

September 12th, 2025

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RE: Big Piney Ranger District and Greys River Ranger District; Bridger-Teton National Forest; Wyoming, Objection to Final EIS and Draft ROD on Dell Creek and Forest Park Elk Feedgrounds: Long-Term Special Use Permits

The Responsible Official is Chad Hudson, Forest Supervisor and the Objection Reviewing Officer is Christopher Carlton, Deputy Regional Forester.

To the Objection Receiving Officer:

Sierra Club Wyoming Chapter and Wyoming Wildlife Advocates submit the following objection to the selected action detailed in the Final Environmental Impact Statement (Final EIS) and Draft Record of Decision (Draft ROD) to authorize short-term use of the Dell Creek and Forest Park feedgrounds through 9/30/2028. Both of our organizations submitted timely comments on the Draft EIS and during the scoping period. In this case, the responsible officials decided to implement a modified Proposed Action (PA) to:

authorize short-term continued use of the Dell Creek elk feedground (35 acres) and the Forest Park elk feedground (100 acres), and the existing facilities at each feedground, for the Wyoming Game & Fish Commission (WGFC) winter elk-management program as described in the Final EIS through September 30, 2028. Hay may be distributed from drawn sleighs daily between November 15 and April 30, depending on winter conditions. The WGFC would maintain and operate existing facilities necessary for their ongoing winter elk-management activities, including hay-storage sheds, fenced stackyards, corrals, elk traps, fencing, 0.25 miles of road, a bridge, a cabin, spring development, a water well, and a portable tack shed. No new construction or facilities would be permitted. Winter elk- management activities would include, but would not be limited to feeding, capturing, collaring, vaccinating, and testing elk—and removing diseased elk from the population.

Draft ROD at 2.

As stated in our previous comments, our organizations are deeply concerned about permitting and operating any elk feedgrounds on the Bridger-Teton National Forest (BTNF), including the Forest Park and Dell Creek feedgrounds. In our comments on the Draft EIS, we opposed the proposed action to approve permits which would allow for continued elk feeding for at least 20 more years at the two specified feedgrounds. We supported two other alternatives considered in

the Draft EIS, the “Support of No Special Use Authorization Alternative: and the “Phase Out Alternative”.

Our concerns with continued elk feeding and the process by which special use permits have been issued for the Dell Creek and Forest Park feedgrounds remain as we have previously articulated in numerous communications to the U.S. Forest Service (USFS) and are well summarized in our comments on the Draft EIS, scoping comments we submitted in February 2022 regarding artificial feeding on Dell Creek and Forest Park feedgrounds and our 2016 scoping comments. Both the Sierra Club Wyoming Chapter and Wyoming Wildlife Advocates have organizational interests in the proper and lawful management of the forest’s resources, especially its duty to provide for healthy wildlife habitat on the Bridger-Teton National Forest.

Failure to comply with the NEPA

The Draft ROD introduces a new “Modified Proposed Action”, which significantly departs from the alternatives analyzed in the Draft EIS. The proposed decision seeks to authorize continued use of the Dell Creek and Forest Park elk feedgrounds for a period of three years, ostensibly to allow the Wyoming Game and Fish Department (WGFD) time to develop Feedground Management Action Plans (FMAPs).

The Draft EIS contained two alternatives involving three-year permit terms: the “No Special Use Authorization Alternative”, which would allow for a three-year special use permit to dismantle and rehabilitate the feedgrounds; and the “Phase-Out Alternative,” which would issue an initial three-year permit to begin phasing out feeding, followed by a second three-year permit to dismantle and rehabilitate the feedgrounds. No alternative in the Draft EIS analyzed a three-year permit to allow continued feeding operations while WGFD develops FMAPs. Consequently, the Forest Service is approving a course of action that was not analyzed in the DEIS or otherwise disclosed to the public.

This directly violates National Environmental Policy Act (NEPA) regulations, which require that “the decision on the action is to implement an alternative analyzed or is within the range of alternatives analyzed in the EA or EIS.” (36 CFR § 220.7(b)(3)). As such, the Forest Service has failed to ensure compliance with procedural mandates and deprived the public of meaningful opportunity for review and comment on the management direction now being pursued.

