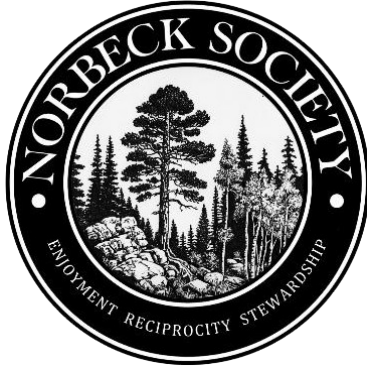




Norbeck Society  
P. O. Box 9730  
Rapid City, SD 57709

Patrick Champa, District Ranger  
Chris Stores, Natural Resources Planner  
Northern Hills Ranger District  
Black Hills National Forest  
2014 North Main St.  
Spearfish, SD 57783

June 22, 2026

**Re: Benchmark Vegetation Management Project #304272**

Dear Ranger Champa and Planner Stores,

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 complexity 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 Benchmark Vegetation Management Project. 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 the National Environmental Policy Act (NEPA), Habitat Structural Stages (HSS), Management Indicator Species (MIS), Allowable Sale Quantity, (ASQ), and other matters. These issues must be resolved.

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

P. O. Box 9730  
Rapid City, SD 57709  
[info@norbecksociety.com](mailto:info@norbecksociety.com)

cc: Shawn Cochran, Wendy Schuyler

# The Benchmark Vegetation Management Project Forest Management Project Norbeck Society’s Preliminary EA Comments June 22, 2026

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## Disclaimer

To the employees on the Northern Hills Ranger District (NHRD), we respect the work you do and the difficult position we believe you are in. We understand pressures are coming from above to produce timber volume for industry, beyond what any of you may feel comfortable doing. Please do not take these comments personally. We are as passionate as you are about managing the forest sustainably. We hope these comments will yield actions that can put us back on a more sustainable trajectory.

## Public Involvement – What we want

1. We want a well-written P&N that explains the goal and the problem or opportunity that the Proposed Action (PA) is intended to address
2. For a PA of over 38,000 acres, there must be at least another alternative developed and analyzed. The most logical is to consider an alternative where there is no final harvest proposed in MA 5.4 and MA5.3. Within MA 5.1, identify stands and correlating silviculture prescriptions that will move mature HSS4s into HSS5, of which the forest is significantly devoid, and of which the viability of species such as the American Goshawk depends. This alternative needs to reflect a reasonable option to the re-written Purpose & Need.
3. We need an updated and more accurate structural stages (HSS) data layer. This is the pivotal piece of data to support any vegetation related “need” for action. We have conducted sample site visits and found 20% to 50% of structural stages to be inaccurately labeled.
4. Conduct a plan amendment to adjust ASQ to match on-the-ground conditions and to reset the ASQ to what is truly sustainable in an even flow, non-declining way.

## National Environmental Policy Act (NEPA) – Purpose & Need **[FATAL FLAW]**

Forest Service decisions are typically justified by showing how the proposed action helps move conditions toward forest plan desired conditions. It must be consistent with the governing Forest Plan. For National Forest System projects, the Purpose & Need (P&N) should be connected to:

- Applicable forest plan goals, objectives, standards, and desired conditions.
- Statutory authorities such as the National Forest Management Act.
- Other applicable laws and regulations.

The Forest Service's NEPA procedures require that there be a Forest Service proposal - meaning the agency has a goal and is preparing to decide among alternative ways of accomplishing that goal. The P&N statement explains the goal and the problem or opportunity that the PA is intended to address. Basically, the P&N is answering, “Why consider taking any action?”

Under NEPA, the P&N section generally should:

1. **State the purpose** (what the agency is trying to accomplish).

2. **Explain the need** (the problem or opportunity requiring action).
3. **Provide a rational connection between existing conditions and the proposed action.**
4. **Not be so narrowly written that it predetermines the outcome or limits reasonable alternatives.**

The P&N should demonstrate why action is warranted rather than merely asserting it. A well-developed P&N section often includes:

- Existing conditions
- Problem statement
- Evidence of the problem
- Project objectives
- Relevant statutory or policy requirements
- Geographic and temporal context

The preliminary Environmental Assessment (EA), page 1, lacks a clear P&N and is written so generically that it can be overlaid on just about every national forest and be applicable. That fails the test of even the agency's policy on developing a clear P&N. Your P&N is written so that it is vulnerable to challenge because it blends purpose, need, and proposed solutions together and relies heavily on external directives rather than resource conditions. Our reasoning includes:

**1. The purpose statement is framed as an Executive Order, Secretarial Memo, Community Wildfire Protection Plan (CWPP) and reference to MA 5.1., rather than desired outcomes.**

Current wording: "The purpose of the Benchmark Vegetation Management Project is to implement forest management actions to provide commercial timber to local industry, reduce hazardous fuels, and reduce the risk of insect infestation."

- What specific hazardous fuel conditions exist?
- What insect risks exist?
- Why are current conditions inadequate?

What is flawed is that the statement jumps quickly to "forest management actions" rather than describing the resource objectives.

**2. The "need" relies heavily on policy direction instead of site-specific conditions, specifically Executive Order 14225, Secretarial Memo 1078-006, and a CWPP.**

Current wording: "The purpose of the Benchmark Vegetation Management Project is to implement forest management actions to provide commercial timber to local industry, reduce hazardous fuels, and reduce the risk of insect infestation."

- Failed to define the acres with hazardous fuel accumulations. What are the methods used to define these acres?

- Failed to define the stand conditions that may create insect epidemics, knowing that insects such as IPS and Mountain Pine Beetle are native. What are the stand conditions that would support an insect epidemic and do any of these stands have those conditions? What are the insect infestation trends over the last 10 years?
- Is the use of Structural Stages (HSS) the only means by which you define stand densities? We are extremely concerned that FSVEG, which supports HSS analysis, is deeply flawed based upon the inability to keep it updated due to different constraints.
- We challenge the continued emphasis on generating younger HSS, as you feel this is a realistic departure from desired conditions. However, there is absolutely no discussion or awareness of near-immediate improvements on HSS that truly are departed, such as HSS5, and your ability to work to improve this departure with minimal effort and funding.
- We cannot locate anywhere how fire behavior concerns and fuel conditions are defined and, most importantly, how they are spatially portrayed across the landscape.
- There is a significant lack of site specificity that supports claimed threats to nearby communities, infrastructure, or private lands.
- The use of best available science is touted by USDA and the Forest Service, yet the presentation of best available science is lacking.

The “need” is not at all clear for any vegetative treatments. This section of the EA appears to explain why the agency is authorized or directed to act, but they do not fully explain why action is needed here site specifically.

### **3. Timber production appears as a purpose but the need is not fully explained**

The statement says, “provide commercial timber to local industry,” but the Need section does not explain:

- Whether timber outputs are over/below Forest Plan objectives.
- Whether stands are suitable for harvest.
- Why is timber production needed in this specific area?
- The statement should be framed around the agency's purpose, not simply a project proponent's desired outcome. We are gravely concerned by the “project proponents’ influence, specifically timber lobbyist’s unsustainable influence on the timber program across the Black Hills National Forest.

We argue that the document identifies a desired output without demonstrating a resource need.

### **4. Risk of appearing to predetermine the outcome, essentially saying that the Executive Order says produce more timber; Forest Plan says provide timber; Therefore, conduct timber harvest.**

- The Black Hills National Forest (BHNF) is significantly over-cut – best available science says so.
- The Executive Order is written for the entire agency, not specifically the BHNF.

