



Via Forest Plan Web Page

<https://cara.ecosystem-management.org/Public/CommentInput?project=50185>

September 8, 2020

Mary Erickson
Custer Gallatin National Forest Supervisor's Office
10 East Babcock
Bozeman, MT 59715

Re: Custer Gallatin Revised Forest Plan Record of Decision Objection

Pursuant to 36 C.F.R. Part 219, the American Forest Resource Council (AFRC) files this objection to the proposed decision for the Custer-Gallatin Forest Plan Revision. Forest Supervisor Kathy Erickson is the responsible official.

Objector

American Forest Resource Council
700 NE Multnomah, Suite 320
Portland, OR 97232
(503) 222-9505

AFRC is an Oregon nonprofit corporation that represents the forest products industry throughout Oregon, Washington, Idaho, Montana, and California. AFRC represents over 50 forest product businesses and forest landowners. AFRC's mission is to advocate for sustained yield timber harvests on public timberlands throughout the West to enhance forest health and resistance to fire, insects, and disease. We do this by promoting active management to attain productive public forests, protect adjoining private forests, and assure community stability. We work to improve federal and state laws, regulations, policies and decisions regarding access to and management of public forest lands and protection of all forest lands. The Custer-Gallatin Forest Plan Revision will, if properly implemented, benefit AFRC's members and help ensure a reliable supply of public timber in an area where the commodity is greatly needed. AFRC members, including Sun Mountain Lumber, Idaho Forest Group, Roseburg Forest Products, Park Logging, and other members of the Montana Logging Association, rely on wood from the Custer-Gallatin (CG NF) either directly or indirectly.

The purpose of the action is to revise the 1987 forest plan for the Custer and Gallatin National Forests which encompasses 3,039,273 million acres in southern Montana and the northwest corner of South Dakota. The Custer Gallatin Forest Plan revision effort was publicly launched in

January 2016, and our members and interested parties have been participating in the Forest Plan Revision process since that time. The Custer Gallatin Land Management Plan will revise the 1986 Custer and 1987 Gallatin Forest Plans and provide an integrated set of plan direction for social, economic, and ecological sustainability, and multiple uses of the Custer Gallatin lands and resources. In the 30 years since the current forest plans were developed the two national forests have been combined administratively to be managed as a single national forest. AFRC provided comments on the Forest Plan Draft EIS on June 4, 2019.

Objector's Designated Representative

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Reasons for the Objection

I. The Plan does not consider a reasonable range of Alternatives to address the needs of the landscape for increased restoration.

The adoption of a new Forest Plan is not simply a matter of updating the old plan, but rather it involves looking at all of the conditions and issues that have impacted the Forest during the past 33 years since the current plans were adopted. In the case of the Custer Gallatin, these changes have been very significant and demand special considerations that AFRC believes are not thoroughly addressed in the new Plan. For example, the Custer Gallatin National Forest consists of two individual proclaimed national forests: the Custer National Forest and the Gallatin National Forest. In 2014 the two Forests were combined to be administratively managed as one national forest.

NEPA requires that an agency to consider a reasonable range of alternatives. 42 U.S.C. § 4332(E); *Hells Canyon Alliance v. U.S. Forest Serv.*, 227 F.3d 1170, 1181 (9th Cir. 2000), *as amended* (Nov. 29, 2000). AFRC does not believe that the Forest Service considered a reasonable range of alternatives that support any of the existing needs of the Forest. First, Table 11 points out that since 1980 approximately 809,759 acres (or about 26%) of the Custer Gallatin National Forest land base has been burned by wildfire. Of this, about 195,399 acres burned in areas considered tentatively suitable for timber production in the 1987 forest plans, representing about 31% of the tentatively suitable base.

