

# Black Hills Forest Resource Association

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Matt Daily  
Black Hills National Forest  
1019 N 5th Street  
Custer, SD 57730

Dear Mr. Daily,

This letter is in response to the request for comments from the Black Hills National Forest (BHNF) on the Spruce Vegetation Management Project (SVMP). The Black Hills Forest Resource Association (BHFRA) and its members appreciate this opportunity to provide comments in response to the notice for comments on the Draft Environmental Analysis (EA) for the SVMP.

## *Preface to Comments*

As part of our comments on the SVMP, we want to offer a few comments up front to reduce the likelihood of our comments being mischaracterized and/or taken out of context.

1. Regarding the SVMP, and forest management on the BHNF in general, BHFRA and our members are not in favor of large clearcuts or other harvest designs that, for all intents and purposes, result in a large, contiguous clearcut. We understand some openings may be prescribed and beneficial for some wildlife species. Additionally, we understand some openings may be part of group selection silvicultural systems. However, we are not in favor of the large openings, such as those produced by the Black Hills Resilient Landscapes project around the Custer area. We have consistently opposed that type of result and will continue doing so.
2. BHFRA recognizes the BHNF has more than double the plan objective for spruce acres in the forest. BHFRA strongly encourages the BHNF to prioritize reducing spruce acreage in stands that historically would have been typed differently or where climate change is projected to have the greatest impact on long-term survivability of spruce (such as outside riparian areas or streamside management zones). However, if pure stands of spruce are selected for management, we encourage the BHNF to consider our previous comment regarding large clearcuts and, instead, prioritize group selection systems or thinning (commercial and non-commercial).

## *Purpose and Need*

BHFRA previously supported the purpose and need as stated in scoping for the SVMP and continues to support the purpose and need, in principle, in the EA. However, we see no way the proposed actions address the purpose and need of the project, particularly given the purpose and

need in the EA are a direct product of the Plan objectives that strive for 30,000 acres less of spruce across the BHNF.

Additionally, we question why the BHNF has eliminated the informative summary that supported the purpose and need in the scoping document.

We will discuss each of these issues further as we comment on the proposed actions.

### ***Adaptive Management***

BHFRA supported the use of adaptive management in the scoping phase and continues to support use of this planning tool; especially in the sense we firmly believe this could have drastically limited the undesirable outcomes of the BHRL project and would likely reduce the likelihood for undesirable outcomes with the SVMP.

Additionally, we believe the BHNF is on firm ground to use this tool from a regulatory and legal perspective. The 10<sup>th</sup> Circuit court of appeals recently supported the Forest Services' use of adaptive management, dismissing a lawsuit against the agency and upholding the verdict from the district court in Colorado. (Link to decision: <https://cases.justia.com/federal/appellate-courts/ca10/17-1334/17-1334-2019-04-15.pdf?ts=1555344028> )

Importantly, the judges wrote that, “First, WildEarth argues that the Service was obligated to specify the sizes, locations, and treatment planned for each of the treatment units and the locations of the 21 miles of temporary road expected to be built.” ... “But Richardson did not hold that an agency’s EA or EIS always must specify the precise locations within a project area that will be affected. The problem in Richardson was simply that there had been no environmental assessment of the ultimate plan.” Some have suggested that Richardson (565 F.3d 683, 703) applies to the SVMP, but that context provided by the 10<sup>th</sup> Circuit is important for this project and the BHNF is on firm ground to use adaptive/condition based management. Ultimately, the 10<sup>th</sup> circuit dismissed all claims, including those against the use of adaptive management in the case.

Others suggesting this tool has not been affirmed in the courts is misleading.

### ***Proposed Actions***

The proposed actions, of treating up to 3,600 acres will not meet the purpose and need of the SVMP. The purpose and need of the project is clearly developed directly from the objectives (LVD-201 and LVD-239) described in the Forest Plan and in both the scoping and EA for the SVMP. The SVMP was initially proposed as a forest-wide analysis and is carrying forward as such. There is no rationale to suggest additional actions to reduce spruce acres or increase aspen acres that have been transitioned to spruce through succession will be proposed beyond the SVMP. To that end, the BHNF has voluntarily reached the conclusion they will not meet, nor strive to meet, the previously mentioned objectives.

