-60% canopy cover for adequate thermal cover. Treatments were dropped on mule deer winter range (EA, p. 11). While neither the EA nor the Big Game Specialist Report (Project file, document 20200430HF_BIGGAMEHUNTEDSPECIES) quantify how much of existing mule deer winter range would be treated, the map in the project file (20191125_MuleDeerWinterRangeTreatments) illustrates it is a relatively small portion.

The impacts to sagebrush, juniper, and Douglas fir are a concern and the objectives for habitat management for mule deer are questioned by the objector. The project objectives in these areas would restore historic conditions, and would decrease cover and forage, however an increase in forage quality for mule deer would occur over time (Project file, document 20200430HF_BIGGAMEHUNTEDSPECIES, p.23).

There is no specific forest plan direction for mule deer. Impacts to mule deer and winter range for mule deer in the project area are disclosed in a document titled *Commonly Hunted and Trapped Management Indicator Species (Big Game) Report* in the project file (Document 20200430HF_BIGGAMEHUNTEDSPECIES, p.23). Project design criteria would reduce winter disturbance to mule deer on winter range (EA, Appendix B, p. 95). Additionally, due to the small portion of affected winter range (Project file, document 20191125_MuleDeerWinterRangeTreatments) and improvement to forage (Project file,

document 20200430HF_BIGGAMEHUNTEDSPECIES, p.23), the effects to mule deer were not considered significant and do not warrant an EIS.

I conclude the impacts to mule deer are adequately analyzed and an EIS is not required.

Contention 5-7: Failure to evaluate impacts to bird species, including Montana Species of Concern.

Objector(s): NEC

Response: The objector states the agency failed to evaluate the impact of logging, understory removal, and burning/slashing of ecotone woodland/shrub areas on many bird species, including Montana Species of Concern and that there is no mapping of sagebrush or limber pine habitats. Additionally, the objector is concerned that the Montana Birds of Concern are not considered by the Forest Plan.

The document in the project file titled *General Wildlife Habitat with Select Species Effects Analysis* (General Wildlife Report) includes consideration of impacts to many types of birds of concern and concludes the project would have differing impacts for differing species depending on habitat preferences (Project file, Document HF_wildlifegeneral). The responsible official acknowledges that land management that maximizes habitat for all species is not an achievable goal. The project goal is to reflect historic habitat conditions in the project area. The General Wildlife Report discloses that open, dry ponderosa pine and Douglas-fir forests are less abundant today than they were historically (p. 3).

The responsible official considered the USFWS's Birds of Concern list (Project file, Document USFWS2008BirdsConservationConcernRT) which includes Montana species of concern. Additionally, the proposed action would be consistent with the Migratory Bird Treaty Act (Document HF_wildlifegeneral).

I conclude the responsible official considered and evaluated impacts of vegetation treatments to bird species of concern.

Contention 5-8: Analysis of openings over 40 acres in size is lacking.

Objector(s): NEC

Response: The objector states the agency provided no actual analysis as to why the creation of many openings over 40 acres in size will not significantly affect the quality of wildlife habitat. The EA (pp. 4, 26-27) describes opening sizes and how they meet the required Regional Forester's approval. The Big Game specialist report discloses the impacts of regeneration harvest (clearcuts) to cover, security and forage for big game species (20200430HF_BIGGAMEHUNTEDSPECIES). Appendix F of the Forest Plan states, "Opening should be small, even though openings up to 100 acres may be acceptable where adjacent forest edge supplies adequate security." The proposed action would not create openings greater than 100 acres (Project file, document 20200430HF_BIGGAMEHUNTEDSPECIES,

Appendix B, p. 32). Spatial separation of these clearcuts creates buffers for forest edge and travel management planning has included consideration of security in these areas (Project file, Big Game Analysis, Appendix A)

Essential hiding cover and security was also considered for elk (See Response to Contentions 5-1 to 5-4).

Issue 6: Fire/Fuels

Contention 1: Rationale for burning woodlands is flawed.

Objector(s): NEC

Response: The objector contends that the Forest Service erroneously identified certain woodland areas as “unnatural” due to fire control and that prescribed burning to restore them back to grasslands is in error, citing Pfister et al. (1976[sic]).

The EA follows Forest Plan direction for Range (Management Standard D-1 Range Improvements) which calls for using prescribed fire for control of sagebrush and tree encroachment and for Wildlife (Management Area direction for MAs B and C) which call for using prescribed fire, as well as mechanical and hand-cutting, where desirable to maintain or create early successional stages of vegetation. The Forest Plan FEIS analysis identified conifer encroachment into grasslands as an “unnatural” condition concern affecting range and wildlife forage and found the effects of prescribed burning on non-timbered or sparsely timbered lands to benefit both livestock and wildlife (Forest Plan FEIS, pp. 4-38). Further, the 2012 Little Belt Landscape Assessment identified vegetation departure, including encroachment of meadows due to lack of fire disturbance, and the need for restoration treatment.