The Draft ROD presents two main rationales for the Forest Service’s decision to authorize three-year permits:

1. This short-term authorization would allow for consistent use of the Dell Creek and Forest Park elk feedgrounds as WGFD develops FMAPs for each individual elk herd and associated feedgrounds.
 - a. Each elk herd will have individualized FMAPs, with a three-year completion objective for all seven herds (i.e., March 2027).

- b. The FMAPs will explore the long-term and short-term opportunities to reduce elk reliance on and disease transmission risks on feedgrounds in Wyoming and could result in changes to WGFD elk management programs at feedgrounds.
- 2. This short-term authorization will allow the Forest Service to coordinate future management of the Dell Creek and Forest Park elk feedgrounds with five other elk feedgrounds on NFS lands and how they may be affected with other non-Forest Service feedgrounds as a result of the FMAP process.

This rationale is flawed in at least two ways which violate NEPA and undermine the Forest Supervisor's role in managing these federal lands.

Firstly, and as noted in our comments on the Draft EIS, the rationale for this decision arbitrarily relies on Wyoming's Draft Elk Feedground Management Plan. Despite this, the Draft ROD now places substantial reliance on WGFD's future FMAPs as justification for continued feeding activities. This is procedurally improper and substantively arbitrary. The Forest Service cannot base its federal decision-making on hypothetical state-level plans that have neither been finalized nor subjected to NEPA review.

Our comments on the DEIS specifically noted that the agency's reliance on the speculative implementation of a Wyoming Elk Feedground Management Plan to address Chronic Wasting Disease (CWD) was misplaced. The Draft EIS acknowledged the possibility that the Wyoming Game and Fish Commission (WGFC) might seek to reduce the spread of CWD (see DEIS at p. 81), yet no concrete plan or enforceable commitment to do so exists. The assumption that these state plans will effectively mitigate CWD in the foreseeable future lacks evidence and cannot be relied upon.

Secondly, The Forest Service is effectively deferring its environmental analysis and decision-making responsibilities to an external, non-transparent process controlled by WGFD. The FMAPs are being developed without adequate public oversight or formal NEPA review. By relying on the future completion of these documents to justify current federal action, the agency is unlawfully postponing its obligation to evaluate the environmental impacts of continued feedground operations.

The FMAP process does not guarantee a suitable opportunity for public comment, review or objection. Instead the WGFD has selectively invited participants to engage in closed-door meetings, and there is no guarantee that these plans will undergo meaningful public review. Relying on such an opaque and discretionary process for future management of feedgrounds on federal lands undermines the integrity of NEPA and fails to uphold the Forest Service's independent duty to manage National Forest System lands in accordance with federal law.

It is also important to note that the WGFD has consistently failed to meet its own timelines for completion of the overarching Elk Feedground Management Plan. By issuing short-term permits with the expectation that FMAPs will be developed and finalized within a three-year window, the Forest Service is once again making a speculative assumption that is detached from what is happening on the ground. This approach does not resolve the long-standing environmental and

disease transmission concerns associated with feedgrounds. Instead, it serves only to delay meaningful agency action, in violation of NEPA's mandate for informed, timely, and transparent decision-making.

The Forest Service's decision to authorize continued feeding for three more years while awaiting the completion of FMAPs is arbitrary and capricious under NEPA. The agency admits that chronic wasting disease (CWD) is a foreseeable and devastating threat, yet it chooses inaction during the critical period in which the disease is most likely to establish and spread in northwest Wyoming. This delay is particularly indefensible given the scientific record demonstrating that interim feeding "mitigation" strategies do not reduce elk densities or disease risk which we referenced extensively in our previous comments.

Recent analyses from the National Elk Refuge (NER) demonstrate that attempts to shorten feeding seasons or implement so-called "low-density" feeding do not achieve lower elk densities or reduced disease prevalence. Elk continue to congregate at high levels so long as artificial food is supplied (*Cross et al., 2010; Maichak et al., 2009; NER Annual Disease Review, 2022*). Once prions are introduced into these concentrated groups, shortened feeding periods and dispersed hay lines do nothing to reduce the fundamental mechanism of disease transmission. Further research shows that feeding elk doesn't boost elk populations because other factors come into play (*Dugovich, et al., 2025*). The Forest Service's reliance on the prospect of FMAPs producing materially different outcomes ignores this established body of research.