To be clear, we do not believe every objective is mandatory and are not suggesting that here – but the BHNF has clearly chosen to base the purpose and needs of the SVMP on the objectives

of 20,000 acres of spruce on the forest and 92,000 acres of aspen and have no way to meet the purpose and needs of the SVMP with the proposed actions.

The inability to meet the objectives in the Plan, as identified by the BHNF as the basis for the SVMP, becomes acutely relevant given that within the EA, the BHNF described not meeting other objectives as in violation of the Plan: “Other ongoing vegetation management projects in the vicinity of the Spruce project may have a negative cumulative impact on habitat structure stages (HSS) across the forest which would put it in violation of the Forest Plan.” The BHNF is arbitrarily making the choice to uphold some objectives while willfully disregarding others.

We strongly encourage the BHNF to reconsider the reduction of acres of proposed action from scoping and to propose actions on selected acres that would accomplish the purpose and need of the project and meet the objectives the BHNF has derived the SVMP from.

### ***Conflict with Plan Direction***

The reduction in acres between scoping and the EA produce conflict with Management Area (MA) direction in the Forest Plan. In scoping, the SVMP identified MAs 4.1, 4.2A, 5.1, 5.4, and 5.6. Each of these management areas encourages the use of timber harvest and forest management activities to varying degrees.

- MA4.1: “The overall appearance of this management area is reminiscent of a managed forest, and few signs of damage to trees by insects or diseases should be visible.”
- MA 4.2A: Standard 4.2A-4101 “Manage fire and fuels through various methods to protect the biological and scenic values, but in the wildland urban interface the priority will be fuel reduction.”
- MA 5.1: Goal 5.1-201 “Manage tree stands to emphasize timber products, forage production, and water yield.” Desired Conditions include: “Few areas show evidence of decadence or old trees. Trees of all ages are present. Trees in this management area are managed to produce forest products while providing forage production, visual quality, wildlife habitat, recreational opportunities, as well as other goods and services.
- MA5.4: “Timber harvesting and prescribed burning are the primary management tools used to stimulate browse production and improve habitat within these key wildlife areas.” The full range of management practices occur.”
- MA5.6: Goal 5.6-202 “Manage forest cover types to provide variety in stand sized, shape, crown closure, age structure and interspersion.”

Importantly, much of the acres proposed in scoping were part of MA5.1 “Resource Production Emphasis”. Goal 5.1-201 is clear in stating direction to “Manage tree stands to emphasize timber products, forage production, and water yield.”

MA4.2A is clear in direction to prioritize fuel reduction in the wildland urban interface. The SVMP EA removes all treatments in this MA, regardless for what purpose including the previously proposed fuel reduction actions.

AS modified, the SVMP ignores the Plan direction in MAs, including MA5.1. If these stands of spruce are in MA5.1, and will have no chance of management (SCMP is forest wide analysis), then the SVMP runs afoul of Plan direction.

We strongly recommend revising the SVMP to include acres on these MAs that more closely align with Plan direction and the previously discussed objectives that have driven the SVMP.

### ***Tourism***

Damage to the tourism industry is cited three times as a major concern and a reason why the SVMP was so drastically reduced from scoping to the EA. Under the heading of “Project Changes Made After February 2022 Scoping”, the EA states, “Many were concerned about the scale of effects to the biodiversity, ecosystem/habitat, fragmentation, watersheds, riparian areas, vegetation/plants, wildlife, soils, economic concerns (value, workforce, funding, tourism, etc.), recreation (fishing and hiking, etc.), and scenery resources the scoped proposal would impact upon the Black Hills. In response to public comments, the Spruce project was dramatically reduced in size and redesigned to better conserve biodiversity and reduce the risk of habitat loss for known sensitive species in the project area.”

Late in the EA, under “issue development”, the EA states the interdisciplinary team and comments identified threats to tourism and described those issues as, “The local tourism economy will suffer as a result of decreased visitation due to negatively impacted scenery which will not be made up in timber jobs.” and “Vegetation management treatments prescribed in the spruce project would result in detrimental effects to visual and scenic quality and negatively impact tourism to the area.”

The EA, nor specialist reports, nor actual tourism numbers support those concerns and foregone conclusions associated with the statements. A word search in the EA shows there is no analysis in the EA that discusses tourism numbers, modeled effects, or any other economic outlooks from analysis. The Scenery Resources Specialist Report does not contain the word “tourism”.

Contrary to the assumptions portrayed as fact and rationale for reducing the project, tourism has been strong<sup>1</sup> in South Dakota (2020 covid excepted). Below are the reported visitation numbers.