Table 11. Custer Gallatin National Forest acres burned within geographic areas from wildfires 1980-2015

Geographic Area	Acres Burned in Wildfire 1980-2015	Tentatively Suitable Acres Burned	Approximate Tentatively Suitable Acres	Percent of Tentatively Suitable Acres Burned
Ashland	300,914	102,763	146,101	70%
Bridgers, Bangtails, Crazies	3,386	1,107	54,315	2%
Madisons, Gallatin, Beartooths	425,594	51,385	343,980	15%
Pryors	5,737	868	24,897	3%
Sioux Unit	74,128	39,277	58,523	67%
Totals	809,759	195,399	627,816	31%

Unfortunately, the Forest is only proposing under Objectives (FW-OBJ-TIM- 03), in Alternative E:

Annually complete vegetation management treatments (such as, timber harvest, planned ignitions, thinning, planting) on an average of 5,000 acres of the Custer Gallatin, measured on a decadal basis, to maintain or move towards achieving desired conditions for forest, deciduous woodland, shrubland and grassland ecosystems (this objective includes the acres outlined in FWOBJ-FIRE-01).

Since there is a total of 1,204,364 acres of suitable timber land and lands that could be managed for other Resource improvements—it would take the Forest 240 years to cover these lands to do needed stand improvements and fuels reduction!

Further the Plan states: “*Timber harvest plan direction under the current plans are not designed to move the Custer Gallatin National Forest towards desired vegetation conditions. However, in practice, the current plans are being implemented to achieve desired conditions.*”

This statement further exemplifies the lack of an alternative that would allow a **DEPARTURE** from non-declining even-flow timber management to more quickly get the Forest into the stated desired conditions!

II. The Plan inappropriately ties timber harvest levels to current budgets.

Further compounding the problem of getting needed management and increasing the pace and scale of restoration, the Plan considers the current fiscal budget that the Custer-Gallatin receives as the management level for the life of the Plan. This severely handicaps management opportunities and will fail to bring resource needs into balance. “*Both the projected wood sale quantity and the projected timber sale quantity are limited by the projected fiscal capability and organizational capacity of the Custer Gallatin.*”

Table 16. Characteristics of the timber volume metrics

Characteristics	Sustained Yield Limit (SYL)	Projected Wood Sale Quantity (PWSQ)	Projected Timber Sale Quantity (PTSQ)
Based on lands that may be suitable for timber production (line c; table 15)	Yes	No	No
Based on quantity sold from all lands in plan area	No	Yes	Yes
Based on the assumption that all lands that may be suitable for timber production are managed for timber production	Yes	No	No
Limited by plan components, fiscal capability, and organizational capacity	No	Yes	Yes
All volume meets utilization standards	Yes	No	Yes
Includes salvage or sanitation harvest volume	No	No	No
Varies by alternative in plan environmental impact statement	No	Yes	Yes

AFRC believes it is both illegal, and not meeting the needs of the Forest by tying the projected wood sale quantity and the projected timber sale quantity to current budgets as depicted in Table 16 above. The Forest proposes that both be based on reasonable expectations about the fiscal capability and organizational capacity to achieve the desired conditions and objectives in the revised plan for the planning period. As such, calculation of these volume estimates are sensitive to a number of important assumptions including future budget trends, future markets for timber products, efficiency in planning and implementation, and the timing and locations of large disturbance events. AFRC believes that this severely limits future management opportunities and taints the current needs of the Forest and those who depend on resources from the Forest.

AFRC acknowledges that the 2012 Planning Rule requires the responsible official to ensure that plan content is within the “fiscal capability” of the unit. 36 C.F.R. § 219.1(g). “Fiscal capability” is not defined in the Rule or elsewhere. The 2012 Rule also states that “objectives should be based on reasonably foreseeable budgets.” 36 C.F.R. § 219.7(e)(1)(ii). To the extent that budget leads the Forest to impose a limit on future timber production that is not tied to the capability of the land, it is violating NFMA, the MUSYA, and the Organic Act. The Plan should make clear that any figures tied to budget are merely non-binding *projections* rather than *restrictions* on future management.

