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December 18, 2024

Horsefly Vegetation Project
Belt Creek-WSS Ranger District
204 West Folsom
White Sulphur Springs, MT 59644

Dear Project Manager:

On behalf of the American Forest Resource Council (AFRC) and its members, thank you for the opportunity to provide comments on the Supplemental EA (SEA) for the Horsefly Project.

AFRC is a regional trade association whose purpose 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. Many of our members have their operations in communities within and adjacent to the Helena-Lewis and Clark National Forest and management on these lands ultimately dictates not only the viability of their businesses, but also the economic health of the communities themselves.

The Horsefly Environmental Assessment (EA)and Decision were completed under the 1986 Lewis and Clark National Forest Plan. That Forest Plan required that populations of goshawks, a management indicator species, be monitored and evaluated to determine if management activities under the plan – specifically vegetation management - have affected the ability of goshawks to establish nests. Management Standard C-5 required the Forest Service to "[m]onitor population levels of all Management Indicator Species on the Forest and determine the relationship to habitat trends" and that "[p]opulation levels will be monitored and evaluated as described in the monitoring plan (Chapter V)." According to Chapter V Item C-8, the Forest Service was required further evaluation of goshawk territories when there is a decrease of 10% or more in active nesting territories in a year. Since that Horsefly Decision, a new Forest Plan was completed (Helena-Lewis and Clark Forest Plan) in 2021 that no longer includes the requirement to monitor active nesting goshawk territories.

AFRC continues to support the activities proposed in the project. We outlined that support in scoping comments on May 27, 2019, Draft EA comments on January 24, 2020, and an objection letter of support on July 20, 2020. Additionally, one of our members (R-Y Timber) was a purchaser of timber sales from that EA and had planned to operate those sales. Those timber sales have now been transferred to another member, Sun Mountain Lumber.

On March 31, 2023, in a Findings and Recommendation (F&R), Magistrate Judge Kathleen DeSoto found that the Forest Service violated its 1986 Forest Plan by not publishing an evaluation report for the goshawk declines from 2017 through 2019. Since the issuance of the F&R, the Forest Service conducted a supplemental evaluation of goshawk nesting habitat, which the agency claimed resolved the issues raised by Magistrate Judge DeSoto. Despite the Forest Service's updated goshawk analysis, Montana District Judge, Dana L. Christensen, upheld Magistrate Judge DeSoto's F&R on June 27, 2024, and enjoined the Horsefly Project based on findings from the lower court siding that there had been both a National Forest Management Act (NFMA) *and* NEPA violation on how the Forest Service monitored and analyzed impacts on the goshawk. Judge Christensen, however, only enjoined the Horsefly Project until the Forest Service resolved the NEPA violation, since the NFMA violation had been arguably cured by the supplemental evaluation of goshawk nesting habitat. **These additional years of goshawk monitoring data have now been included in this SEA and illustrate positive trends in goshawk nesting.**

Following the project being enjoined, the Forest Service prepared this SEA to include additional information and provide updates to the goshawk section of the 2020 EA. This SEA evaluates the existing condition for goshawks and their habitat based on all available monitoring data, including data collected between 2017 and 2020, and evaluates the Horsefly Project's effects to goshawks and their habitat at the project level and in the Forest-wide context. Additionally, goshawks were monitored in the project area in 2024 as part of the Horsefly Decision design features to maintain nest stands within active goshawk territories and to seasonally restrict project activities within post fledging areas of active nests.

For context, there are approximately 13,735 acres of goshawk nesting habitat mapped within the Horsefly project area and 494,428 acres of nesting habitat Forest-wide. Vegetation harvest treatments planned in the Horsefly Project overlap with 5,138 acres of nesting habitat which is one percent of goshawk habitat Forest-wide. Seven goshawk home ranges are known to be present in the project area.