Moreover, the FMAP process is modeled on the state's earlier Brucellosis Management Action Plans (BMAPs), which have failed to eliminate feedgrounds or meaningfully reduce brucellosis transmission risks. Instead, those plans entrenched the status quo, relying on operational tweaks that have proven ineffective at addressing disease dynamics. There is no reason to expect the FMAPs to yield different results, particularly when Wyoming's stated priority remains maintaining artificially inflated elk numbers for hunter opportunity rather than ensuring population health. By deferring meaningful action in favor of waiting for FMAPs, the Forest Service abdicates its responsibility under National Forest Management Act (NFMA) and NEPA to protect wildlife health and ecosystem integrity.

Deferring to a speculative and state-driven planning process – while knowingly perpetuating conditions that exacerbate disease risk – is a violation of NEPA's requirement to use the best available science and take a "hard look" at environmental consequences. See *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989). Instead of immediate and necessary action to reduce unnatural crowding, the agency chose an approach guaranteed to result in further disease spread and population-level consequences for elk in northwest Wyoming.

Relief Requested

For the reasons outlined above, the Record of Decision for the Dell Creek and Forest Park feedgrounds is legally and scientifically inadequate. The Forest Service has failed to comply with NEPA, NFMA, and its duty to protect healthy wildlife populations and functioning ecosystems on National Forest System lands. Specifically, the agency:

- Improperly deferred meaningful action for three years while awaiting speculative Feedground Management Action Plans, despite scientific consensus that interim “low-density” or shortened feeding strategies do not reduce disease transmission;
- Unlawfully narrowed the scope of its analysis to only two feedgrounds, ignoring the cumulative and interconnected risks posed by all Forest Service–authorized feedgrounds;
- Failed to take a hard look at foreseeable disease, ecological, and socioeconomic consequences; and
- Refused to analyze a reasonable alternative of phasing out all feedgrounds on National Forest System lands.

Accordingly, we respectfully request that the Reviewing Officer:

1. **Reverse and remand** the Record of Decision for failing to comply with NEPA and NFMA.
2. Direct the Forest Service to **withdraw authorization** for continued feeding at Dell Creek and Forest Park pending completion of a lawful environmental analysis.
3. Require the agency to **prepare a supplemental or revised EIS** that:
 - Evaluates an alternative phasing out artificial feeding at **all Forest Service–permitted feedgrounds**;
 - Incorporates the best available science on CWD transmission, prion persistence, and population-level effects;
 - Assesses ecological, public health, and socioeconomic impacts of disease outbreaks and diminished elk populations; and
 - Provides a detailed and enforceable plan for **immediate reduction and phase-out of artificial feeding**, not deferral to speculative state-led FMAP processes.
4. Ensure that any future special use authorizations for feedgrounds are **narrowly limited, temporary, and tied to clear phase-out objectives**, consistent with the Forest Service’s duty to manage for healthy, sustainable wildlife populations and resilient ecosystems.

Only by taking these actions can the Forest Service fulfill its legal obligations and prevent foreseeable, irreversible harm to elk populations and the broader ecological integrity of

northwest Wyoming. The urgency of this matter cannot be overstated. Chronic wasting disease, once established, is irreversible, untreatable, and devastating to cervid populations. Current diseases present on feedgrounds (hoof rot, necrotic stomatitis, etc.) kill elk in particularly slow and painful ways. The Forest Service has a solemn responsibility as steward of public lands and wildlife habitat to prevent foreseeable ecological collapse. The Forest Service also has a duty to provide for healthy habitat that doesn't harbor and perpetuate diseases to wildlife. Deferring meaningful action for three more years while relying on ineffective interim strategies risks squandering the narrow window of opportunity to protect elk herds in northwest Wyoming. The public entrusts the Forest Service to safeguard these resources for present and future generations; continuing to authorize artificial feeding in the face of overwhelming scientific evidence is inconsistent with that trust. Immediate and decisive action to phase out feedgrounds is the only lawful and responsible course.

Failure to Take a Hard Look at Disease Transmission and Public Health Risks

The Final EIS/Draft ROD fails to meaningfully assess disease risks, particularly:

- The already occurring presence of CWD on feedgrounds. Scientific consensus (cited in our comments) establishes that artificially concentrating elk accelerates disease transmission.
- Long-term contamination of soil and vegetation with prions, persisting for a decade or more. This was ignored in the cumulative effects analysis.
- Potential spillover risks to livestock and human communities.

