

July 8, 2025

Amy Hass
District Ranger
Beartooth Ranger District
6811 Highway 212
RedcLodge, Montana 59068

Dear District Ranger Hass,

Thank you for this opportunity to comment. Please accept these additional comments from me on behalf of the Alliance for the Wild Rockies, Native Ecosystems Council, Council on Wildlife and Fish, and the Center for Biological Diversity on the proposed Burnt Mountain Project.

The Custer Gallatin National Forest has removed or altered lynx analysis units (LAUs) in the Beartooth Ranger District. The Custer-Gallatin N.F. must go through NEPA and take public comments on a Forest Plan amendment to Redraw the Lynx Analysis Units.

The Project violates the Forest Plan; the Project EA violates NEPA; and/or the Revised Forest Plan violates the NFMA planning regulations regarding old growth.

All previous paragraphs are incorporated by reference.

The 2012 Planning Rule mandates: "Ecosystem diversity. The plan must include plan components, including standards or guidelines, to maintain or restore the diversity of ecosystems and habitat types throughout the plan area. In doing so, the plan must include plan components to maintain or restore: . . . (ii) Rare . . . terrestrial. . . animal communities" 36 C.F.R. §219.9 (a)(2). Compliance with this provision "is intended to . . . support the persistence of most native species in the plan area." 36 C.F.R. §219.9.

The primary "rare terrestrial animal community" on the Forest is the old growth dependent wildlife species community.

The enforceable numeric old growth forest standards found in the prior forest plans – to protect old growth dependent wildlife species – were removed from the Revised Forest Plan, and replaced with a desired condition and a guideline.

Revised Forest Plan Desired Condition FW-VEGF-DC-05 states: "Forest conditions support an abundance and distribution of old growth that is dynamic over time. All vegetation desired conditions help ensure that an appropriate array of conditions is present to provide old growth.

The location and condition of old growth is dynamic over time. Development and maintenance of old growth stands is influenced by succession, natural disturbance regimes, silvicultural treatments, and climate. Landscape-level resiliency is provided by promoting a mosaic of younger forests to replace old growth when it is killed by stand-replacing events. The desired condition of old growth is described in table 13.

Table 13. Forestwide desired and existing condition of old growth

The Desired conditions old growth condition Forestwide are 17% old growth

(15% - 20%)

The Revised Forest Plan states on page 38, Old growth is resilient to impacts that might result in the loss of old growth characteristics, such as insect infestations, wildfire, and drought. Old growth contains components that contribute to high quality habitat, including large or very large live trees with rot or broken tops, snags, downed woody material, and a diversity of tree size classes and canopy layers. A variety of old growth types are present.

Cold (desired) 32%

Actual (26% - 37%)

Old growth in this broad potential vegetation type generally consists of whitebark pine, Engelmann spruce, and subalpine

fir, with stand-level resiliency and open structures desired in whitebark pine types versus spruce/fir types which may be denser and more layered.

Cool Moist (desired) 22%

(Actual) (16% - 27%)

Old growth in this broad potential vegetation type may be subject to wider pulses of availability, due to the preponderance of lodgepole pine and high severity low frequency disturbance regimes. Old growth includes spruce/fir or Douglas-fir dominated stands, often with dense canopy layers, as well as even-aged lodgepole pine.

Warm Dry - Montane

(Desired) 4%

(Actual) (1% - 6%)

Old growth is dominated by Douglas-fir, often in large patches with an uneven-aged and irregular tree distribution. Stands are resilient to low severity disturbance. Other species such as juniper and aspen are valuable habitat components.

Warm Dry - Pine Savanna

(Desired) 3%

(Actual) (1% - 6%)

Old growth is dominated by pure stands of large, fire-resistant ponderosa pine, in various patch sizes with an uneven-aged and irregular tree distribution. Stands are resilient to low severity disturbance.

1. Old growth forests are defined specifically as forests that meet the minimum criteria established for the Northern Region of the Forest Service (see glossary) unless more current scientific information becomes available.

2. Existing condition shown is the mean percent of old growth (see glossary) with the 90 percent confidence interval shown in parenthesis. Source is Northern Region Summary Database, Forest Inventory and Analysis data, updated in 2015.

Chapter 2. Forestwide Direction

Land Management Plan – Custer Gallatin National Forest

Objectives (FW-OBJ-VEGF)

01 Complete vegetation management treatments (such as timber harvest, planned ignitions, thinning, planting) on a minimum of 6,000 to 7,500 acres of the Custer Gallatin, measured as an annual average on a decadal basis, to maintain or move towards achieving desired conditions. At least 10 percent of acres treated (600 to 750 acres) have explicit primary or secondary purposes of benefitting wildlife, whitebark pine and

other at-risk species habitat, pollinator habitat, non-commercial vegetation, and general terrestrial ecosystem conditions.

