Norbeck Society
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Patrick Champa, District Ranger
Elizabeth Krueger, Bearlodge Ranger District Resource Planner
Bearlodge Ranger District, Black Hills National Forest
P.O. Box 680
Sundance, WY 82729
Submitted via https://www.fs.usda.gov/project/blackhills/?project=65540

February 19, 2025

Re: North Sand Forest Management Project #65540

Dear Ranger Champa and Planner Krueger,

As part of our advocacy for sustainable use of public lands, Norbeck Society comments reflect a desire to support a management approach for the Black Hills National Forest (BHNF) that recognizes the imperative of protecting and enhancing the biocomplexity of forest ecosystems that serve and support growing numbers of people. A vision for long-term sustainability of all aspects of this land is paramount.

The Norbeck Society wishes to ensure that benefits flow perpetually to those who come after us. People in the future will rely on the graces of the Black Hills National Forest just as we do.

On the following pages, please find our comments on the North Sand Forest Management Project Preliminary EA. We request that these be included in the Forest Service Administrative project files. We have identified actions that, as proposed, are in direct violation of Law, Regulation, and Policy. These are related to Habitat Structural Stages (HSS), Management Indicator Species (MIS), Allowable Sale Quantity, (ASQ), the National Environmental Policy Act (NEPA) and cumulative effects. These must be resolved as this project is developed.

As always, we appreciate the opportunity to provide input to the USFS about the management of the Black Hills National Forest.

Sincerely,

Mary Zimmerman, President
On behalf of the Norbeck Society

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cc: Shawn Cochran, Toni Strauss, Wendy Schuyler

Norbeck Society Preliminary EA Comments

North Sand Forest Management Project #65540 (the Project)

Bearlodge District (the District), Black Hills National Forest (BHNF)

February 19, 2025

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Habitat Structural Stages (HSS)

Vegetation or habitat structural stages (VSS or HSS) describe the growth stages of a stand of living trees. It is based on tree size (DBH) and total canopy cover. Overall, the VSS or HSS depends on the time it takes seedlings to become established and subsequent growth rates. The life expectancy of trees determines how long the oldest VSS or HSS can be maintained. A balance of structure stages is indicative of a healthy forest that is represented by a diverse distribution of structural stages that supports multiple species, such as the Northern Goshawk. In addition, a diverse distribution of structural stages is the foundation for sustainability (MUSY, Multiple-Use Sustained-Yields) and the ability to meet non-declining even flow related to timber production.

Several groups and individuals administratively appealed the Regional Forester's decision to adopt the 1997 Revised Land Resource Management Plan (LRMP). On October 12, 1999, Deputy Chief James R. Furnish, the reviewing officer for the Chief of the Forest Service, issued his 1999 Appeal Decision on three of the appeals. Shortly after the Chief's Appeal Decision in November 1999, several individuals and groups filed suit against the Forest Service to block the implementation of the Veteran Salvage Timber Sale within the Beaver Park Roadless Area. The lawsuit cited several deficiencies identified in the Chief's Appeal Decision and claimed the 1997 Revised LRMP direction was inadequate to protect certain resources in the timber sale area. Negotiations were initiated to settle the lawsuit, and in September 2000 a Settlement Agreement was signed and issued by the parties (U.S. District Court for the District of Colorado 2000). In signing the Settlement, the Forest agreed to undertake the Phase I and Phase II Forest Plan Amendments. Further, the Forest agreed to consider several specific items in the Phase II effort including: 1) the analysis of candidate areas for RNAs on the Forest; 2) completion of any designation process as a part of the Phase II Amendment; and 3) further evaluation of the viability of management indicator species (MIS), and the northern goshawk.

The Forest Plan's Habitat Structural Stage (HSS) Objectives are designed to ensure species viability. The Forest Plan's Goal 2 states, it is to "Provide for a variety of life through management of biologically diverse ecosystems." It meets this through the stated HSS objectives, specifically in MA 5.1-204 & 5.4-206; to "Manage for the stated percentages of structural stages in ponderosa pine across the management area in a variety of sizes and shapes [Objective]." Without disclosure of current Habitat Structural Stages and how proposed vegetation treatments will alter them, the public has been left uninformed of management implications on species viability.

The preliminary EA mentions structural stages as "Forest Structure" on page 25. Although this is an acknowledgment to structural stages, it falls far short of presenting the full status of HSS within the project level and across the district. It is well known that the distribution of structural stages, weighing heavily toward younger structural stages, is extremely concerning. This concern is even more pronounced, especially to species such as the Northern Goshawk, a Management Indicator Species (MIS). The preliminary EA lacks disclosure of current structural stages within the project area and across the district. It is impossible to support an analysis that continues to modify mature structural stages in a landscape that is violating its own Forest Plan structural stage distribution objectives, as directed by a court decision. Even though some vegetation treatments are treating what is perceived as small acres, these can have huge implications.