The objector misinterprets Pfister et al. by identifying sparsely treed stands as forested habitat types because even a few trees may be present. Habitat types, as described in Pfister et al. (1977, p. 139) are a land stratification system – designating land areas with similar environments or biotic potential. Pfister et al. (1977, p. 15) states that “East of the Continental Divide...the forest is broken by extensive mountain grasslands.” The instructions for habitat typing (p. 19) indicate that the climax tree species (habitat type series) is based on the first species encountered in the dichotomous key that is present and successfully reproducing (“generally, the trees species is considered reproducing successfully if 10 or more individuals per acre occupy or will occupy the site”). Pfister et al. (1977, p. 124) further states that “Areas having 5 to 25 percent crown canopy coverage potential are termed savanna – grassland with scattered trees” and also acknowledges that there are grassland conditions that may support a low quantity of trees, areas with less than 5 percent canopy cover.

The objector questions the agency’s description of fire regimes for the limber pine woodlands. The Fire and Fuels report (p. 17) addresses the discrepancies between Fire Regime Groups mapped in LandFire and what is found in the project area. Fire Regime Groups III and IV are found throughout the project area and are not mapped in all locations in LandFire due to the coarse scale of the data.

I conclude that the responsible official used a science-based approach to analyze vegetation conditions and appropriately disclosed rationale for the proposed management approach.

Issue 7: Incorrect information in the Objection Legal Notice

Contention 7-1: Incorrect email address provided for submitting objections.

Objector(s): AWR

Response: As stated in the objection, an older email address (ending in @fs.fed.us) was provided in the Legal Notice for the objection period. However, this email address is still an active email inbox that is monitored daily. Therefore, I conclude that no violation has occurred relative to this issue.

Issue 8: Reduced acres of timber harvest

Contention 8-1: Local sawmills need raw materials

Objector(s): AFRC

Response: The objector asserts that while there has been a reduction in acres designated for commercial timber harvest in the project area from that specified in the Preliminary EA, a clear rationale for the decrease was not provided in the Final EA or Draft DN. Indeed, the number of acres designated for commercial timber harvest decreased from 5,141 acres under the proposed action in the Preliminary EA to 4,619 acres under the modified PA in the Final EA, however this reduction is addressed in both the Draft DN and Final EA.

The Draft DN states, “The Preliminary Proposed Action was modified based on additional information over the course of project planning, review for operational feasibility, interdisciplinary team analysis and from resource issues raised during the public comment period. These modifications adjusted some treatment types, temporary road location and reduced overall treatment acres.” (p. 1). In addition, a specific example of such a reduction in treatment acres is given in the Final EA, “Reduced treatment by just over 300 acres including harvesting with-in Management Area-C, specific to issues and application or design criteria for elk and big game hiding cover.” (p. 12).

I conclude the responsible official adequately disclosed rationale for reducing the number of commercial timber harvest acres in the modified PA.

Issue 9: Economic impacts of road management

Contention 9-1: Concerns over the cost of road management activities.

Objector(s): AFRC

Response: The objector expressed concern that the large number of road management activities associated with the project will impact the ability to offer and sell timber in an economic manner. The HF Transportation Report details the project transportation analysis for the project area, following guidance under the 2007 Little Belt, Castle, and North Half Crazy Mountains Travel Management Plan and is consistent with the Forest Plan (USDA Forest Service 2009a) Desired Conditions, Goals, Objectives and Standards for transportation management (pp. 2, 10).

Project feasibility is used to determine if a project is feasible—that is, will it sell, given current market conditions. The project feasibility analysis is detailed in the Economics Report (p. 8). The determination of project feasibility relies on a residual value (stumpage = revenues - costs) feasibility analysis, which considers logging system, timber species and quality, volume removed per acre, lumber market trends, costs for slash treatment, and the cost of specified roads, temporary roads and road maintenance. The appraised stumpage rates are compared to the base rates (revenues considered essential to cover regeneration plus minimum return to the federal treasury). The project is considered feasible if the appraised stumpage rate exceeds the base rate. For the modified PA, the appraised stumpage rate is greater than the base rate, indicating that it is feasible.

I conclude the road management activity costs associated with the timber sale portion of the modified proposed action do not inhibit the feasibility of the timber sale.

Contention 9-2: Concerns over road decommissioning.

Objector(s): AFRC

Response: The objector expressed concern about the obliteration of 40.7 miles of temporary roads constructed under the modified PA and further recommended the Forest Service consider an alternative approach when determining road segment decommission. The 2007 Little Belt, Castle, and North Half Crazy Mountains Travel Management Plan (2007 Travel Plan) provides guidance for road management under the modified PA, including the identification of not needed roads (HF Transportation Report, p. 11). Specifically, the HF Transportation Report states, “In consideration of 16 United States Code 1608(b), the temporary roads would be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within 10 years after the termination of the timber sale contract either through artificial or natural means. All temporary roads used in this project will be obliterated upon completion of harvest activities.” (p 10).

The 40.7 miles of temporary roads planned under the modified PA are non-system, non-haul routes and therefore identified as not needed roads in the 2007 Travel Plan Decision (HF Transportation Report, p. 5). As such these temporary roads will be obliterated upon completion of harvest activities.

I conclude the responsible official properly identified the 40.7 miles of temporary roads under the modified PA as not needed, following guidance under the 2007 Travel Plan.