Failure to rigorously address these foreseeable impacts violates NEPA's "hard look" standard. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989).

Failure to Take a Hard Look at Socioeconomic Impacts

The Final EIS limited its socioeconomic review to short-term ranching and hunting benefits, while excluding:

- The long-term economic harm of CWD spread to Wyoming's hunting and wildlife economy.
- Loss of ecosystem services from degraded habitats.
- Costs of potential litigation and management once CWD is found to be at increased levels of prevalence in elk populations.

Courts have struck down similarly narrow socioeconomic analyses. *High Country Conservation Advocates v. U.S. Forest Serv.*, 52 F. Supp. 3d 1174, 1195 (D. Colo. 2014).

Improper Purpose and Need

The Purpose and Need statement in the EIS was unlawfully constrained to “responding to Wyoming Game and Fish Department’s application for feedground permits.” NEPA requires agencies to define a purpose that is not so narrow as to preordain a particular outcome. *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1038 (9th Cir. 2008).

By ignoring the Forest Service’s independent obligation to provide healthy habitat under NFMA and the Bridger-Teton Forest Plan, the agency failed to consider alternatives that better fulfill its statutory mission.

Relief Requested

The Forest Service must provide a purpose and need consistent with their obligation to provide healthy habitat for wildlife under the applicable law.

Failure to Consider Forest-Wide Cessation of Feeding

The Final EIS ignored foreseeable cumulative effects, including:

- Interaction of multiple feedgrounds across western Wyoming in amplifying CWD/disease risk.
- Long-term contamination of soils and waters by prions.
- Cascade impacts to grizzly bears, wolves, and other carnivores dependent on elk.

Failure to analyze these regional cumulative impacts violates 40 C.F.R. § 1508.7.

The Forest Service improperly limited the scope of this analysis to the Dell Creek and Forest Park feedgrounds, while ignoring other feedgrounds operating under Forest Service special use authorizations within the Bridger-Teton National Forest. This piecemeal approach is inconsistent with NEPA’s requirement to analyze the full scope of connected and cumulative actions. See 40 C.F.R. §§ 1508.1(g)(1)–(3). The risk of disease introduction and spread from elk feedgrounds does not respect administrative boundaries, and the environmental consequences cannot be meaningfully evaluated in isolation.

By restricting its alternatives to only two feedgrounds, the Forest Service effectively precluded consideration of a reasonable alternative that would have phased out **all feedgrounds on National Forest System lands**. This omission is fatal under NEPA. Agencies must consider all reasonable alternatives, including those outside the applicant’s immediate request, when those alternatives would substantially reduce environmental harm. *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 813 (9th Cir. 1999) (EIS inadequate where agency failed to consider

obvious alternatives). Here, the most obvious and effective way to mitigate the foreseeable impacts of CWD, habitat degradation, and elk overconcentration is to halt artificial feeding forest-wide. The Forest Service's refusal to even analyze this option renders its range of alternatives unlawfully narrow.

Moreover, the agency's position that "this EIS only involves Dell Creek and Forest Park" ignores the **best available science** documenting that all feedgrounds create overlapping disease reservoirs and interconnected population-level risks (*Almberg et al., 2011; Cross et al., 2010*). CWD is not confined to a single site once established; prions persist in soils and vegetation and are transported across the landscape by infected elk (*Johnson et al., 2007; Pritzkow et al., 2015*). The cumulative effect of multiple feedgrounds is precisely what amplifies transmission risk and undermines elk population resilience. By isolating Dell Creek and Forest Park from the larger network of feedgrounds, the Forest Service ignored the true ecological context of its decision and failed to take the "hard look" NEPA requires.

The agency's obligation under NFMA and the Bridger-Teton Forest Plan is to ensure the long-term sustainability of elk and associated carnivores across the forest. That duty cannot be met by narrowly segmenting decisions feedground-by-feedground while turning a blind eye to the larger system that poses the greatest risk of irreversible ecosystem harm. A lawful EIS must therefore include, at minimum, an alternative analyzing cessation of all Forest Service-permitted feedgrounds.