Guidelines (FW-GDL-VEGF)

01 To contribute to plant and animal diversity and landscape heterogeneity, as well as provide habitat for old-growth-associated plant and animal species, vegetation management activities in old growth should retain old growth characteristics to the extent practicable. Vegetation management (including timber harvest, fuels treatment, or prescribed fire) in old growth should be used only to achieve one or more of the following purposes:

- a. To maintain or restore old growth habitat characteristics and ecosystem processes.
- b. To increase resilience to disturbances or stressors (such as drought, high severity fire, bark beetles) that may have negative impacts on old growth characteristics or abundance at stand or landscape scales.

Exceptions to this guideline may be allowed in old growth lodgepole pine forests or where needed to manage infrastructure within or adjacent to old growth.

02 To maintain habitat connectivity and minimize disturbance of old-growth associated wildlife, road construction (permanent or temporary) or other developments should be avoided in old growth (see glossary) unless access is needed to implement vegetation management activities and purposes as out-

lined in FW-GDL-VEGF-01 and there are no feasible alternative road locations.

03 To maintain snags (standing dead trees) over the long term for wildlife habitat and ecosystem processes, all vegetation management projects should retain at least 40 snags per 10 acres. The largest snags available should always be prioritized for retention. Guideline applies as an average of treatment units across a project area and allows for variation in snag retention among treatment units with the intent of preserving the most desirable snags. Snags need not necessarily be present on every acre or in every treatment unit; they may be clumped as appropriate for the site, species, and existing snag distribution. If fewer than the minimum desired snags are present, live trees should be retained to meet the minimum desired snags within treatment units with a preference for the largest and most decadent trees available. Large, live replacement trees may also count toward compliance with FW-GDL-VEGF-05. Trees with evidence of rot or wildlife use are preferred. Live replacement trees do not need to be retained where retention is not possible due to operational limitations associated with harvest or burning implementation. Snags should be retained greater than 300 feet away from roads in areas open for firewood collection. Exceptions to the snag retention guideline may be allowed in areas where the minimum number of snags or live replacement trees are not present prior to management activities or where needed to manage infrastructure.

04 To maintain snags (standing dead trees) over the long term for wildlife habitat and ecosystem processes, if snags retained to meet FW-GDL-VEGF-03 are felled (to manage infrastructure or for

The Revised Forest Plan defines old growth: “an ecosystem distinguished by old trees and related structural attributes. For the CGNF, old growth stands are specifically defined as those that meet the definitions in Green et al. 1992 (errata corrected 12/11). Those definitions include the discussion in that document titled “USE OF OLD GROWTH TYPE DESCRIPTIONS” (pages 11 and 12). If that document is revised or replaced by the Northern Region, the updated version will be used. Old growth identification and mapping is dynamic through time to reflect changing conditions on the landscape.”

Green et al states: “Minimum Criteria: [1] Minimum Age of Large Trees - This is the minimum average age for the largest size class for the old growth type[;] [2]Number TPA/DBH - Number of live trees per acre equal to or greater than a given dbh level and age. This would be the minimum number of live trees per acre equal to or greater than a set dbh level and age[;] and [3] Minimum Basal Area - the minimum basal area in square feet for trees equal to or greater than 5" dbh.”

The Green et al Minimum Criteria for each forest in the East-side Montana forest types are set forth below:

DESCRIPTION		MINIMUM CRITERIA		
OLD GROWTH TYPE	HABITAT TYPE GROUP	MINIMUM AGE OF LARGE TREES	MINIMUM NUMBER TPA/DBH	MINIMUM BASAL AREA (FT ² /AC)
1 – DF	A	200	4 ≥ 17"	60
2 – DF	B,C,D,E,F,H	200	5 ≥ 19"	60
3 – DF	G	180	10 ≥ 17"	80
4 – PP	A,B,C,K	180	4 ≥ 17"	40
5 – PF	A,B	120	6 ≥ 09"	50
6 – LP	A,B,C,D,E, F,G,H,I	150	12 ≥ 10"	50
7 – SAF	C	160	12 ≥ 17"	80
8 – SAF	D,E	160	7 ≥ 17"	80
9 – SAF	F,G,H,I	160	10 ≥ 13"	60
10 – SAF	J	135	8 ≥ 13"	40
11 – WBP	D,E,F,G,H,I	150	11 ≥ 13"	60
12 – WBP	J	135	7 ≥ 13"	40

In this Project area, for example, old growth logging is permitted in Douglas- fir Type 1 (DF 1) and Douglas-fir Type 2 (DF 2) old

growth types, which only require retention of a minimum of 4 or 5 large trees over 200 years/old per acre.

Accordingly, there is no longer any enforceable numeric standard for old growth forest retention on the Forest, and logging is permitted in old growth forest down to the “minimum criteria” listed in Green et al., which in cases such as this Project require the retention of only 4 or 5 large trees per acre.