III. The Plan does not consider the needs of the existing sawmilling infrastructure.

The 3.039 million-acre Custer-Gallatin National Forest contributes to the local economy and social conditions in a variety of ways. The Forest is located in several Montana and South Dakota Counties. These contributions include the supply of products, services and uses, as well as directly hiring employees and spending budgetary dollars. These activities support jobs and income in each of the Forest’s socio-economic impact zones. At best, Alternative E (the Alternative with the highest timber output) under **Objectives (FW-OBJ-TIM)-Alternative E** would annually offer timber (meeting timber product utilization standards) for sale at an average projected timber sale quantity of 2.9 million cubic feet (15 million board feet), measured on a decadal basis.

To achieve 15 mmbf in alternative E, it was necessary to assume that the budget for vegetation management would increase relative to the current plans and alternatives B, C, D, and F. This would have effects on other resource areas as displayed in the comparison of alternatives in table 9 of chapter 2.

AFRC strongly believes that having these volume limitations in the proposed Plan severely impacts that volume of sawlogs that the Forest can sell and will not support sawmills in the local area long-term. In fact the R-Y Townsend, Montana sawmill ended operations earlier this year. (see attached article)

Currently, Montana's forest products industry is one of the largest components of manufacturing in the state and employs roughly 7,700 workers earning about \$335 million in compensation annually. AFRC members are struggling to find needed raw materials to run their operations and keep employment levels at their current rate.

IV. AFRC believes the economic analysis as it pertains to newly created jobs in the timber sector is fatally flawed.

Table 4 below shows employment in the analysis area by resource and by alternative (direct employment contribution, estimated number of jobs). AFRC is baffled as to how the Forest estimated a job increase from 191 jobs to 575 under Alternative E when the timber harvest is going up very little!

Table 4. Employment in the analysis area by resource and by alternative (direct employment contribution, estimated number of jobs)

Resource	Current	Alt. A	Alt. B	Alt. C	Alt. D	Alt. E	Alt F
Recreation: all	2,728	2,728	2,728	2,728	2,728	2,728	2,728
Wildlife and Fish Recreation: all	196	196	196	196	196	196	196
Grazing	377	387	387	387	377	377	384
Timber	191	410	410	410	292	575	410
Minerals	1,252	1,252	1,252	1,252	1,252	1,252	1,252
Payments to States/Counties	151	151	151	151	151	151	151
Forest Service Expenditures	520	520	520	520	520	520	520
Custer Gallatin Total	5,415	5,644	5,644	5,644	5,515	5,799	5,640
Percent Change		4.2%	4.2%	4.2%	1.9%	7.1%	4.1%

Table 5. Labor Income in the analysis area by resource and by alternative (average annual labor income, in thousands of 2016 U.S. dollars)

Resource	Current	Alt. A	Alt. B	Alt. C	Alt. D	Alt. E	Alt F
Recreation: all	\$79,526	\$79,526	\$79,526	\$79,526	\$79,526	\$79,526	\$79,526
Wildlife and Fish Recreation: all	\$6,107	\$6,107	\$6,107	\$6,107	\$6,107	\$6,107	\$6,107
Grazing	\$12,342	\$12,688	\$12,688	\$12,688	\$12,362	\$12,362	\$12,569
Timber	\$8,860	\$19,016	\$19,016	\$19,016	\$13,556	\$26,717	\$19,016
Minerals	\$93,100	\$93,100	\$93,100	\$93,100	\$93,100	\$93,100	\$93,100
Payments to States/Counties	\$7,416	\$7,416	\$7,416	\$7,416	\$7,416	\$7,416	\$7,416
Forest Service Expenditures	\$24,160	\$24,160	\$24,160	\$24,160	\$24,160	\$24,160	\$24,160
Custer Gallatin Total	\$231,511	\$242,013	\$242,013	\$242,013	\$236,227	\$249,387	\$241,894
Percent Change		4.5%	4.5%	4.5%	2.0%	7.7%	4.5%

Table 4 shows timber jobs increasing from the current Plan numbers of 191 up to 575 jobs under the Alternative E (a 300% increase). Yet Table 10 shows that the Projected wood supply quantity is only going from 18 mmbf to 25 mmbf (a 139% increase) Further, the acres treated under Alternative E is less than those of other Alternatives (only 5,000 acres compared to as many as 8,000 acres under Alternative D).