Failure to Address and Respond to Substantive Comments

The Final EIS also violates NEPA by failing to meaningfully consider and respond to substantive public comments. Under 40 C.F.R. § 6.207(d)(6), an agency is required to "consider substantive comments received during the public participation process," and the Final EIS must "include or summarize all substantive comments received on the draft EIS, respond to any substantive comments on the draft EIS, and explain any changes to the draft EIS and the reason for the changes." This duty is not satisfied by perfunctory or conclusory responses; rather, the agency must grapple with the issues raised in order to demonstrate that it has taken the requisite "hard look" at the environmental consequences of its decision. See *Earth Island Inst. v. U.S. Forest Serv.*, 351 F.3d 1291, 1301 (9th Cir. 2003).

In this case, numerous substantive comments—supported by peer-reviewed scientific literature and agency data—were submitted regarding the risks of chronic wasting disease transmission, the cumulative impacts of all feedgrounds on National Forest System lands, the ineffectiveness of "low-density" or shortened feeding strategies, and the ecological harms to predators and habitat integrity. Despite the volume and detail of these submissions, the Final EIS either dismissed them with cursory statements or ignored them altogether. For example, comments citing recent National Elk Refuge research showing that low-density feeding does not reduce disease prevalence were not substantively addressed. Similarly, extensive comments urging analysis of a forest-wide feedground phase-out were rejected as "outside the scope," without any meaningful explanation or scientific justification.

The record reflects multiple areas where the agency failed to engage with evidence submitted during the comment period, including but not limited to:

Disease Persistence in the Environment – Scientific studies documenting that CWD prions persist in soils and vegetation for a decade or more (Johnson et al., 2007; Pritzkow et al., 2015) were submitted to highlight the irreversible risks of continued feeding. The Final EIS failed to address these findings or analyze how soil contamination at feedgrounds creates long-term disease reservoirs.

Ineffectiveness of “Low-Density” Feeding – Peer-reviewed research from the National Elk Refuge and others (Cross et al., 2010; Maichak et al., 2009) was cited showing that shortened or dispersed feeding does not reduce elk concentrations or disease transmission. The Final EIS offered no substantive engagement with these studies.

Cumulative and System-Wide Risks – Comments emphasized that the Dell Creek and Forest Park feedgrounds cannot be analyzed in isolation because disease risk is cumulative and population-level. The Final EIS dismissed calls for a forest-wide analysis as beyond the scope without explaining why NEPA’s cumulative effects mandate did not apply.

Socioeconomic Impacts – Substantive comments addressed the long-term economic risks to outfitters, guides, and local communities should elk herds decline due to CWD outbreaks. These concerns were brushed aside without meaningful analysis, despite NEPA’s requirement to evaluate socioeconomic consequences.

Role of Predators and Natural Processes – Comments pointed out that elk feeding distorts predator-prey dynamics, limiting the ability of wolves and cougars to regulate populations naturally. This ecological concern was not substantively addressed in the Final EIS.

By failing to engage with this body of evidence and public input, the Forest Service deprived the decision-making process of the informed debate and transparency that NEPA requires. Instead of providing reasoned responses or modifying its analysis, the agency sidestepped critical issues and left substantial questions unanswered. This failure not only violates 40 C.F.R. § 6.207(d)(6) but also underscores the broader inadequacy of the Final EIS in considering reasonable alternatives and foreseeable consequences.

Support for No Action and Phase-Out Alternatives

The only alternatives consistent with NEPA, NFMA, and the Bridger-Teton Forest Plan are:

- Denial of the Special Use Authorizations (“No Action”).
- A time-bound, enforceable phase-out of artificial feeding with habitat restoration.

Both alternatives fulfill the Forest Service's legal obligations to protect ecosystem integrity, reduce disease risk, and align management with long-term sustainability.

Relief Requested

We respectfully request that the Reviewing Officer:

1. Remand the Record of Decision for failure to comply with NEPA and NFMA.
2. Direct the Forest Service to prepare a Supplemental EIS that:
 - Fully analyzes disease risks, socioeconomic impacts, and cumulative effects.
 - Includes alternatives for immediate or phased cessation of feedgrounds.
 - Evaluates the ecological role of carnivores and habitat-based management.
3. Deny issuance of Special Use Authorizations for Dell Creek and Forest Park until lawful compliance is achieved.

The Forest Service's continued authorization of artificial elk feeding is arbitrary, capricious, and contrary to federal law. For the health of elk, carnivores, and the Greater Yellowstone Ecosystem, we respectfully urge that this ROD be withdrawn and reconsidered under a lawful NEPA process.

As required by 36 C.F.R. § 218.8(d):

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