



Pennington County Board of Commissioners

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Director, Ecosystem Management Coordination
201 14th Street SW
Mailstop 1108
Washington, DC 20250–1124.

Re: Land Management Plan Direction for Old-Growth Forest Conditions # 65356

Dear Director:

Thank you for the opportunity to comment on the Old Growth Draft EIS. We appreciate the effort made to engage the cooperators. We are encouraged that there has been much discussion about the wildfire crisis in the Draft EIS and in meetings with cooperators.

We acknowledge that there has been an improvement in the treatment of wildfire and disease especially in the plan components and impacts sections, however we contend that wildfire and disease should be specifically listed as an issue because they are a threat. Timber harvest should be removed as an issue because it is not a threat as described in the USFS evaluation of old growth threats (USFS Pub. 1215a).

Topic: Forest Specific Old Growth Direction.

Pennington County maintains that the existing Forest Plan direction is adequate for management of old growth. The BHNH is about to undergo a Forest Plan Revision. If more specific Forest Plan direction is needed as a result of the old growth EIS, we strongly encourage the development of this direction during the BHNH Forest Plan Revision. Developing Forest specific old growth direction through a separate planning process would be inefficient and less effective. It would be hard to pull all interested parties together into a separate planning process when their time is already consumed by the Forest Plan Revision meetings.

Topic: Cooperator Involvement.

Comment 1: We would like to reiterate the concern we expressed in our comments that we provided after the Notice of Intent was released. This comment is that counties and other forms of local government were not aware of this project prior to the release of the Notice of Intent (NOI) even though ongoing discussions had been occurring with various tribes and sovereign nations well before the NOI was released. This does not comply with the 2012 planning rule requirements (36 CFR 219.4(b)).

Topic: Designation of old growth areas. Page 13.

Comment: We commend the USFS for not carrying the formal designation of old growth areas forward as an alternative as suggested by several groups. We appreciate the discussion about why this would be counter-productive. We recommend additional discussion explaining that formal designations would curtail active

management and would not be practical, especially when old growth stands have not been mapped or delineated at any meaningful scale. Moreover, the definition of old growth varies dramatically from region to region. Since there is no simple definition of old growth and a lack of understanding of its spatial extent, designation of old growth areas is not possible.

Topic: Determining if current plans have adequate old growth direction.

Page 14. Early in the planning process, the USFS asked cooperators to look at plans on individual Forests to help determine if the current plan had adequate old growth direction. Unfortunately, we were not provided with any side boards or criteria about what is considered adequate. The information in Appendix C did not address the specifics of what was needed and was not described in any meaningful manner. This appendix focuses strictly on the presence or absence of old growth direction in existing plans. We are concerned that no attempt to evaluate the quality and effectiveness of existing old growth direction on individual Forests was undertaken.

Appendix C evaluates plans on such criteria as “Does the plan have a standard for old growth?” Does old growth desired condition apply Forest-wide?” Do plan component functionality apply Forest wide? A simple yes/no response to these questions does not fully answer the questions of adequacy of the Forest Plan direction to manage old growth. For example, there are very good reasons to not have an old growth direction apply Forest-wide. Some areas cannot produce old growth. If a plan does not have a definition of old growth does not mean it is not managing them through use of other terminology. The definition and use of the term “old growth” is problematic as it varies across landscapes; resulting in the use of alternative terms such as late successional forests in some planning documents in the past.

In Appendix C, the Black Hills National Forest was given a category 3, meaning an amendment is needed but it is not clear if you considered the late successional section of the plan which was developed with old growth in mind. We believe the Black Hills National Forest Plan has adequate old growth direction and we continue to request that the Black Hills National Forest be exempt from this revision. We request that you thoroughly review the late succession section of the BBNF Forest Plan as amended in 2007 for old growth direction.

Forests need side boards to clarify what is adequate direction that include practices that the Forest allows or does not allow in old growth areas such as fire suppression requirements, thinning, mitigation of disease and insects and other management practices. This information along with standards, desired conditions and other criteria in Appendix C should form the basis for determination of adequacy of each Forest Plan. The old growth EIS completion date should be extended past January, 2025 to allow time for this evaluation to be completed. If the USFS would provide the proper side-boards, Pennington County working with other local governments and USFS planning staff could provide a thorough evaluation by March 1st of 2025. We request that the planning effort be paused until then. If time can be made to allow for this evaluation, then Pennington County requests that the BBNF be exempted from this planning process. We request a direct response to this request.