The North Sand Forest Management Project is proposing harvest treatments that will involve alteration of Habitat Structural Stages (HSS) that continue to trend to conversion of mature structural stages that continue to divert structural stages away from the percentages stated in the Forest Plan Goals & Objectives. **If the North Sand Forest Management Project continues forward with the vegetation treatments as described, the project would be in clear violation of the National Forest Management Act of 1976 and MUSY of 1960.**

Species Viability and Northern Goshawk as a Management Indicator Species (MIS)

The Northern Goshawk is both an MIS and a sensitive species for the Black Hills National Forest. Northern Goshawks are large raptors occupying most forested habitats. They commonly nest in mature and old-growth conifer stands. Nest site selection depends upon the availability of trees with large enough branches to support a nest. Goshawks tend to forage in a variety of open and forested communities (Hillis et al. 2003).

The Black Hills National Forest is legally obligated to ensure that ample habitat will be conserved to minimize the potential for federal listing of this species, meaning that the Forest Service is obligated to provide habitat for the Northern Goshawk *and its prey*.

The Bearlodge Ranger District has historically contained high quality nesting habitat for the Northern Goshawk. A recent study validates what Black Hills National Forest nest-site monitoring data and related studies have previously concluded regarding forest changes within the past 30-40 years. Habitats, and specifically nesting habitat, for Northern Goshawk have been and are declining in availability. This study confirms that the most significant Goshawk habitat losses have occurred in the past 15 years. In "South Dakota Wildlife Action Plan Explorer" Wildlife of South Dakota Final Technical Report Link: T-84_bruggeman_kennedy_final_technical_report_northern_goshawk.pdf it is stated: "Through a combination of timber harvest practices and unpredictable natural disturbances, our results suggest the BHNF has lost much of its high-quality Goshawk nesting habitat over the past 30 years. Furthermore, the remaining high-quality habitat has become increasingly fragmented. Given the loss of high-quality habitat and limited data documenting Goshawk use of lower-quality habitat, the BHNF may be moving away from management objectives established to ensure Goshawk population viability." See: Declining American Goshawk (Accipiter atricapillus) Nest Site Habitat Suitability in a Timber Production Landscape: Effects of Abiotic, Biotic, and Forest Management Factors | Journal of Raptor Research.

The Preliminary EA does not disclose the current structural stage distribution; it generally states that some of the structural stages will remain the same. In addition, even though no treatments are proposed in nest stands that does not diminish the fact that past timber harvests have significantly affected HSS for mature stands. Without full disclosure of existing structural stages within the project area and across the district, we can only assume that mature HSS is limited across the project area and that the district is unable to provide refuge for Northern Goshawks if disturbances such as logging, recreation, inset & disease, or

wildfire continue to dwindle the mature forests within the project area and across the district. The district has a responsibility under the National Forest Management Act (NFMA) to assure species viability. This project and the cumulative impacts from past timber harvests have put into question the species viability of the Northern Goshawk across the entirety of the Black Hills National Forest.

The North Sand Forest Management Project includes 11,062 of commercial harvest that will continue to push mature stands away from stand structure that would serve as critical nesting and foraging habitat for the Northern Goshawk, a Management Indicator Species and a R2 Sensitive Species. **If the commercial harvests continue as proposed, then this project will be in direct violation of NFMA, Code of Federal Regulations, and agency policy**.

Sustained Yield and non-declining even flow, Allowable Sale Quantity (ASQ)

Lands managed by the Forest Service are managed under a multiple–use sustained-yield model under the Multiple-Use Sustained-Yield Act of 1960 (MUSYA). This statute directs the Forest Service to balance multiple uses of their lands and ensure a sustained yield of those uses in perpetuity. Congress, through the National Forest Management Act (NFMA), has directed the Forest Service to engage in long-term land use and resource management planning. Plans set the framework for land management uses and protection and they are developed through an interdisciplinary process with opportunities for public participation. In the case of timber, they describe where timber harvesting may occur and include measures of sustainable timber harvest levels, known as allowable sale quantity (ASQ), the measure of timber that can be removed annually without impairing future yield. In the past, this sustained-yield provision was seen as an all-purpose safeguard of sustainability. The restriction on timber harvest to the level that could be sustained in perpetuity would ensure that the forest was not plundered. An even flow of timber was seen as ensuring economic and social sustainability through contributions to community stability.