Year	2017	2018	2019	2020	2021	2022
Visitation (Millions)	13.9	14.1	14.5	12.6	13.5	14.4

Importantly, it should be noted this strong visitation is all while those same commenters are raising concern the BHNF has been decimated by timber harvest, insects, and wildfires and continues to be.

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<sup>1</sup> <https://sdvisit.com/fast-facts-about-south-dakota-tourism-industry>

## *Climate Change*

Climate change is real and has a place in project planning. Carbon emissions, or reduced sequestration, are the most common contributors to climate change. However, the BHNF makes numerous contradictory statements within the EA and between the EA and specialist reports.

In discussing issues identified through comments and by the interdisciplinary team since scoping, and seemingly as rationale for the reduction in project area, the EA states, “Vegetation management activities proposed in this project will release carbon and negatively contribute to climate change.” Those identified issues and concerns don’t seem to factor in the enhanced climate risks from taking no-action. However, on p.11 of the EA, those risks from no-action are identified as, “In the absence of treatment, spruce vegetation would continue to develop as described previously in this document, becoming more vulnerable and less resilient to disturbances such as insects, disease, wildfire, *and climate change*. (emphasis added). The Climate Specialist Report goes further by stating:

“The negative impacts on carbon stocks caused by disturbances, timber harvest, and climate conditions have been modest and have largely been offset by forest growth. Over half (69%) of the stands in the Black Hills NF are middle-aged and older (greater than 80 years) and there has been a sharp decline in new stand establishment in recent decades (Birdsey et al., 2019). If the Forest continues this aging trajectory, more stands will reach a slower growth stage in coming years, potentially causing the carbon accumulation rate to decline.”

The specialist report later adds that:

“The wood and fiber removed from the forest in this proposed project will be transferred to the wood products sector for a variety of uses, each of which has different effects on carbon (Skog et al., 2014). Carbon can be stored in wood products for a variable length of time, depending on the commodity produced. Wood can be used in place of other materials that emit more GHGs, such as concrete, steel, and plastic”.

“By reducing the threat of wildfire, the proposed action would create conditions more advantageous for supporting forest health in a changing climate and reducing GHG emissions over the long term.”

The specialist report concludes that:

“This proposed action is consistent with options proposed by the IPCC for minimizing the impacts of 1 Major greenhouse gases released as a result of human activity include carbon dioxide (CO<sub>2</sub>), methane, nitrous oxide, hydrofluorocarbons, and

perfluorocarbons. 2 This report uses carbon mass, not CO2 mass, because carbon is a standard unit and can easily be converted to any other unit. To convert carbon mass to CO2 mass, multiply by 3.67 to account for the mass of the oxygen (O2). 3 The term “carbon” is used in this context to refer to CO2. 5 climate change on forests, thus meeting objectives for both adapting to climate change and mitigating GHG emissions.”

The potential for detrimental effects to the climate and carbon emissions seems much greater under the no-action alternative than the SVMP as modified or scoped. It is unclear why the BHNF has chosen to highlight negative impacts to climate change from the SVMP as an issue identified by the ID team and comments and is misleading to the reader.

### ***Pacific Marten***

As revised from scoping, the SVMP EA has removed all proposed actions from “Pacific marten high-quality habitat and connectivity corridors in pure spruce stands.” This removal covers a significant portion of the scoped acres. However, NatureServe classifies the Pacific marten in SD as “secure (S5)”, indicating few concerns about species viability.

The wildlife specialist report analyzed potential effects from the SVMP on (primarily) the connecting corridors and reference conditions under the no-action. However, the report nor the EA seem to consider how this species survived historically and naturally if the total amount of spruce acres on the BHNF was less than half current conditions and ponderosa pine forests were predominantly more open than current conditions. It is difficult to understand and quantify effects to this species when historic forest conditions and the natural survivability of the species have not been analyzed.

In the EA the BHNF states that:

“Issues raised by the interdisciplinary team during development of the proposed action included detrimental impacts to sensitive species including the Pacific marten (*Martes caurina*) and the Cooper’s Rocky Mountain snail (*Oreohelix strigosa cooperi*) which have habitat within the project area. The Modified Proposed Action reduced or eliminated this habitat from the project area and these issues will not be discussed further.”

With this in mind, it is peculiar that the EA contains protection measures, in multiple places within the EA, regarding retention of stands and limits on harvest for the Pacific marten.