Topic: Need for change.

As discussed in our previous comments to the NOI, neither USDA or USFS has provided an adequate reason for the need for change. Responding to an executive order 14072 is not a need for change as many Forests including the Black Hills National Forest (BBNF) already have direction to protect old growth. Page 10 of the

Draft EIS describes the USFS recently published Silvicultural Guide for Standardized Silvicultural Prescriptions for Managing Old Growth Forests. This document provides the needed consistency described. Beyond this level, efforts at consistency are counter-productive and may hamper efforts to maintain and protect old growth by creating confusion.

USFS desire for detailed consistency as discussed on page S-6 of the Draft EIS is not possible or desirable as the type of old growth varies dramatically between various areas across the Nation. It is not practical or effective to provide consistent direction for management of old growth in the southeastern US and expect consistency for management of growth in Alaska or old growth in South Dakota. The geographic, climatic and spatial extent of this planning effort requires a different approach for each region and in some cases a different approach within individual Forests.

The excessive focus on consistency has been repeatedly questioned by dozens of cooperating agencies during the old growth zoom meetings. To date, USDA and USFS has not explained how the desired consistency would be achieved.

In the Black Hills, we have different circumstances related to climate and terrain with different management needs of old growth between the northern and southern Black Hills. Other Forests with major mountain ranges have vast differences in vegetations and climate from one side of the Forest to the next. Why would a consistent approach be attempted for these types of situations? It is not practical or desirable from ecological standpoint. The discussion in the draft EIS on page S-7 attempts to address this concern and states that this was addressed through meetings with cooperating agencies and agency leaders, but this section only describes that meetings were held and provides nothing to address the concern. Consistency is not a reason to embark on a national wide process to amend nearly all Forest Plans in the Nation. This is inconsistent with Forest Service planning direction FSH 1909.12.

Topic: Timber Harvest

Issues page S-7: Discussion on bullet three describes an issue regarding timber harvest by asking “whether current standards and guidelines provide enough restriction to protect current and future old growth forest from future timber harvest.” Timber harvest was not determined to be a threat in the threat analysis so why is it described as an issue? This does not follow the planning regulations as the “issue” of timber harvest over the past couple of decades was determined to not be a threat. Bullet two also focuses on timber harvest. Refer back to your definition of an issues on the bottom of page 9 of the Draft EIS. Wildfire was determined to be significant threat, yet it is not addressed as an issue even though there are numerous plan components to address wildfire as if it were an issue. Recommend removing timber harvest as an issue in both statements and adding wildfire and disease as issues based on the Threat Analysis completed by USFS and BLM.

S-10 and S-11: Alternative 3 places restrictions that do not allow commercial harvest in old growth stands. Through conversations with Deputy Chief French during the Wyoming field trip we understand that this does not mean commercial harvest is prohibited, it only means that a scheduled timber rotation harvest would not be implemented. We disagree with this approach and the interpretation of what commercial harvest means. Prohibiting commercial harvest would mean just that, no commercial harvest of trees. If the desire is to not implement a planned harvest rotation you should clearly state this in very explicate terms instead of prohibiting commercial harvest. Note that this is not explained in the commercial harvest definition in the

glossary or in the timber harvest definition in the glossary. Past litigation on EIS's including litigation about old growth has hinged on glossary definitions. Most importantly, we disagree with this approach because timber harvest was determined to not be a threat. If it is not a threat, then why has an alternative been created to curtail or stop it. Recommend the restriction on commercial harvest be deleted as it does not tie back to an issue or threat and will only create confusion with the public. If your intent is to continue to define commercial harvest as meaning commercial harvest is allowed but no scheduled harvest rotations will be planned, then this should be fully described in the glossary and alternatives section.

S-14: The statement that the amendment would not affect timber harvest because it would not change lands suitable for timber production, overly simplifies the potential impact. The old growth plan would likely result in the delays, increase litigation, and a one size fits all approach defined as consistency that would impact the timber industry. The conclusion and summary of possible impacts to the timber industry is described at the bottom of S-14 "Thus, because the old growth amendment is unlikely to have major effects on timber supplies from the National Forest System, no effects are expected on traditional timber industry jobs in logging, wood product manufacturing, and pulp production. " This statement is not grounded in understanding of the cause and effect relationship as a result of a large-scale sweeping changes to Forest Management. Refer to the comment on project level impacts that have resulted from large-scale planning effort of this nature in the economics below.