ASQs are guided by two other NFMA requirements: (1) non-declining even flow (NDEF), and (2) earned harvest effect (EHE) or allowable cut effect (ACE). Theoretically, a non-declining even flow policy provides for a continuous flow of timber in perpetuity - that is, no more timber may be sold now than can be sold at any time in the future. The NFMA requires non-declining even flow as a general rule unless departures are needed to meet "overall multiple-use objectives."

The North Sand project includes 11,062 of commercial harvests. Throughout the Preliminary EA there are labels of “Commercial” harvest treatments, which is a clear indicator that there is a component of timber volume to be sold. What is not made clear in the Preliminary EA is the estimate of volume to be offered through these “commercial” treatments. It is a fact that the forest has been exceeding the ASQ for years, breaking the “non-declining even flow” premise of NFMA. That is a significant issue that needs to be addressed. In light of no annual monitoring reports for years, the Black Hills and the district need to disclose this critical information, which is best disclosed in the format that the Tongass National Forest has been using in their monitoring reports. A disclosure in a similar format, beginning from October 31, 2005, to the present would help to answer whether the forest is violating NFMA and MUSY.

Timber Resources 3 Table 1. Timber Volume Sold for Fiscal Years 2003-2012 MMBF

Fiscal Year	Timber Volume Sold	Percent of ASQ Sold	Annual ASQ
2003	37 MMBF	14% of ASQ	267 MMBF
2004	87 MMBF	33% of ASQ	267 MMBF
2005	65 MMBF	24% of ASQ	267 MMBF
2006	85 MMBF	32% of ASQ	267 MMBF
2007	30 MMBF	11% of ASQ	267 MMBF
2008	5 MMBF	2% of ASQ	267 MMBF
2009	10 MMBF	6% of ASQ	267 MMBF
2010	49 MMBF	18% of ASQ	267 MMBF
2011	37.5 MMBF	14% of ASQ	267 MMBF
2012	52.5 MMBF	19.6% of ASQ	267 MMBF
Ten Year Average	**45.8 MMBF**	**17% of ASQ**	**267 MMBF**

With no disclosure of how much commercially treating 11,062 acres will contribute to volume sold and thus ASQ, **this project is felt to violate NFMA and MUSYA.**

Cumulative Effects

The Council on Environmental Quality's (CEQ) NEPA | National Environmental Policy Act - Cumulative Effects regulations (40 CFR 1500-1508) implementing the procedural provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42U.S.C. 4321 et seq.), define cumulative effects as the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions (40 CFR ~ 1508.7). "Evidence is increasing that the most devastating environmental effects may result not from the direct effects of a particular action but from the combination of individually minor effects of multiple actions over time."

NEPA and CEQ'S regulations define the cumulative problem in the context of the action, alternatives, and effects. By definition, cumulative effects must be evaluated along with the direct effects and indirect effects (those that occur later in time or farther removed in distance) of each alternative. The range of alternatives considered must include the no-action alternative as a baseline against which to evaluate cumulative effects. The range of actions that must be considered include not only the project proposal but all connected and similar actions that could contribute to cumulative effects.

The full disclosure of cumulative effects is lacking in the North Sand Forest Management Project Preliminary EA. Although each of the specialist reports may speak to direct, indirect, past, present, and reasonably foreseeable actions, the full disclosure of intertwined cumulative effects by alternative is missing. Each of these specialist areas are intricately intertwined with the others, and to have information siloed in separate specialist reports does not complete the necessary full cumulative effects analysis.

Key connections that are not disclosed include:

- NFMA, Court Decision, and Forest Plan direction that are related to HSS and how proposed treatments modify current HSS;
- How changes in HSS will affect the Northern Goshawk and its prey. NFMA mandates actions assure species viability, specifically for Northern Goshawk: disclose the intertwined relationship of MIS and current/modified HSS;
- Logging disturbance effects on watersheds. NFMA mandates that a site's productive capacity must be protected on federally managed lands. The Soil and Water Resources Conservation Act (RCA) of 1977 requires the USFS to minimize soil erosion and protect water resources during forest management activities. With so many repeat treatments occurring across the project area and district over the last 10 to 15 years, has the area been allowed to "rest" and recover important watershed and soil functions?

The Bearlodge Ranger District must **disclose the cumulative effects in the intertwined effects disclosure, otherwise the project analysis violates NEPA**.

Thank you for the opportunity for stakeholders to provide comments and ask questions about forest management projects.

~ The Norbeck Society