Further in Table 5 above it shows Labor Income from Timber going from the current of \$8,860 million up to \$26,717 million under Alternative E. This is a 300 percent increase as well. AFRC doesn't believe this can happen with timber sale quantities basically remaining the same from the old plan to the new.

V. The Forest did not prepare an Alternative that would have produced the Sustained Yield Limit (SYL).

Standards (FW-STD-TIM) 07 allows the quantity of timber that may be sold per decade from lands both suitable and not suitable for timber production shall not exceed the sustained-yield limit 8.08 million cubic feet average annual volume (approximately 38.3 million board feet) with the exception of salvage or sanitation cutting of trees that are damaged by fire, windthrow, or other disturbance or to manage insect infestation or disease spread. Salvage harvest of such trees may be harvested above the sustained yield limit, where such harvest is consistent with desired conditions for terrestrial and aquatic ecosystems. None of the Alternatives have an option for harvesting the SYL.

AFRC strongly believes that one Alternative should have been analyzed and modeled that would have allowed the Forest to hit the SYL. The SYL as calculated is 38.3 mmbf, and none of the alternatives, even with unconstrained budgets came close to hitting that number. Deferring such an alternative inappropriately limits the reasonable range of alternatives and ultimately inhibits the decision-maker's ability to make an informed decision. AFRC believes the Forest should and could have developed an alternative that achieves SYL especially considering all of the Forest health issues facing the Forest.

The sustained-yield limit was calculated using the PRISM model for each proclaimed forest separately and was determined to be 3.16 million cubic feet (15.3 million board feet) annually on the Custer National Forest and be 4.92 million cubic feet (22.95 million board feet) annually on the Gallatin National Forest. This totals 38.2 mmbf combined.

Table 34 below shows that none of the Alternatives (assuming reasonable budgets) will hit the Sustained Yield Limit for the Forest. Alternative E only will produce 35.4 mmbf.

Table 34. Average annual projected timber and wood sale quantities without a budget constraint for decades one and two of model simulation

Category ¹	Alt A	Alt B	Alt C	Alt D	Alt E	Alt F
PTSQ mmcf	4.89	4.53	4.42	4.37	4.69	4.54
PTSQ mmbf	24.40	22.60	22.00	21.70	23.40	22.70
PWSQ mmcf	7.20	6.74	6.59	6.51	6.95	6.77
PWSQ mmbf	36.72	34.38	33.60	33.21	35.42	34.51

1. Projected timber sale quantity (PTSQ) include volumes from harvested material (other than salvage or sanitation) that meet timber product utilization standards. Projected wood sale quantity (PWSQ) is the average annual estimated quantity of timber and other wood products that is expected to be sold from the plan area for the plan period. It consists of the PTSQ plus other material such as fuelwood, firewood, or biomass that is also expected to be available for sale. mmbf—million board feet and mmcf—million cubic feet

VI. AFRC does not believe that the DEIS meets the intent of the Multiple-Use Sustained-Yield Act of 1960 (MUSYA).

The MUSYA directs the Secretary of Agriculture to “develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom.” The MUSYA also defines “sustained yield of the several products and services” as “the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land.”

The Timber section of the DEIS (3.15.1) on page 629 only identifies a “sustained-yield limit.” The PRISM models that were run for each alternative only calculated this “limit.” This approach does not satisfy the intent and direction from MUSYA, as this Act requires the Secretary to develop and administer timber resources for *achievement and maintenance of regular outputs*. Simply calculating an upper limit for sustained-yield does not ensure that the Forest will “achieve and maintain” regular outputs. The DEIS must identify and explain how the Plan will ensure achievement and maintenance of regular outputs.