Economic: Page S-12. The Draft EIS states all alternatives will contribute to social and economic stability through provision of multiple uses in the areas surrounded by NFS land. This statement focuses on lands surrounding National Forests but does nothing to describe or evaluate the impacts on National Forests System lands. The entire discussion is vague and does not scratch the surface on potential impacts. More information from the socio-economic report should be placed in this section.

The economic report and the summary on page S-12 of the draft EIS provides good numerical information on past and current forest management and timber production but there is nothing quantified in the impacts section. If future impacts cannot be quantified, then this should be stated in the EIS as part of the full disclosure of NEPA requirements.

The Socio-Economic summary section on page S-12 and the Economic report for the draft EIS states that Alternative 2 would not affect the timber industry because it would not change the ASQ, PTSQ, or acres of suitability. We do not agree with this statement. At this point, you cannot know the true impacts of a nationwide programmatic EIS because Forest Specific direction is not yet developed and there are other factors associated with the old growth planning effort that may influence timber harvest.

One major impact is the wave of litigation that follows such a large planning effort. This will result in delays, additional changes to the proposed action and a number of unpredictable circumstances. Consider the 2004 Sierra Nevada Framework plans which amended Forest Plans in most of California. Litigation took 10 years to settle. A key point in the lawsuits was the protection of old growth forests. In 2011, timber sales and logging were prohibited on 11 million acres in California. Settlement was not reached until in 2014. What were the economic impacts of this planning process? It certainly was not addressed in the EIS. This litigation potential and likelihood of delay of projects at a Forest level is both a risk and a likely impact and should be discussed in the environmental impacts as such. This is not speculation, it is a common pattern with these types of large-

scale decisions that will affect millions of acres across the Nation. It is reasonable to predict that this will happen and should be disclosed as part of the NEPA disclosure requirements.

Like many counties, Pennington County has concerns that the old growth planning effort will create barriers or delays to timber harvest or limit uses in old growth which will in turn impact economic conditions. The BHNH informed us last spring that all projects on the Forest that are in or near old growth stands must be sent to the Washington Office for review and approval before projects can be implemented. The potential for delay is already occurring despite the fact that the NEPA for old growth management is not complete and the Forest already has adequate old growth protections in the current Forest Plan. This is an overreach at the Washington Office level of USFS and USDA. We request this practice be discontinued until the Old Growth EIS is complete.

Indigenous knowledge. Page S-8. While we appreciate the desire to include indigenous knowledge, there is limited documentation about what various tribes did to affect or manage old growth. In addition, tribal involvement has been limited. There are 574 tribes and Alaskan native entities. When the draft EIS was published only two tribes requested government to government consultation and three tribes or tribal organization requested cooperating agency status. This is not even one tenth of a percent of the tribes. We have noted extremely limited participation at meetings and during the field trips held in June.

Page 3: Item 6: “Management must be science based, including indigenous knowledge as a source of best available scientific information.” The following comment is based on reading through the 2023 USFS publication, Strengthening Tribal Consultation and Nation to Nation Relationships (USFS Action plan 2023). In this document, we noted that one of the action items (page 12) was to develop an agency wide indigenous knowledge implementation plan. This plan has not been developed. Including indigenous knowledge is an incredibly difficult challenge, especially when Forest Service planning staff have no clear direction about how they will incorporate Indigenous knowledge into the old growth plan. This is a concern from a county standpoint as there has been much fanfare about including indigenous knowledge into the old growth plan, including repeated references in the NOI, draft EIS, press and newsletter releases. The difficulty of completing this task will likely result in disappointment with tribal nations which in turn will cause delays because USFS will have to go back and address their concerns. It can also result in litigation with the potential to stop current projects until litigation is resolved. For this process to work, tribes must be engaged face to face on their own ground. Many do not respond well to letters or emails. The EIS touts the inclusion of indigenous knowledge but does not recognize this simple cultural aspect regarding tribal relations.

Pennington County requests that the use of best available science not be compromised and the action plan item from the Tribal Action Plan be implemented so that future planners have clear direction. This plan needs to address the need to keep the integrity of science intact while incorporating traditional native knowledge and practices to the extend possible. The plan also needs to address differences about how to apply knowledge and practices when two tribes disagree on an approach.