The table below shows the annual percentage of active nests in occupied goshawk territories Forest-wide. **It also includes pertinent data from 2017-2020.**

Table 1. Forest-wide Number of territories monitored and occupied, number and percent of active nests associated with the occupied territories, and annual percent change of occupied territories with active nests (from the May 23, 2024, Goshawk Evaluation Report, attached as Appendix A

Year	Territories Monitored	Territories Occupied	Number of Active Nests	Percent Occupied Territories with Active Nests	Annual Percent Change Occupied Territories with Active Nests
2007	35	25	17	68%	-
2008	38	18	7	39%	-29%
2009	47	30	25	83%	+44%
2010	50	30	28	93%	+10%
2011	50	18	17	94%	+1%
2012	56	23	20	87%	-7%
2013	56	22	21	95%	+8%
2014	61	32	28	88%	-7%
2015	68	38	34	89%	+1%
2016	74	46	38	83%	-6%
2017	67	17	15	88%	+5%
2018	44	12	8	67%	-21%
2019	39	8	7	88%	+21%
2020	31	9	9	100%	+12%

The data shows that the annual percentage of occupied territories with active nests increased in most years. Declines were generally less than 10%, except in 2008 and 2018 when the annual percentage of occupied territories with active nests declined by 29% and 21% respectively. However, in both instances the percentage of occupied territories with active nests recovered the following year: 44% in 2009 and 21% in 2019. It is very important to note from the SEA that *"The monitoring and evaluation have also demonstrated that active nesting territories increased in years following a 10% or more decrease, indicating that the 2018 decrease in active nesting territories is not representative of a general downward trend or the result of forest management under the 1986 Forest plan but rather reflects normal reproductive and nesting variation."*

From AFRC's perspective this data, including the additional data from 2017-2020, shows that active goshawk nesting has increased over the Forest in recent years.

The 2024 goshawk nesting survey of known territories in the Horsefly Project is listed below.

Table 9. Survey results for the seven known goshawk territories in the Horsefly project area

Territory	Survey Results
Newlan Creek	Confirmed occupancy
Charcoal Gulch	Surveyed with no detection
Snaggy Gulch	Surveyed with no detection
Sage Spring	Surveyed with no detection
Upper Spring Creek	Breeding; at least 2 nestlings that fledged
Little Sheep Creek	Surveyed with no detection
Abbot Gulch	Surveyed with no detection

Only two of the seven territories had goshawks present. The proposed action would result in the retention of ample nesting habitat for the seven known home ranges in the project area. None of the seven nest stands would be affected by the project because the project is designed to retain nest stands for all seven known territories; there are no activities proposed in these stands.

In fact, the proposed vegetation management activities may create more favorable conditions for goshawk prey. Goshawks occupy forests that evolved under a diversity of fire regimes including mixed-severity and stand-replacing events. Also, studies have shown the use of controlled fire and thinning may improve habitat for goshawks by creating favorable conditions for goshawks and their prey.

In addition to analyzing the activities in the Horsefly Project, the Forest looked at potential impacts of implementing the "Forest-wide Prescribed Fire Project" in the SEA. The purpose of the Prescribed Fire Project is to reduce the risk of uncharacteristically severe wildfire and influence how wildfire and other disturbances shape the landscape and impact local communities. This would be accomplished through a condition-based management approach that allows responsiveness to dynamic vegetation conditions through application of the right treatment at the right time. The Prescribed Fire Project would not add appreciably to cumulative effects since the project is designed to achieve conditions conducive to goshawk nesting habitat by promoting large tree structure and foraging habitat by creating vegetative conditions (e.g. increased herbaceous and shrubby vegetation, ecotones) important to goshawk prey species.

The cumulative effects are not expected to lead to NEPA significance for the following reasons:

- As noted in the original goshawk analysis requisite amounts of nesting, post-fledgling, and foraging habitat would be retained.
- Past and ongoing projects have not decreased the requisite amounts of habitat.
- The Prescribed Fire project is not expected to appreciably reduce nesting habitat since one of its goals is to promote large tree structure. The design criteria noted above would protect nesting goshawks and their young. And the Prescribed Fire Project would retain a broad range of habitat conditions for goshawk foraging habitat

In closing, AFRC agrees with the conclusions found in the SEA which states "*The Horsefly Vegetation project complies with all 1986 Lewis and Clark National Forest Plan goshawk requirements. While there would be some limited effects to goshawk habitat from implementing the proposed action, there would still be sufficient goshawk habitat during and after the project*

is implemented to support the seven territories within the boundary of the project area. The project may improve prey habitat for goshawks. The project will not result in broad scale changes to goshawk or the amount of suitable habitat the project area or at the Forest level."

AFRC believes the Forest has met the court order through this SEA by addressing goshawk monitoring. We urge the Forest to move forward with project implementation as soon as practicable.

Sincerely,

Tom Partin
AFRC Consultant
921 SW Cheltenham Street
Portland, Oregon 97239