Furthermore, the DEIS is clear in that the PRISM model was run to “move vegetation towards desired conditions.” The DEIS clearly describes what the desired condition is on page 130 as the following: “the desired conditions for terrestrial vegetation on the Custer Gallatin National Forest are characterized by increases in large trees and large forest size classes; more open forest densities; vigorous non-forested plant communities; increasing early-seral shade tolerant species; and maintaining the full suite of native biodiversity on the landscape.” Nowhere did the DEIS include a sustained-yield of timber as a “desired condition.” Therefore, the PRISM model and its volume outputs are not based on sustained yield and the subsequent Projected Timber Sale Quantities (PTSQs) are likely inconsistent with MUSYA.

VII. The Plan is invalid where it relies on unlawful portions of the 2012 Planning Rule.

The 2012 Planning Rule (Rule) violates the Organic Act, NFMA, and MUSYA in several respects. Among these violations, the Rule establishes “ecological sustainability” as an overriding objective of forest management, through the maintenance of “ecological integrity” and “diversity of ecosystems.” 36 C.F.R. § 219.8(a). This violates the management mandates of the Organic Act, 16 U.S.C. § 475, the MUSYA, 16 U.S.C. § 528, and NFMA, 16 U.S.C. § 1604(e). The Rule also contains an improper requirement to provide “ecosystem services.” 36 C.F.R. §§ 219.10, 219.10(a). The ecosystem services requirement again violates the Organic Act, MUSYA, and NFMA.

Section 219.3 of the Rule imposes a “best available science” use requirement which unlawfully limits the information on which forest planning decisions can be based. This violates the analysis requirements in NFMA sections 1604(b) and 1610. The Rule omits, and the Plans accordingly fail to include, provisions for increasing harvest levels pursuant to 16 U.S.C. § 1604(g)(3)(D). Finally, the Rule violates NFMA section 1604(k) because it does not allow salvage or sanitation harvest as provided by the statute. 36 C.F.R. § 219.11(d).

The Plan violates the Organic Act, MUSYA, and NFMA where it relies on a Planning Rule that violates those statutes.

Resolution Requested

This Custer-Gallatin Revised Plan will provide management direction to the C-G National Forest for the next 15 plus years. The Final Plan attempts to provide public benefits including making available recreation access, facilities, and services; supplying renewable and non-renewable forest products; and providing roads, services, and accommodations to support local economies. AFRC believes this Final Plan fails to provide the certainty needed for our membership that a consistent, and predictable volume of timber will be produced in a timely manner that will more quickly move the Forest toward the desired HRV.

To resolve the issues that AFRC has raised above, the following actions will need to occur.

- 1. Provide an adequate range of Alternatives to address the needs of the landscape for increased restoration. Provide an alternative that moves the Forest more quickly to the desired conditions representing the Historic Range of Variability.**
- 2. Do not inappropriately tie timber harvest levels to current budgets.**
- 3. Provide an Alternative that truly considers the needs of the existing sawmilling infrastructure.**
- 4. Rework the Economic Analysis as it pertains to newly created jobs in the timber sector which AFRC believes is fatally flawed.**

- 5. Prepare an Alternative that would have produced the Sustained Yield Limit (SYL).**
- 6. Analyze the Timber component of the Plan to meet the intent of the Multiple-Use Sustained-Yield Act.**
- 7. Remove unlawful portions of the 2012 Planning Rule from the Document.**

Request for Resolution Meeting

Pursuant to 36 C.F.R. § 218.11, the objectors request a meeting with the reviewing officer to discuss the issues raised in this objection and potential resolution.

In the event multiple objections are filed on this decision, AFRC respectfully requests that the resolution meeting be held as soon as possible with all objectors present. AFRC believes that having all objectors together at one time, though perhaps making for a longer meeting, in the long run will be a more expeditious process to either resolve appeal issues or move the process along. As you know, 36 C.F.R. § 218.11 gives the Reviewing Officer considerable discretion as to the form of resolution meetings. With that in mind, AFRC requests to participate to the maximum extent practicable, and specifically requests to be able to comment on points made by other objectors in the course of the objection resolution meeting.