- It is time to rest the BHNH and allow the stands and soils to recover.

NEPA requires consideration of alternatives. P&N can speak to timber harvest, but it must also consider other multiple uses. This P&N fails that standard.

### **The Bottom Line**

The P&N is weak because it relies on policy directives rather than on site-specific resource conditions. The necessary improvement would be adding concrete descriptions of current hazardous fuel, insect, and vegetation conditions and explaining how those conditions differ from desired future conditions under the Forest Plan. An Executive Order not a Secretarial Memo can direct you to avoid following the law. The P&N needs substantial improvement before we can in turn provide truly substantive comments to the P&N. As written, it is not a P&N.

In conclusion on the P&N, we wonder about the legal sufficiency by asking:

1. Did the Forest Service exercise independent judgment?
2. The Forest Service appears to have adopted an applicant's objectives without independent judgment.
3. Did it identify a real management problem or opportunity?
4. Did the Purpose & Need allow a reasonable range of alternatives? Considering this is 38,000 acres, this is reasonable.
5. Is the Purpose & Need supported by recorded evidence?
6. Is the decision framework clear?
7. The Need is unsupported by monitoring data, scientific evidence, or forest-plan direction.

**As written, the P&N violates the National Environmental Policy Act (NEPA), the Code of Federal Regulations, and the agency's own policies.**

## **National Environmental Policy Act (NEPA) – arbitrary & capricious [FATAL FLAW]**

The primary law that governs when federal courts can strike down agency decisions as arbitrary, capricious, or otherwise not in accordance with law is the Administrative Procedure Act (APA), codified at 5 U.S.C. § 706. Under the APA, reviewing courts must:

- Decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of agency action.
- Compel agency action unlawfully withheld or unreasonably delayed.
- Set aside agency action, findings, and conclusions that are:
  1. Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
  2. Contrary to constitutional rights, powers, privileges, or immunities.

3. In excess of statutory jurisdiction, authority, or limitations, or short of statutory right.
4. Without observance of the procedure required by law.
5. Unsupported by substantial evidence in cases subject to formal adjudications.
6. Unwarranted by the facts to the extent facts are subject to trial de novo.

While the APA is the main statutory source, the Due Process Clause of the Fifth Amendment and the Equal Protection Clause of the Fourteenth Amendment also require that federal decisions be lawful, fair, and not based on irrational or discriminatory grounds. The Administrative Procedure Act (5 U.S.C. § 706) is the key statute that authorizes courts to invalidate federal agency decisions that are arbitrary, capricious, or otherwise not in accordance with law, ensuring that agency actions are lawful, reasoned, and procedurally sound.

### **The Bottom Line**

We understand that a Forest Service NEPA EA can be pre-decisional, but it cannot be “arbitrary & capricious” on its own. Only the final decision document can be challenged that way, and even then, the EA’s quality is relevant to whether the final decision is legally sound. However, if the EA is used to support a final decision, the final decision document (e.g., FONSI or ROD) can be challenged on those grounds if it is found to be legally flawed.

A final NEPA decision (such as a FONSI or Record of Decision) can be challenged in court as **arbitrary and capricious** under 5 U.S.C. § 706(2)(E) if it:

- Fails to consider relevant factors.
- Relies on factors that are irrelevant or improper.
- Misinterprets or misapplies the law.
- Is based on an erroneous interpretation of the record.

The Norbeck Society is deeply concerned that if a decision is made upon this preliminary EA, then this project could be arbitrary & capricious:

- The decision framework is not clear as the EA fails to establish a clear and transparent picture that supports the ESD (Secretarial Memo). We are fully aware that the direction from Chris French in the Forest Service WO is clear in that the ranger districts MUST use the ESD. That in of itself is arbitrary and capricious.
- The Forest Service appears to have adopted an applicant's objectives (unsustainable timber volume demand) without independent judgment.
- Fails to consider species viability as directed in the Forest Plan (NFMA).
- Fails to consider Forest Plan components, specifically HSS percentages that are interlinked with species viability (NFMA).
- Fails to acknowledge a past court decision specific to species viability and HSS percentages that was directly related to the establishment of the Phase II plan amendment.
- By failing to articulate clearly the P&N, the agency is foregoing our ability to provide substantive comments, but more importantly, is attempting to justify the use of ESD that

excludes our ability to object to the decision. This creates grave concern for an agency action that is arbitrary and capricious.

- Even though the courts have given deference to agency expertise, the courts must still ensure the agency: a) considered relevant factors, b) articulated a reasoned explanation, and c) did not ignore significant evidence or contrary considerations. We feel strongly that the agency fails these criteria on this project.
- The Forest Service must disclose in the NEPA scoping process and in NEPA documents that a plan or action is subject to the pre-decisional administrative review (objection) process under 36 CFR 219.52. The agency claims ESD with no support in the EA, which foregoes our right to object to this project.
- The development of the “worst case scenario” for the PA and the failure to fully develop the No Action and reasonable alternative(s) do not meet NEPA and APA. This is a 38,003-acre project that is analyzed in about 52 pages with no supporting specialist reports (except the required BE). This is a failure to fully develop meaningful alternatives.
- The P&N fails to meet site specificity as it is a P&N that can be applied anywhere across the agency (EO and Secretarial Memo).
- Is the P&N supported by recorded evidence? It is not transparent in any of the documents made available to us for comment.
- The P&N fails to meet the NEPA standards for a P&N and thus fails to lay out clearly the purpose and the need for management actions.
- The Need is unsupported by monitoring data, scientific evidence, or forest-plan direction.

The list goes on.....

**As written, the P&N is likely to violate the Administrative Procedures Act. It appears to violate the National Environmental Policy Act (NEPA), the Code of Federal Regulations, and the agency’s own policies.**

## **National Environmental Policy Act (NEPA) – lack of site-specificity**

### **[FATAL FLAW]**

Forest Service site-specific projects are enforceable because they are legally tied to the National Forest Management Act (NFMA) and the Land and Resource Management Plan (LRMP), which are the statutory and regulatory frameworks for managing national forests. Projects are considered “site-specific” when they are designed to meet particular objectives in a defined location, such as fuels reduction, trail improvements, or habitat restoration. Under NFMA, all activities on national forests must be consistent with the LRMP in effect.

We have found and continue to find these large-acreage projects across the forest, described as site-specific, yet we find them anything but that. Speaking directly to the Benchmark Vegetation Management Project, we are struggling to see the site-specific nature of what is proposed beyond a general attempt to map them. At best, we see versions of a programmatic or a condition-based management (CBM) project, but even then, the EA does not meet programmatic nor CBM standards.

Programmatic Environmental Assessments, Condition-Based Management (CBM), and site-specific EAs serve different purposes in environmental management, focusing on different levels of decision-making and implementation.

- **Programmatic EA (BHRL is an example)**

A programmatic EA is a broad assessment that evaluates the potential environmental impacts of proposed programs, policies, or plans over a wide geographic area. It does not authorize specific actions but lays the groundwork for subsequent, more detailed analyses.

Programmatic EAs are typically used for large-scale initiatives that may involve multiple projects or actions. They allow for tiered reviews, meaning that specific projects can reference the programmatic EA to avoid repetitive analysis of the same issues. While they provide a comprehensive overview, programmatic EAs may lack the specificity needed for immediate implementation, as they do not address site-specific conditions or detailed project designs.

- **Condition-Based Management EA (not aware of any on the forest)**

Condition-Based Management EA focuses on aligning proposed management actions with current environmental conditions. It emphasizes adaptive management, allowing for adjustments based on real-time data and site-specific assessments. This approach allows for flexibility in decision-making and implementation, as it can adapt to new information or changing conditions.

