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July 25th, 2025

Northern Hills Ranger District  
2014 North Main Street  
Spearfish, SD 57783  
[chris.stores@usda.gov](mailto:chris.stores@usda.gov),  
<https://cara.fs2c.usda.gov/Public/CommentInput?Project=67248>

### RE BUFFALO PROJECT – REVISED VERSION

Dear Northern Hill District's Staff,

#### **Extension Request**

We object to the 10 days short comment period on your new version of the revised project and ask for an extension. I am sorry but I did not have time to prepare quality comments.

#### **Emergency Provision**

You write:

“On April 3, 2025, US Department of Agriculture Secretary Brooke Rollins issued Secretarial Memo 1078-66: *Increasing Timber Production and Designating an Emergency Situation on National Forest System Lands*. This memo makes an Emergency Action Determination (EAD) under section 40807 of the Infrastructure Investment and Jobs Act. Per direction issued by Jacqueline Emmanuel, Acting Deputy Chief of the Forest Service, relating to the Secretarial Memo: *All actions eligible within the lands covered will use this EAD authority as the default approach including ongoing actions*. Because the entirety of the Buffalo project area is within an area identified as being in an emergency situation, the EAD authorities will be used for the Buffalo Project. As such, the Buffalo Project will not be subject to the pre-decisional objection process provided by 36 CFR 218, and the decision on this project, when rendered, will be final.”

Your EA must more clearly explain why an emergency is justified for this project. Failure to do so will violate NEPA.

One of the requirements for declaring an Emergency is that the Forest Plan and all other laws must be followed. If you use the Emergency Action Determination (EAD), you can't violate the Forest Plan or other laws. A violation of the Forest's Land and Resource Plan or other laws will invalidate your use of EAD.

The Emergency used by the Forest Service in this case states: "All projects and activities carried out under this section shall be consistent with the land and resource management plan established under section 1604 of this title for the unit of the National Forest System containing the projects and activities." 16 U.S.C. §6591b (e). Thus, a Forest Plan violation in this case not only violates NFMA, but it also renders unlawful the use of a Emergency Action Determination (EAD) under the Infrastructure Investment and Jobs Act (IIJA), Section 40807.

However, we can't tell what you are doing in enough detail based on the "Modified Proposal and Opportunity to Comment". It is especially inadequate on Wildlife Impacts. We reserve the right to challenge use of the EAD due to the future EA's on failure to comply with Forest Plan and other laws, once we see it.

We fear this project will go through under the new Department of Agriculture's NEPA rules – February 2025 notice of the Removal of National Environmental Policy Act Implementing Regulations: <https://ceq.doe.gov/docs/laws-regulations/CEQ-Interim-Final-Rule-Pre-publication-Version.pdf> and July 2025 notice of Interim final rule; request for public comment: <https://www.federalregister.gov/documents/2025/07/03/2025-12326/national-environmental-policy-act>

The Department of Agriculture's new rules, haven't even yet had a public comment period completed but they will be violating the Administrative Procedures Act (APA), 5 U.S.C. §§ 551 et seq. and will also violate NEPA. We believe these rules are illegal and will be litigated and tossed by the Courts. Thus, this project will proceed in violation of the APA & NEPA if you use these new rules.

## **Invasive Plants**

We want more detail on how you will protect montane grasslands from weeds and invasive plants. We are very concerned about any activity that disturbs the surface occurring in them.

How will you treat existing weed infestations throughout the project.?

At page 4 of the "Modified Proposal and Opportunity to Comment" it says:

"Many of the meadows (approximately 782 acres) in the project area have been identified as montane grasslands, a vegetative community that is endemic to the Black Hills. This community is listed as critically imperiled by NatureServe and the states of South Dakota and Wyoming. Threats to montane grasslands include invasive species and conifer encroachment. Other meadows are also

being infringed by conifer regeneration. Removal of encroaching conifers and use of prescribed fire would benefit these meadow areas in the long-term.”

At page 13-14 of the “Modified Proposal and Opportunity to Comment”, it says:

“Noxious weed prevention and control measures, including implementation conditions and the availability of weed-related funding, would be applied to minimize the establishment and spread of non- native invasive plants and any infestations following proposed activities. A native seed mix, which may include pollinator-friendly species, would be utilized for restoration efforts.

You must comply with Forest Plan Standards on weeds. Forest Plan Standards say: -

4301. \*For all proposed projects or activities, determine the risk of noxious weed introduction or spread, and implement appropriate mitigation measures and treatment. STANDARD

4309. \*Monitor weed treatments used at R2 sensitive and species of local concern plant occurrences and re-treat as needed during the season. STANDARD

Thanks,

A handwritten signature in black ink, appearing to read "Nancy Hilding", with a stylized flourish at the end.

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