Thank you for your efforts on this project and your consideration of this objection. AFRC looks forward to our initial resolution meeting. Please contact our representative, Tom Partin, at the address and phone number shown above, to arrange a date for the resolution meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Joseph", written over a light blue horizontal line.

Travis Joseph
President

Broadwater County to lose 70 jobs with closure of RY Timber sawmill

David Murray, Great Falls Tribune Published 3:04 p.m. MT Jan. 14, 2020



Fresh cut logs lie stacked and ready for transport to the sawmill in privately owned timberland outside Kalispell. (Photo: File photo)

One of Broadwater County's largest private employers, RY Timber, Inc., has announced it will halt operations at its sawmill in Townsend later this spring, laying off 70 full-time in the process. In a news release issued Monday, RY Timber said the decision to indefinitely curtail milling and planing operations at its Townsend mill came in response to chronic timber supply problems, exacerbated by a steady stream of legal challenges from environmental organizations.

"For the past several years, the uncertainty and delays caused by litigation of Forest Service timber sales has required RY Timber's mills at one-half of their capacity," the news release said. "The company remains hopeful that future court rulings will reverse the anti-forest management decision of the past and allow sustainable timber harvest into the future."

RY Timber currently employs 200 people at its two mills and produces roughly 16% of all the structural lumber manufactured in Montana. The company said it plans to operate two shifts at full production. The company plans to keep its Townsend mill open as long as possible, but it could allow the mill to resume operations in the future.

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“RY Timber recognizes that these changes will have a significant impact on our loyal employees, their families and the community,” the news release said. “The company will work with appropriate government agencies to help make the transition for all affected employees as smooth as possible, including separation pay and possible transfers to the Livingston mill.”

A representative of RY Timber was not immediately available to comment on the halt in operations at the Townsend mill. Closure of the Townsend location would reduce the number of industrial scale sawmills operating in Montana to just nine, down from 32 in the mid-1980s.

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According to Montana Business Quarterly, timber harvests in Montana reached a high of 1.6 billion board feet in 1987, a year in which the wood product sales in the state totaled \$1.8 billion. Today timber harvests in Montana have dropped to less than 19% of their mid-80s high, and sales have declined to less than \$565 million.

Timber industry analysts state that unsustainable timber harvests in the 1980s and collapse of the housing market in the 2007 to 2009 contributed significantly to contraction of Montana's wood products industry. However, many observers argue that obstructionist litigation tactics used by environmental organizations to block approved timber sales on public lands is equally to blame.

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"This is the result of fringe extremists using obstructionist litigation to destroy Montana timber jobs," said Montana Senator Steve Daines in a news release Monday. "My heart goes out to Ed (Edward Regan, RY Timber's resource manager) and all of the families impacted by this sad news."

"It's been 10 or more years of them constantly having their federal timber sales in court," said Julia Altemus, Executive Director of the Montana Wood Products Association. "Sometimes they win, sometimes they lose, sometimes its remanded and the litigants take it right back to court. That's a tough way to run a business, when you never have any assurances that you're going to have wood fiber coming to your mill."

Altemus said the increase in timber sale litigation can be traced to the Equal Access to Justice Act. The EAJA is a federal law passed in 1980 that allows individuals, small businesses, and public interest groups to obtain taxpayer subsidized payments for their attorney's fees in cases against the federal government if they are successful. It was designed to allow those with limited financial resources to engage in the legal process when government agencies violate their own rules.

The EAJA has also led to a substantial increase in the number of lawsuits filed against federal land management agencies that authorize timber sales on public lands. Data from the U.S. Forest Service shows that as of September 2019, there were six active lawsuits in that Helena-Lewis and Clark National Forest alone.

"We
odc
the number one reason why we have lost over 20 mills in Montana in the last 30 some
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David Murray is Natural Resources/Outdoors reporter for the Great Falls Tribune. To contact him with comments or story ideas; email at dmurray@greatfallstribune.com or call (406) 791-6574. To support his work, [subscribe today and get a special offer](https://offers.greatfallstribune.com/specialoffer) (<https://offers.greatfallstribune.com/specialoffer>).

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