- **Site-specific: (most commonly found across the forest)**

A traditional NEPA approach where the proposed action, location, and management activities are fixed at the planning stage, based on detailed site-specific data. Compliance with NEPA's procedural and substantive requirements by providing precise site-specific data and effects analysis.

The following are examples from the preliminary EA that serve to highlight our concerns about the lack of site-specificity that is necessary to provide substantive input, as provided in our only opportunity to comment. These examples are:

On page 3, Commercial Thin: "However, in some stand conditions an uneven distribution of residual trees may be desired to encourage spatial structural heterogeneity consistent with MA 5.1 objectives."

- ✓ "However, in some stands" denotes a lack of site specificity. How is the "uneven distribution" of residual trees defined- by basal area, by spacing, other means? This description is difficult to understand.

On page 3, Commercial Thin: "Commercial thinning treatments that are implemented primarily to achieve hazardous fuels reduction may be spaced at wider intervals."

- ✓ Lack of site specificity as it is unclear if this description matches the mapped polygons labeled "Commercial Thin" or "Hazardous Fuel Reduction."

On page 3, Commercial Thin: "Techniques including thinning from below or above are planned to be utilized."

- ✓ There is no display in charts, maps, or the silviculture report to decipher what site-specific identification for thin from below or thin from above. These treatments yield very different results and need to be disclosed.

On page 4, Shelterwood Treatments: "Most of the acreage prescribed within the shelterwood system is comprised of this treatment type, which meets multiple project objectives including added stand resiliency from new pine regeneration, and production of wood commodities."

- ✓ "Most" is not a site-specific term. What about the others that is not part of "Most?" What are those treatments proposed to be?

On page 5, Shelterwood Treatments: "Shelterwood removal cuts are planned for those stands managed as even-aged that have sequences through the shelterwood system, having a shelterwood establishment or seed cut performed at the last entry."

- ✓ We are unable to track this logic without a silvicultural report disclosing that indeed the stands to be cut now had a "shelterwood establishment or seed cut performed at the last entry."

On page 5, Shelterwood Treatments: "Some stand conditions may be suitable for staged shelterwood removal, which is neither a regeneration nor a final harvest."

- ✓ "Some" is not a site-specific term. What stands are suitable for shelterwood removal?

On page 5, Shelterwood Treatments: "Additional non-commercial thinning of Ponderosa pine seedlings and saplings is planned to follow up after commercial treatment, where stocking densities exceed favorable growing conditions, as defined by the Ponderosa pine stocking chart in Forest Plan Appendix H (USDA – Forest Service 2006a)."

- ✓ Can you quantify "additional?" Although written as a "condition" at least try to convey what that condition of "where stocking densities exceed favorable growing conditions." We cannot find that anywhere in the EA.

On page 7, PCT: "These treatments would follow applicable Forest Plan guidelines and standards if utilized, including final harvest, opening size, and regeneration requirements."

- ✓ How would PCT follow "applicable Forest Plan guidelines and standards if utilized, including final harvest..." How is it even possible to go from PCT to final harvest? This needs to be articulated as site-specific.

On page 7, PCT: "Trees would be thinned based on desired silvicultural outcomes to reduce competition and improve the growth and yield of retention stems."

- ✓ And site-specifically what is that?

On page 7, PCT: "While generally focused on non-commercial material (trees less than 9 inches DBH), opportunities for POL which are generally in the 5- to 8.9 inch DBH range would be considered on a stand-by-stand basis."

- ✓ "Generally," is not site-specific. It is or it is not.

On page 7, Hazardous Fuel Reduction: "Some areas will be thinned to achieve hazardous fuel reduction objectives."

- ✓ "Some" is not site-specific. In addition, what specifically are the fuel reduction objectives?

On page 7, Hazardous Fuel Reduction: "Overall trees will be thinned on a regular spacing, generally from 16 to 20 feet, retaining healthy, vigorous, well-formed pines where possible. This treatment may be implemented using manual or mechanized treatment methods."

- ✓ We struggle to see a disclosure on HSS before and after treatments as well as how this will be effective in reducing fire risk.

On page 7, Hazardous Fuel Reduction: “When terrain and resource concerns allow, mechanical means will be preferred.”

- ✓ We can respect there may be minor acres here and there but this is conveyed as a larger-scale generic statement that is not at all site specific. It is not hard to produce maps that can convey locations. Without this information we cannot provide substantive comments based upon juxtaposition of these areas and homes.

On page 7 & 8, Hazardous Fuel Reduction: “While generally focused on non-commercial material (trees less than 9 inches DBH), opportunities for POL, which are generally in the 5 to 8.9 inch DBH range, would be considered on a stand-by-stand basis.”

- ✓ “Generally,” is not site-specific. It is or it is not.

On page 8, Hardwood Enhancement: “Treatments of aspen clones themselves, such as coppice treatments, may be implemented to encourage establishment of new age classes of aspen and potentially the expansion of the aspen stand.”

- ✓ It is difficult to understand the “how” of hardwood enhancement. If not coppice what are the other options? There are about 800 acres of hardwood enhancement that we feel a more precise silvicultural prescription is warranted. How will the enhancement happen?

On page 8, Hardwood Enhancement: “Treatments could be commercial or not commercial depending on the size of the encroaching conifers.”

- ✓ There are about 800 acres of hardwood enhancement that we feel a clear picture of commercial/non-commercial should be able to be determined in a site-specific manner.

On page 8, Meadow Enhancement: “Treatments could be commercial or not commercial depending on the size of the encroaching conifers.”

- ✓ There are about 70 acres of meadow enhancement that we feel a more precise silvicultural prescription is warranted. How will the enhancement happen?

On page 8, Prescribed Fire: “It is acknowledged that all proposed acres will be burned.”

- ✓ This is unconditionally aspirational and not at all realistic. Although you say everything, there is truly no site specificity to this statement. An evaluation of ability and funding matched with the risk assessment that supposedly supports the fire “emergency” needs to be conveyed through the EA so we can understand the amount of prescribed burning. Saying all is really a programmatic approach and is not appropriate for this instrument as is written. In addition to say all and then contradict yourselves on page 8 is disingenuous.

On page 8, Prescribed Fire: “Prescribed fire would only be implemented in areas that have received some form of prior vegetative treatment. If a proposed burn unit has not been previously treated or if additional treatment is necessary to meet burn objectives, prescribed fire implementation may include pre treatment of non-commercial fuels.”

- ✓ Again, there is a huge void of specificity. What and how much would be the first logical question. Then “how” would it meet Forest Plan Goals & Objectives for that specific management area?

On page 9, Prescribed Fire: “...where stands proposed for other forms of treatment border private property, shaded fuel breaks will be incorporated into those treatments as appropriate given existing fuel conditions, terrain, access, and resource concerns.”

- ✓ This is confusing and lacks site specificity. If it conflicts then bring forward what is then planned and remove this ambiguity to the reader.

On page 9, “Sanitation or salvage harvest could occur across the project area as necessary in response to natural disturbance events, including but not limited to insect outbreaks, weather, and wildfire.”

- ✓ This is a programmatic statement and not appropriate for this EA. “Could” occur is not site specific and gives the illusion of approving a future unknown need, which to again is not appropriate for a site-specific EA.

On page 9, “Flexibility of Treatments: While individual stands have been identified for the specific treatments described above, additional stands could be identified for treatment or treatment prescriptions for a specific stand could be changed, assuming stand conditions are suitable for the treatment, the proposed treatment meets the purpose and need of the project. No resource concerns exist that would preclude treatment, and the impact of treatments is within the scope that is analyzed in this.”