First, the Project violates the Forest Plan. The Project EA does not demonstrate that the Forest Service is currently complying with the desired condition of 17% old growth Forest-wide, 4% old growth for warm dry types, 22% old growth for cool moist types, and 32% old growth for cold types. The assessment for the Forest Plan was issued over 3 years ago, and since that time logging, windthrow, wildfires, and beetle kill have occurred that may have changed the existing condition. The Forest Plan requires this analysis at both the Forest level, as well as the Geographic Area level, but the Project EA does not disclose the existing old growth condition at either level. Moreover, the Forest Plan specifies that old growth must be widely distributed and provide for connectivity at both the Forest level and the Geographic Area level; the only way to determine whether there is wide distribution that contributes to connectivity is with a map. For all of these reasons, the Forest Service is violating the Revised Forest Plan, in violation of NFMA, NEPA, and the APA.

Second, alternatively or in addition, the Project EA violates NEPA. The Project EA fails to take a hard look at whether old growth complies with desired percentages discussed above,

and is widely distributed and contributes to connectivity across the Forest and in every Geographic Area, including the Castle Mountains Geographic Area. There are no Forest-wide or Geographic Area-wide disclosures of percentages of existing old growth, or maps showing distribution and connectivity of old growth at these scales. Thus, the Project EA fails to take a hard look and fully and fairly inform the public and agency as to whether the Project is consistent with the text, purpose, and intent of Forest Plan Desired Condition FW-VEGF-DC-05, and fails to take a hard look at the ways that the Project could help to restore and achieve wide distribution and connectivity of old growth habitat as envisioned by the Forest Plan. Furthermore, under *Kern v. BLM*, the Project EA must include the cumulative effects analysis on old growth dependent wildlife species that is missing from the Revised Forest Plan EIS. Without this analysis at the Project EA level, the Project analysis unlawfully tiers to the Revised Forest Plan EIS. As discussed below, the Revised Forest Plan EIS fails to provide any meaningful cumulative effects analysis as to how the removal of enforceable minimum standards for old growth retention, and the allowance of commercial logging in old growth forest stands across the Forest, will cumulatively degrade habitat for old growth dependent wildlife species and prevent the Forest from maintaining viable populations of this rare, native terrestrial wildlife community.

Third, alternatively or in addition, the Revised Forest Plan violates the 2012 NFMA Planning Rule and/or NEPA. The old growth provisions in the Revised Forest Plan, which fail to set

enforceable numeric minimum percentages of old growth retention for the Forest, and at the same time allow significant commercial logging in old growth while still labeling it as “old growth” post-logging, lack ecological integrity, including lacking appropriate elements to ensure function and connectivity of old growth forest for the rare terrestrial wildlife community of old growth dependent wildlife species, and therefore the Revised Forest Plan violates the NFMA planning regulations, NFMA, and the APA.

Furthermore, there is no adequate cumulative effects analysis in the Revised Forest Plan EIS regarding the impact on old growth dependent wildlife species across the Forest from this new, piecemeal, project-by-project, death by a thousand cuts approach to old growth forest management. Without a Forest-wide cumulative effects analysis of how old growth logging will impact old-growth dependent wildlife species, the Forest Service cannot demonstrate that its Forest Plan complies with NEPA or the NFMA planning rule mandate that the Forest Plan maintains or restore the “rare terrestrial animal community” of old growth dependent wildlife species.

If the project will reduce hiding cover below the minimum recommended level of 40%, then the project will have significant adverse impacts on elk, which would require completion of an Environmental Impact Statement (EIS).

The failure to complete any surveys for any wildlife species except for the presence/absence of the Flammulated Owl is apparently justified by the large size of the project. Treatment of al-

project area would require a massive survey effort to detect nest and roost sites of focal species. It would also require a massive effort to survey for neotropical migratory birds, which includes the Northern Goshawk and Great Gray Owl. The fact that large projects prevents any valid reliable surveys for wildlife means that these project will automatically have significant adverse impacts of a host of wildlife species, requiring an EIS. The attached Forest Service Handbook 1109.12, Chapter 10 states that Scoping is required for all Forest Service proposed actions, including those that would appear to be categorically excluded from further analysis and documentation in an EA or an EIS (§220.6).

A key requirement of the scoping process is to: “(1) Determine the scope (§1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.”

Will the project area log any unroaded lands adjacent to Inventoried Roadless Lands? From looking at maps of the project area it appears that you are. The inventoried roadless areas boundaries were often mapped arbitrarily. Since this was no corrected in the revised Forest Plan, please redraw the roadless areas in the project area to comply with NEPA and the APA.

Thank you for your attention to these concerns.

Sincerely yours,

Mike Garrity

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