We recommend adding the acres removed between scoping and the EA back into the project and (not or) continuing with site specific considerations and mitigation measures for the species – not removal of all acres that pose any remote possibility of connection to the species.

### ***Changes Resulting from Comments***

First, the BHFRA recognizes there are diverse opinions on forest management just as there are diverse opinions on almost any topic in society and we respect those varying opinions. However, the Forest Service has legal requirements for how they consider comments on proposed projects. The FS is bound by 36 CFR 218.2 and 215.2. Those statutes are also found in FSH 1509.12. 36 CFR 215.2 defines substantive comments as “comments within the scope of the proposed action, specific to the proposed action, have a direct relationship to the proposed action, and include supporting reasons for the responsible official to consider.” 36 CFR 218.2 contains a near identical definition for comments.

Other FS documents<sup>2</sup> have provided a quality description of how comments should be considered in project planning:

“Non-specific comments are outside the scope of the analysis; appear as a “vote” (and the NEPA process is not about voting); do not provide supporting rationale; or lack sufficient specificity to support either a change in the document or to permit a meaningful response (i.e., emotional and without rationale). These comments are not considered in the project.”

Although there is not a response to comments section in the EA, the BHNH cites more comments received than are shown online and so, presumably, is considering online comments plus additional comments received by mail or other delivery method.

Regarding the SVMP, the BHNH has considered and highlighted numerous comments that do not meet the definition of a comment for consideration and have cited these as the basis for the drastic reduction of acres of proposed actions from scoping to the EA. Some examples of comments and/or information the BHNH has considered and highlighted as supporting rationale for the drastic change from scoping:

1. Highlighted in the EA: “Recognition of the issues relative to past and current harvest of pine and long-term sustainability (GTR422).”
  - a. To be clear, GTR422 specifically and intentionally did not discuss spruce forest resources and comments regarding GTR422 are outside the scope of the Spruce VMP.
2. Highlighted in the EA: “Forest plan revision just recently initiated – proposal premature”.
  - a. The plan revision process is outside the scope of the SVMP, and this type of comment is not relevant to the SVMP.
3. Highlighted in the EA: “Public trust, credibility, and social license is lacking.”
  - a. The SVMP is centered on aligning forest conditions with the plan objectives informing the project and is not a popularity contest. This type of comment is no relevant to the project.
4. Certain submitted comments discuss in detail the commenter’s concern with the BHRL project and they don’t want to see that again – with little to no reference to spruce or the SVMP. Issues with the BHRL project are outside the scope of the SVMP.

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<sup>2</sup> [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd494611.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd494611.pdf)

5. The EA cites more comments than are shown online so, presumably, is considering all online comments plus some additional comments received by mail. This presumably includes numerous comments found online that
  - a. Consist of one or two sentences voicing their opinion – multiple comments
  - b. Describe the forest composition on their property and their opinion is that all spruce trees should be protected.
  - c. Describe their family history in the Black Hills or state their comment won't cover any scientific or ecological reasons for their opposition and acknowledge their objection to cutting Spruce trees is emotional in nature.
  - d. NOTE: We are not including the specific comments referenced above in an appendix or otherwise in our comments in an effort to not single out or identify any individual commenter. We can provide comments referenced above upon request by the BHNF.

Although each commenter has a right to their opinion and is free to voice such an opinion, the BHNF should not be considering these “votes” as specific or substantive comments.

Additionally, we note the BHNF did not highlight in the EA any of the submitted comments that supported the proposed actions as scoped or other comments that encouraged additional action. The BHNF did a good job acknowledging those types of comments in the Chimera project and we suggest the BHNF do so again if they are choosing to highlight issues from commenters.

We are also concerned to see no mention of comments provided to the BHNF from cooperating agencies. Those comments are important and should be strongly considered and factored into the planning process.

Overall, we believe there are commenters who are opposed to the SVMP, but we also believe the BHNF has significantly overstated the number of substantive and specific comments received while excluding mention of comments in support of the project as scoped.

### *Closing*

BHFRA thanks the BHNF for consideration of the SVMP and other forest management projects. However, we strongly encourage the BHNF to reverse the elimination of acres between scoping and EA and to look at site-specific mitigation measures that may be necessary in some areas of the project to meet the purpose and need of the project while protecting flora and fauna resources.

Thank you,



Ben Wudtke  
Executive Director