- ✓ This again is a programmatic statement and is not appropriate for this EA.

On page 9, Connected Activities: “Logging slash would be piled, chipped, burned or otherwise decreased to levels required by the Forest Plan.”

- ✓ See “Discussion on Fire/Fuels starting on Page 25.

On page 9, Connected Activities: “Noxious weed prevention and control measures would be applied to minimize the establishment and spread of any non-native invasive plants and any infestation following proposed activities.”

- ✓ See “Discussion on EO 13112 starting on Page 45.

Ultimately, we question the necessity for yet another NEPA analysis that is presented with such a lack of specificity, and what appears to be a laundry list of general activities without a clear P&N. The reality is that this area has been covered by many NEPA decisions over the last 10+ years, it would be difficult to believe that there is not already a huge workload in need of funding and implementation already promised through these past decisions. If we are to assume the application of CEQ’s NEPA “ripeness” standard of 10 years for NEPA decisions, then the past NEPA decisions overlapping the Benchmark Vegetation Management project area should contain a plethora of projects to draw from that run very similar to what is attempted to be articulate in the P&N, specifically PCT and prescribed fire.

**The lack of site-specificity on a project-level NEPA analysis violates the National Environmental Policy Act (NEPA), the Code of Federal Regulations, and the agency’s policies.**

**Secretary’s Memo 1078-006, Expediated Consultation Process, and EO 14225: Emergency Action Determination Authority [FATAL FLAW]**

On page 1 of the preliminary EA, it states that “The Benchmark Vegetation Management Project area is on a landscape determined by the Secretary of Agriculture (Secretarial Memo 1078-006) to be in an emergency situation in regard to fire and insect risk.”

- ✓ Last year, the Triple Seven Vegetative Management Project was approved for use of the Fuels and Forest Health Emergency Action Determination authority, under a memo issued by the Secretary of Agriculture, Brooke Rollins on April 3, 2025. The Secretary’s memo is initiated by Executive Order (EO) 14225, Immediate Expansion of American Timber Production (March 1, 2025). Was Benchmark Vegetation Management Project formally approved, similar to Triple Seven? It would make sense that WO/RO would have an approval process to assure that this authority is used properly in claiming an emergency sue for fire and insect purposes. This is critical point as we will articulate that you indeed do not have an “emergency” fire or insect need. A flawed foundation is important to us as we will not be able to exercise our right for comment resolution and potential objection based upon the substantive comments we are providing you in this document.
- No where in the EA does it state that the project “fits this emergency authority by reducing wildland fire risk to communities and critical infrastructure.”
  - (1) Pg 2 of Secretary’s Memo under “Background:” states that “National Forests are in crisis due to uncharacteristically severe wildfires, insect and disease outbreaks, invasive species, and other stressors whose impacts have been compounded by too little active management.”
    - a. Natural fire and insect & disease are known natural disturbance agents to our forests. The mere presence of these events is nothing to be afraid of. We know that the BHNF has been and is actively managed, and overmanaged the last 10 years plus. We know this both observationally and by data provided through FIA and Lidar. Although the memo may be applied to other forests in the West, it is not applicable to the BHNF.
  - (2) Pg 2 of Secretary’s Memo under “Emergency Situation Determination:”, the Secretary states, “I am making an Emergency Situation Determination (ESD) under Section 40807 of the Infrastructure Investment and Jobs Act (IIJA). This ESD encompasses 66,940,000 acres of NFS lands rated as very high or high wildfire risk that are hereby determined to be an emergency as defined by IIJA.”
    - a. Nowhere in the preliminary EA is there further explanation on how this specific project area meets the criteria of Very High or High wildfire risk. It seems an easy disclosure to overlay the Very High and High wildfire risk on the map along with the MA information that was included with the scoping letter.
    - b. As referenced in the Secretary’s Memo, we were able to locate “See “Map #1 Forest Health and Fuels Emergency Situation Determination,” from the Secretary’s Memo. This search located a coarse-scale map ([Emergency Situation Designation - Secretarial Memo 1078-006](#)) that appears to pull data from Agency’s vegetation database. This analysis needs to display the current “High” and “Very High.” Please overlay the “High” and “Very High” with the proposed treatment areas and include an acreage breakdown to justify the claim that this project fits under the Secretarial memo. In addition, collaboration between the silviculturist and fuel specialist is necessary to verify the site-specific conditions of some of these polygons that would no longer be

considered “High” based upon the past treatments in the area. The assumption is that the BHNF has not taken nor had the time to update the database(s) that feed into what is designated as “High” or “Very High.”

- c. It is a tough argument to make an “Emergency Determination” in this particular project area. This area has been treated so many times over the last 10 to 15 years for the same purpose as is claimed here. That is no longer an emergency but simply the need for sustainable forest management. We know and have contract maps of the timber sales, stewardship contracts, and stewardship agreements that abounded in this area. The fact that treatments from past activities have not yet been completed really raises questions. There is no emergency here, please step back and go the proper route that allows a full public involvement and a thorough, open, and transparent disclosure through a simple EA that fully discloses the “Purpose & Need, the PA, and the “effects” in a clearer and transparent manner that gives the opportunity to Object if needed.
- (3) In the same paragraph on page 2 of Secretary’s Memo under ESD: the Secretary states, “In addition I have determined that the 78,800,000 acres of NFS lands designated under Section 602 of the Healthy Forest Restoration Act (HFRA), that are experiencing declining forest health; at risk of experiencing substantially increased tree mortality over the next 15 years [from time of designation] from insect and disease infestation; or containing hazard tree posing as imminent risk to public health, infrastructure, and safety, are an emergency situation as defined in the IJA.”
- a. Because it is unclear in the preliminary EA what this project truly is pointing to in the Secretary’s Memo for the reason of treatment, we can safely assume that Section 602 of HFRA is not one you are referencing as rationale for emergency determination. Section 602 refers to “Declining Forest Health, where “declining forest health” means a forest that is experiencing— (1) substantially increased tree mortality due to insect or disease infestation; or (2) dieback due to infestation or defoliation by insects or disease.” That is clearly not the case here.
  - b. If Section 602 is said to apply here, then that has not been disclosed in the preliminary EA, and that forecloses on our ability to offer meaningful and substantive comments.
- (4) Pg 3 of Secretary’s Memo under ESD: the Secretary states “Consistent with IJA section 40807 and this determination, the Forest Service may carry out authorized emergency actions after an ESD is declared to achieve relief from threats to public health and safety, critical infrastructure, and/or mitigation of threats to natural resources on NFS lands. These actions will improve the durability, resilience, and resistance to fire, insects, and disease within national forests and grasslands across the National Forest System. To be eligible to use this authority, at least 50 percent of the treatment areas supporting this authorized emergency action must be within the designated areas.”
- a. The review and offering of substantive comments under the umbrella of the ESD is difficult. If the dependence on Hazardous Fuel and Wildfire Risk is the driver for this project, and the tie to ESD it would be essential to understand/display the existing vegetation (HSS), fuel models, and the Fire Regime (FR) and Condition