Desired conditions. Page S-10. During the old growth meetings, we have been repeatedly told that desired conditions, goal and objectives are aspirational, they do not have to be obtained or achieved if other higher priorities exist or funding is not adequate - only standards are required. It is with surprise we read on page S-10 that “regardless of standards, desired conditions are binding” Request clarification on this discrepancy.

Rangelands and Grazing. Page S-13. No discussion or recognition that in many cases, grazing can limit the buildup of fine fuels that contribute to wildfires which are identified as a major threat to old growth. Request that this relationship be described.

Decision Making flow chart (box chart). Page 6. Figure 1. Chronology of decision-making process.

This chart does not state who in the Forest Service will be making decisions (responsible official) at each stage in the chart. Will it be the Chief of USFS, Regional Forester, Forest Supervisor? During the field trip we were told by planning staff that Forest Supervisors would make decisions regarding any Forest specific old growth direction on the Forest they supervise. The draft EIS does not clarify this. As part of full disclosure of NEPA requirements, we request that the decision maker (responsible official) be clearly identified at each stage of the chart. This may seem obvious to USFS but we have experienced unexpected changes to the designation of the responsible official status on projects in the past.

Adaptive strategy. Page 21. Pennington County is concerned that the adaptive strategy will be implemented at a national level only. While page 21, 1a discusses use of place based and local knowledge, most of the zoom meeting discussion about adaptive strategies seem to focus on the national scale. The only way to effectively implement adaptive strategy is to through local input.

Monitoring. Page 21. There is much emphasis placed on monitoring in the draft EIS and associated cooperating agency meetings and public field trips. All involved parties seem to agree that without monitoring, the old growth plan will not work. Our concern is that current monitoring on the Black Hills National Forest for Forest Plan implementation is not occurring on a bi-annual basis that is specifically required under the National Forest Management Act. This report has not been done in over ten years and the BBNF leadership does not appear to be concerned when questioned about it. If the Forest cannot comply with this monitoring requirement, how will old growth monitoring be carried out and more importantly how will local information be fed into the overall monitoring report?

The USFS work force shortage crisis that is currently occurring is likely to continue into the foreseeable future across all National Forests. The Draft EIS states “identify a program of work and partnerships that can support effective delivery of plan monitoring of old growth.” How would this be accomplished? There is no basic framework or funding streams to do so over the long term. Lack of monitoring will lock up implementation and drag USFS into court which in turn will adversely impact the counties. Recommend that more emphasis and funding be directed to partnerships related to remote sensing and providing individual forests funds and staff to complete inventory and monitoring on the ground.

Affected Environment and Environmental Impacts Chapter 3.

We appreciate the discussion of fire impacts and risks of wildland fire. However, there is not an adequate discussion about risks and tradeoffs between the action alternatives for other resources.

Nearly all discussions about the degree or magnitude of impacts are listed in narrative forms with terms such as “increased, decreased, more, or less”. At an EIS level there should be some quantification of impacts. In some cases, impacts are listed as absolutes such as “there would be no impacts to forest products industry from Alternative 2”. These types of statements about impacts are extremely generalized. They lack the discussion needed about differences in impacts in different regions. We recognize that in some cases, there is an impact that cannot be clearly quantified but if there is a risk of such an impact it should be discussed.

This impact section is detailed and provides good background information but does not address the impacts that planning and implementation of old growth EIS. For example, there is no discussion about how many key mid to upper level Forest Service staff are now focused on this effort instead of completing other duties. How will the old growth implementation affect the workloads of numerous USFS employees across the nation in the future? It is likely to be significant but is not addressed. Secondly, the potential economic impact from the litigation created by this effort is not addressed as described in the economic section of these comments. The intense litigation and project delays that will result is not speculation. They are extremely likely as documented in the Sierra-Nevada Framework example in the previous comment under economics. We understand that the Chief and Deputy Chief believe this effort will reduce litigation about projects in old growth but we caution you that that this is exactly what the R-5 Regional Forester said in the 1990's when he initiated the Sierra-Nevada Framework to amend most Forest plans in California. Again, a major part of the litigation revolved around concerns about old growth protection.

Thank you for the opportunity to comment.