- Class (CC) that tends to articulate the Normal Range of Variability. The preliminary EA does not disclose this, nor any other documents made available through the PALS program. These pieces of information are the foundational building blocks to your “Purpose & Need” that drives your “Proposed Action.”
- b. Being aware that words matter, we teased apart the presence of two words found in this Secretarial Memo – resilience and resistance. If resiliency refers to the ability to bounce back from difficult situations and adapt to change, and resistance is the ability to withstand or fight against external pressures or influences, these two words can paint two very different pictures of the PA and treatments. Because the PA lacks site specificity, it is very difficult for us to see if these treatments will create resiliency, resistance, or neither. Our point is that the PA needs to articulate what treatments are planned in this project area.
  - c. Again, words matter, and definitions even more so. Hazardous Fuels appear to be the only “action” allowed within the Secretary’s Memo. “Hazardous fuels” are defined as an excess of woody materials on the ground or in the forest understory or canopy that can increase the severity of fire. To clarify what is being considered Hazardous Fuels then, it seems fair to ask for disclosure of the existing Fuel Models and Fire Regime Condition Class (FRCC) for this project area.
- (5) On page 4 of the Secretary’s Memo, under “Other Emergency Authorities,” the Secretary is mandating deployment of emergency authorities such as “Emergency consultation to comply with the Endangered Species Act and Emergency and programmatic consultation to comply with the National Historic Preservation Act (NHPA).”
- a. Be clear in your expedited consultation process with the respective regulatory agency that you are proposing treatments in ATPs that your PA does not recognize. The results of this may in fact affect your extraordinary circumstances disclosure, knowing that some of those ATPs were in place in past projects for a TE&S species.
- (6) Pg 4 of Secretary’s Memo under “Other Emergency Authorities” “The agency shall use IIIA Section 40807 where authorized emergency actions can facilitate current and future post-disaster recovery actions within the scope of this Emergency Situation Determination”
- a. How does one facilitate future post-disaster recovery actions when one cannot accurately predict the future? Since the Phase II amendment to the Black Hills Forest Plan, that process and amendment had helped to build trust and social license between the BHNF and the public. There is no more “trust us” and social license due to rampant over-harvesting and willful avoidance of the impacts from over-harvesting to natural resources, including that of the American Goshawk.
- (7) Pg 4 of Secretary’s Memo under “Timber Production and Sound Forest Management.” So the question is, what is sound management?” Sound management is the use of peer-reviewed scientific research, maintaining a workforce of trained resource professionals, and guidance from the Forest Plan.
- a. The point is made over and over that you cannot log your way out of this. The problem is not the presence of mature forests. The problem is complex... not

enough prescribed fire, encroaching WUI... a changing climate... the list goes on. The critical acknowledgement here is the need to retain mature forest in a landscape where these are becoming more rare.

- b. Sound forest management at this point of “active management” across the BHNF is prescribed fire. Now is the time to reintroduce prescribed fire into the forest after the last 10 to 15 years of heavy, and in many places, overharvest of stands. Stop that action and incorporate fire.

(8) **FINALLY and most importantly**, on page 6 of the Secretary’s Memo under “Effects of this Memo,” it states, “To the extent there is any inconsistency between the provisions of this memo and any federal laws or regulations, the laws or regulations will control.”

- a. Throughout our comments, you will see references to laws, regulations, and policies that are likely to be violated if this project moves forward, including the fact that this project does not qualify as an ESD.

## **Monitoring (at the Forest Plan and project level)**

The NFMA (16 U.S.C. §§ 1600–1614) requires the Forest Service to develop and implement LRMPs that set **objectives, desired conditions, and standards** for managing forests for multiple uses, including timber, recreation, wildlife, watersheds, and wilderness. These plans must be consistent with federal law, NEPA, and other applicable statutes. The Forest Service enforces compliance through:

- Standards and guidelines in the LRMP that set limits on activities like logging, grazing, or recreation.
- Monitoring, reporting, and recordkeeping requirements to track project progress and environmental impacts.
- Enforcement actions for violations, which can include project suspension, fines, or legal action.

Under the NFMA, the U.S. Forest Service (USFS) is required to monitor and report on the status of national forests and their compliance with the act’s standards. Key monitoring, reporting, and recordkeeping obligations include:

- 1) **Forest Inventory:** The USFS must conduct a comprehensive inventory of the national forests every 10 years to assess forest health, biodiversity, and timber resources.
- 2) **Annual Reporting:** The agency is required to submit annual reports to Congress on the status of the national forests, including information on timber harvests, reforestation efforts, and environmental protection measures.
- 3) **Recordkeeping:** The USFS must maintain detailed records of forest management activities, including timber sales, reforestation projects, and environmental assessments.

In addition, project monitoring is a valuable means of understanding the effects of projects and activities. Project monitoring can provide useful information to adapt future project plans to improve resource protection and restoration. Project and activity monitoring may be used to gather

information for the plan monitoring program, and plan monitoring information may inform the development of specific projects and activities.

These obligations are essential for ensuring transparency, measuring progress towards sustainable forest management goals, and identifying areas for improvement. The data collected through monitoring and reporting also informs future revisions to forest management plans and regulations. We continue to express concern for the lack of monitoring across the Black Hills National Forest. These concerns include:

1. Annual Monitoring Report: The most recent annual forest monitoring report is from 2014. [Black Hills National Forest | Monitoring Reports | Forest Service](#).
2. Black Hills Resilient Landscapes Project Final Record of Decision, specifically Appendix – Monitoring Plan that was included in the ROD in specific response to the Objection by the Norbeck Society. To date, none of the monitoring has occurred.
3. Accurate update of FSveg to yield accurate HSS percentages.
4. Failure to release LiDar and to utilize that dataset to inform analysis and decisionmaker towards sustainable forest management.
5. Correct the inaccuracies found in the FACTS database that feeds other databases such as Landfire.
6. The Black Hills National Forest is known to have some of the most robust data across the entire National Forest System (NFS). The district is failing to use the best available science in developing its P&N and PA.

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Black Hills Resilient Landscapes Project  
Final Record of Decision

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objective levels. Results will be recorded in the FACTS and fuel treatment effectiveness databases and summarized in the project monitoring report.

#### **Structural Stages**

The Forest silviculturist will monitor progress toward achievement of Forest Plan ponderosa pine structural stage and tree size objectives (4.1-203, 5.1-204, 5.4-206, 5.43-204, 5.6-204). Changes in stand structural stage are recorded and tracked in the FSveg database. District GIS/database specialists update the structural stage of a given stand when management activities or site-level inventories occur in that stand. Updates will occur at least once a year or more frequently as needed... The silviculturist will summarize distribution of structural stages and tree sizes by management area annually and assess status and trend as compared to objectives. Results will be displayed in the Forest Plan Monitoring Report and the project monitoring report.

**The Benchmark Vegetation Management Project EA makes statements about monitoring. To state it bluntly, we do not trust that there will be any monitoring. History supports this. At best, the only monitoring that is likely to be met is based upon the Black Hills' unusual and incredible pine regeneration, thus making it easy for the district to conduct 1, 3, and 5-year regeneration monitoring through “windshield” surveys.**

## **Finding of No Significant Impacts [FATAL FLAW]**

The Responsible Official may issue a finding of no significant impact (FONSI) only if the EA supports the finding that the proposed action will not have a significant effect on the human environment. If the EA does not support a FONSI, the Responsible Official must prepare an EIS and issue a ROD before taking action on the proposed action. [eCFR :: 40 CFR 6.206 -- Findings of no significant impact.](#)

We would like to respond to the FONSI, however what is provided with the preliminary EA is not populated. At this point we cannot see a viable pathway for a FONSI on this project for the following reasons:

1. We argue that the contents to make a FONSI determination cannot be met, but we will wait to read it when it is completed. These are the elements we are most concerned with and expect these to be addressed in the FONSI that is drafted per CEQ regulations:

(b) Consistent with [40 CFR 1508.13](#), a FONSI must include:

(b1) The EA, or in lieu of the EA, a summary of the supporting EA that includes a brief description of the proposed action and alternatives considered in the EA, environmental factors considered, and project impacts; and

(b2) A brief description of the reasons why there are no significant impacts.

(e) The Responsible Official must make a preliminary FONSI available to the public in accordance with [section 6.203\(b\) of this part](#) before taking action.

(g) The Responsible Official must ensure that the mitigation measures necessary to the FONSI determination, at a minimum, are enforceable, and conduct appropriate monitoring of the mitigation measures.

2. We argue that the inability for you to make a FONSI determination are based upon the comment responses we have provided in this letter to you for the Benchmark Vegetation Management Project:

- Structural Stages: Starting on page 19;
- Species viability: Starting on page 21;
- Sustained Yield – Non-Declining Flow: Starting on page 23;
- Monitoring: Starting on page 17.

To continue to convert mature trees moves you away from Forest Plan HSS percentages and puts in grave risk the species viability of the American Goshawk. This is an irretrievable action.

## **Forest Plan Habitat Structural Stages (HSS) [FATAL FLAW]**

Several groups and individuals administratively appealed the Regional Forester's decision to adopt the 1997 Revised 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 Benchmark Vegetation Management Project appears to be proposing harvest treatments that will involve the alteration of HSS that continue to trend to conversion of mature structural stages to younger structural stages that undermine the viability of the management indicator species and R2 sensitive species – American Goshawk, far exceeding Forest Plan Goals & Objectives. We are adamant that this is not consistent with direction from the Forest Plan and other legal direction:

- The forest **must** manage for HSS percentages: “The Forest Plan (as amended in 2006) directs the BHNF to manage for a specific distribution of structural stages for the ponderosa pine forest across five management areas.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 13)
- BHRL put a significant reduction in HSS4A plus just about every district level project since BHRL for unclear P&N reasons: “Following implementation of overstory removal treatments authorized by the 2018 Black Hills Landscapes Project decision, commercial timber production in these areas will be limited for the next two decades to primarily low yield thinning and uneven-aged practices that enhance late successional conditions in the mature, moderately closed (HSS4B), and closed stands (HSS4C).” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 17)
- P&N and PA across the forest are failing to pursue the most critical needs across the forest and that is working to secure mature HSS: “Examples where deviation may be essential include the need to reserve surplus HSS4B and HSS4C stands to support promotion of late successional forest and meet changing wildlife habitat management strategies, the need to reserve additional HSS4A to promote the development of uneven-aged conditions, or the need to manage the higher levels of open conditions (HSS3A and HSS4A) in areas adjacent to communities or containing water sources and infrastructure to reduce the risk of extreme wildfire behavior.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 17)

We were able to visit stands proposed for treatment, using the combined knowledge and over 100 years of experience from foresters/certified silviculturists (3 individuals) that found stands mistyped, generic treatment descriptions from the EA not matching the on-the-ground conditions, or overall struggles to match on the ground conditions to the “emergency” need due to fire and insects. For example, we visited a stand typed as 4A prescribed for a final harvest (shelterwood Removal), however, it was already at 20 BA. This conflicts with the description on page 4. By the EA description, this stand should not be treated. Overall, we question the accuracy and interpretation of the current structural stage data used in Tables 6, 7, 8, and 9. We make this claim due to numerous field visits across the forest, an awareness that the database (FSVeg) that generates HSS percentages is not properly updated to current conditions, and possibly those updating are not defining HSS correctly.

- The forest has not maintained the FSVeg database nor is there consistency in HSS typing: “The structural stage system that was incorporated into modeling for the development of the 1997 forest plan needs to be defined consistently across different resource areas to ensure

that forest management planning and implementation align with stated forest plan objectives and desired conditions. There are inconsistent field interpretations and protocols for determining density classes.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 17)

HSS are the metric by which we can indicate viability for the American Goshawk (NFMA) and manage for sustainability and non-declining even flow (MUSY) of timber production. To continue to convert mature trees is largely an irretrievable action and to continue to cut mature trees is inconsistent with the Forest Plan and the intent of the Court Settlement that drove Phase II.

The manner in which the preliminary EA is written, by writing a “worst-case” scenario while deferring to the decision-maker to select the PA or something less, is a failure to disclose and a failure to follow NEPA. An alternative, other than the no-action, that speaks to the need and opportunities but does not involve commercial timber harvest, or at least does not include silvicultural treatments that convert mature HSS to younger HSS, needs to be analyzed. This alternative can still meet your P&N, although the P&N also has shortcomings. By not analyzing it appears that the importance of Forest Plan HSS and the viability of the American Goshawk are being ignored. This appears to be a very arbitrary and capricious action by the agency/decisionmaker.

**If the Benchmark Vegetation 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.**

### **NFMA Species Viability (American Goshawk) [FATAL FLAW]**

Several groups and individuals administratively appealed the Regional Forester’s decision to adopt the 1997 Revised 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 American Goshawk.

The American Goshawk is both a Management Indicator Species (MIS) and a R2 sensitive species for the BHNF. The Northern Hills Ranger District (NHRD) has historically contained high-quality nesting habitat for the American Goshawk. A recent study validates what BHNF 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 the American 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](#), state, "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 is 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 BHNF is legally obligated to ensure that ample habitat will be conserved to minimize the potential for federal listing of this species. Given Forest Service HSS data for the Planning Area and Forest Plan direction, the Forest Service is obligated to provide habitat for the Northern Goshawk *and its prey*. This is supported by meeting or moving towards Habitat Structural Stage Objectives, which has been an emphasized part of the Black Hills National Forest Plan, including Objectives 4.1-203, 5.1-204, 5.4- 206, 5.43-204, and 5.6-204.

The Norbeck Society continues to advocate strongly that the viability, as mandated by NFMA, of the American Goshawk is at grave risk within the project area and across the entire BHNF. The Benchmark Vegetation Management Project includes, as best can be depicted from a non-site-specific document, that there are **32,564 acres** of commercial harvest that include commercial thin, shelterwood removal, shelterwood establishment, group selection, shaded fuel break, hazardous fuel reduction, meadow enhancement, and hardwood enhancement. These treatments that are proposed in stands that will continue to push mature stands to younger stand structures (or reduce canopy closure), creating stands that can no longer serve as critical nesting and foraging habitat for the American Goshawk.

On page 44 of the Benchmark Vegetation Management Project Biological Evaluation (BE), we note the determination for the American goshawk as "may adversely impact individuals, but not likely to result in a loss of viability in the Planning area, nor cause a trend toward federal listing." You made this determination largely on "Three of eight goshawk territories in the project area were deferred from treatment due to habitat suitability."

We are concerned that we have reached or are extremely close to reaching the Tipping Point for the American Goshawk on the BHNF. The forest is mandated to maintain species viability; past legal actions supported that direction on the BHNF. Without an annual monitoring report and a failure to disclose the trend for goshawks across the forest and district, it is not clear or transparent how that determination could have been made. We certainly would be concerned if forest, regional, or national leadership were forcing a determination other than what is scientifically accurate. We acknowledge that a steep decline in suitable habitat for the goshawk has resulted from timber harvest that exceeds the ASQ, and it is not consistent with silvicultural treatments that favor mature HSS. The agency has had the opportunity to reassess the forest conditions since 2016 when the "official" end to the epidemic was declared. Unfortunately, the forest continued to offer timber sales at unsustainable levels, reducing HSS to younger structural stages that truly are not suitable habitats for the goshawk.

The forest **MUST** cease any more commercial timber harvest that involves reducing mature stand characteristics (mature trees or trees approaching maturity) to retain these critical ecological pieces that have a chance to provide goshawk habitat in your/my lifetime, maintaining the viability of the American Goshawk.

**If the commercial treatments continue as proposed and move mature HSS toward younger HSS then this project will violate NFMA, Regulations, and its own Policy.**

## **Sustained Yield and non-declining - even flow [FATAL FLAW]**

“Laws, regulations, and policy that provide direction for the sustainable production of timber on national forest lands are the Multiple Use Sustained Yield Act (MUSYA) of 1969 and the National Forest Management Act (NFMA) of 1976. The MUSYA authorizes and directs national forests to be managed under principles of multiple use and to produce a sustained yield of products and services. The NFMA limits the sale of timber from each national forest to a quantity equal to or less than to a quantity that can be removed in perpetuity on a sustained-yield basis.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 1)

The Norbeck Society continues to advocate strongly that the timber harvest is unsustainable, as mandated by MUSY and NFMA. The Benchmark Vegetation Management Project includes, as best can be depicted from a non-site-specific document, that there are **32,564 acres** of commercial harvest that include commercial thin, shelterwood removal, shelterwood establishment, group selection, shaded fuel break, hazardous fuel reduction, meadow enhancement, and hardwood enhancement. There is no disclosure on how many of the commercially treated acres will contribute to the volume sold and thus ASQ.

The Forest Plan directs management for a specific distribution of HSS percentages and the Forest and Benchmark Vegetation Management Project are failing to manage for these HSS percentages.

- “The forest plan (as amended in 2006) directs the Black Hills National Forest to manage for a specific distribution of structural stages for the ponderosa pine forest across five management areas.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 13)
- “Managing for the desired distribution of structural stages is intended to ensure an even flow of age and size classes in perpetuity, which should maintain habitat for a range of wildlife species.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 14).
- “The gross growth and mortality rates (net growth) apply to sustainable timber program calculations are averages for entire rotations or cutting cycles that account for multiple disturbance cycles. The 1997 forest plan timber program was based on ideal net growth that assumed in an increase if the standing inventory for the next five decades. The 1997 LTSYC, ASQ, TSPQ estimates were therefore not consistent with actual on-the-ground conditions from 1996 to 2021. The combination of the major ecosystem drivers and stressors, timber production, bark beetles, and wildfire during this time have caused long-term changes to the forest.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 16)
- “The standing inventory trends identified per the FIA data comparison indicate that volume in the 5.0 to 14.9 inch dbh diameter classes has decreased by an estimated 32-42%. This also indicates that actual average annual program levels of 162,500 CCF sold and 178,000 CCF cut, 1997 to 2021 were not sustainable. This conclusion is supported by the finding of

Graham et. al. 2021. (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 16)

- “The timber production increases in response to the MPB epidemic in the decade, 2007 to 2016 were necessary to mitigate the severity of the MPB epidemic, but represented a short-term departure from sustainable levels only and not realistic long-term sustainable program levels. (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 16)

The forest **MUST** immediately cease cutting sawtimber and POL until a Forest Plan amendment can be completed that commits to recalculating ASQ. It is unrealistic that a Forest Plan Revision will be complete anytime soon, as it has already been over 5 years since initial work began. The promise at that time would be that it would be complete in 4 years – that did not happen. The plan amendment is within the control of the forest to address now.

- ASQ argued by timber lobbyists is not based upon best available science and current forest conditions and needs to be updated: “There is a need to re-evaluate the timber program level authorized by the 1997 Forest Land and Resource Management Plan (forest plan) for the Black Hills National Forest, management practices, product mixes, and metrics that inform forest management. “There have been major changes to the national forest since 1996, when an increase in mountain pine beetle (MPB) populations was first detected. These changes are related to the major ecosystem, drivers, and stressors for the national forest, timber production, MPB epidemics, and wildfire. (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 1)
- The forest cannot ignore the smaller changes that do contribute to ASQ determination: “The total area for lands designed as may be suitable and suitable for timber production has decreased due to an increase in the net area of non-commercial forest (hardwoods) and non-stocked areas, some of which have been converted to grasslands for decades or centuries.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 16).

A Forest Plan is not just a recommendation — it is a legally required, binding management roadmap for how a national forest or grassland will be used and protected over the next 15–20 years. A Forest Plan is more than a recommendation — it is the official, legally enforceable framework for managing public lands, ensuring they remain healthy, productive, and accessible for future generations.

- It is well known that ASQ was calculated with significant timber lobby pressures, but more importantly was based upon extreme “best case scenarios” that have not transpired as planned: “In 1997 the standing inventory (sawtimber and POL) was predicted to increase over the next 50 years because net growth was expected to exceed timber production levels (ASQ). The growth rates that were used to calculate ASQ were lower than actual growth at that time. Mortality rates incorporated into the 1997 ASQ were not representative of the actual MPB and wildfire mortality that would occur over the next 25 years.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 2)
- The existing conditions are known not to support ASQ levels as per a science based effort specific to this issue (Graham et. al): “These estimates are decadal timber program estimates. They are not limited to lands designated as suitable for timber production but will be based primarily on products from suitable lands. These estimates are based upon existing forest

conditions and must be consistent with forest plan desired conditions, goals, objectives, standards, and guidelines. The ASQ set the limit for timber production from suitable lands by decade for the 1997 forest plan timber program.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 2)

- Our most fire resilient trees (mature) are being sold off in direct defiance of the Forest Plan plan components: “The total sawtimber standing inventory on timberlands in South Dakota has decreased 27%. The greatest decreases of sawtimber have occurred in the diameter classes <15.0 inches dbh. Removals of sawtimber from 1997 to 2021 have been concentrated in the 12.0 to 14.0 inch dbh diameter classes. Saw timber volume in the 9.0 to 14.9 inch dbh diameter classes decreased by 32% and 42%, Volume in the POL diameter classes has decreased by 40%. All major forest ecosystem drivers and stressors, commercial timber production, pre-commercial thinning, MPB impacts, and wildfire are factors.” (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 12)

The forest now has a complete LiDAR data set that can be used to verify the data used to calculate ASQ and update forest structural stages. This would create an updated and consistent data sourced current conditions that would improve management decisions and consistency with the Forest Plan.

The National Forest Management Act limits timber removals to be a quantity equal to or less than a quantity that can be removed on such a forest annually in perpetuity on a sustained yield basis, given certain provisions. 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. The Black Hills National Forest is not being managed in a sustainable, non-declining, even flow management. We are simply asking you to slow and rest the forest, simply follow the law(s).

**The project’s proposed commercial harvest treatments of 32,564 acres are in violation of NFMA and MUSYA.**

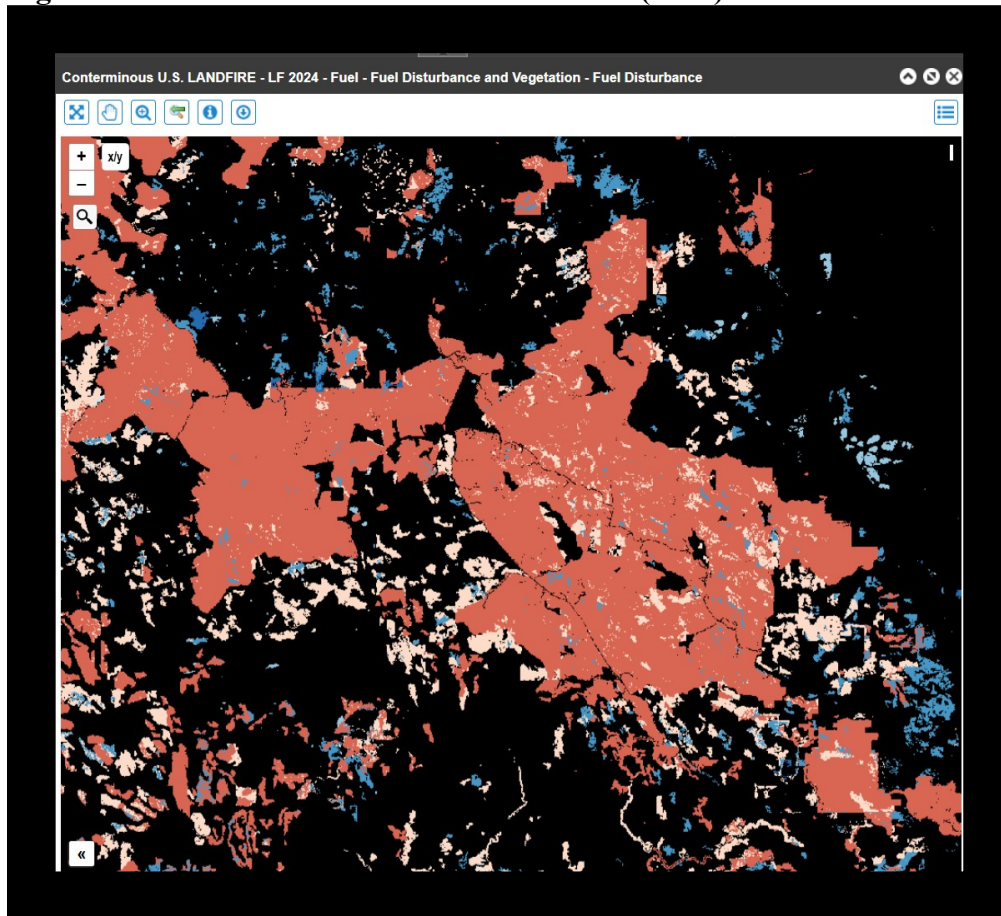
## **Discussion related to Fire/Fuels**

We understand that “Over the last 140 years, ponderosa pine ecosystems have changed immensely and bear little resemblance to their presettlement condition. Past and current land use activities along with active fire suppression eliminated natural surface fires from these forests and the disturbance patterns that controlled their development and helped sustained them over the millennia. This elimination of fire has profoundly changed the structure of the original ponderosa pine forests, and not for the better. Today, ponderosa pine forests contain an overabundance of fuel, high stand densities across large landscapes and few old growth trees. These conditions have contributed to declining tree health and have helped sustain increases in large, uncharacteristic wildfires across the west. The ponderosa pine ecosystems are in trouble, and the problem will not go away or take care of itself.” (USDA Forest Service Gen. Tech. Rep. PSW-GTR-198. 2005).

What is clear on this national forest, more than most national forests, is that the BHNF cannot be saved by commercial logging. The honest and “hard truth” is that the BHNF NEEDS some rest, it needs a focused effort on prescribed burning, and it NEEDS to retain the majority of the large-

diameter trees that exist today. The project area included in this EA is the same area as is displayed in Figure 1 and Figure 2. It is time to stop timber liquidation.

**Figure 1: Landfire Fuel and Fuel Disturbance (2024)**



**Figure 2: Google Earth of heavily treated project area as seen in Figure 1**



We have read through the disclosure in this preliminary EA related to Fire/Fuels, and the following are concerns and challenges we have with the science and rationale shared in this EA.

On page 1, under Purpose and Need, it states,

- “The Benchmark Vegetation Management Project area is in a landscape determined by the Secretary of Agriculture (Secretarial Memo 1078-006) to be in an emergency situation in regard to fire and insect risk. Actions to reduce fire hazard and insect risk while providing timber to local industry are priorities in these landscapes (USDA 2025).”
  - Listing a Secretarial Memo as a Purpose & Need for this project is fatally flawed. It lacks site specificity and does nothing to provide site-specific “needs.” See what we provided for comments (NEPA P&N) starting on page 2.

On page 4, under “Shelterwood Treatments,” it states:

- These treatments are designed to progress the stand through the shelterwood system sequence of treatments.”
  - Our best guess, based upon Table 1, is that there are almost 60% of the proposed treatment areas that are likely to incur significant pine regeneration based upon proposed treatment prescriptions. Pine regeneration under 4 feet tall is very receptive to fire (wild or prescribed). We believe that generating this many acres is in direct conflict with reducing wildfire risk. There is a research paper specific to the Black Hills National Forest (Battaglia et. al) that speaks to this.

On page 7, under “Pre-commercial Thinning,” it states:

- “These methods will leave activity created slash scattered throughout the treatment unit. When terrain and resource concerns allow, mechanical means will be preferred to masticate residual slash.”

- We strongly suggest that the activity slash must be addressed, or the activity should not occur. If treatment acres are not dropped, then the analysis needs to disclose the impacts on fire risk. Disclosure of impacts is critical to the decision maker in making a decision.
- We recognize that weather and timing to prescribe burn or burn piles are challenging. Our concern is that there is a backlog of piles across the forest and on the district. Why add more to this backlog? Piles are a form of surface fuel and can serve as horizontal continuity for crown fires.

On page 7, under “Hazardous Fuel Reduction,” it states:

- “Some areas will be thinned to achieve haz fuel reduction objectives.”
  - What are the site-specific “haz fuel reduction objectives?” How can we understand how proposed treatments can achieve these objectives? More importantly, how do the author(s) of burn plans refer to the EA for the objectives and criteria to build a prescribed fire? If you have no specialist reports and do not convey in the EA, how will this info be conveyed to the authors down the road? We do not burn just to burn, but you burn to meet objectives.
- Haz Fuel Reduction: “Manual methods are generally reserved for more severe terrain or areas with overlapping resource concerns. These methods will leave activity created slash scattered throughout the treatment unit. When terrain and resource concerns allow, mechanical means will be preferred. Trees will be masticated in place under this method, reducing slash piece size and depth compared to manual methods, and speeding decomposition of activity-created slash.
  - Mastication increases the surface area of fuels. Nowhere does it state the accepted depth of the mastication, which is very receptive to fire, smoldering, and sterilizing the soil from fire’s heat.
  - The author(s) of burn plans refer to the EA for the objectives and criteria to build a prescribed fire. If you have no specialist reports and do not convey in the EA, how will this info be conveyed to the authors down the road?

On page 8, under “Prescribed Fire,” it states:

- “The proposed action identifies all 38,003 acres of NFS within the project area for prescribed fire. It is acknowledged that not all proposed acres will be burned.”
  - This is not site-specific. Just saying we are going to burn everything is not site-specific and, more importantly, it is not at all realistic.
  - Saying you will burn it all is not realistic, nor does it have any proven implementation as observed or as noted in Map viewers or Dashboards. To be site-specific, the PA must be revised to reflect something realistic and implementable. What is proposed here is not realistically implementable by the forest's own past performance.
- “Prescribed fire would be utilized to reduce surface fuel loading and to reduce the density of small-diameter conifers within the planning area.”
  - There are no clear objectives stated that would be transferable to a burn plan. The author(s) of burn plans refer to the EA for the objectives and criteria to build a

- prescribed fire. If you have no specialist reports and do not convey in the EA, how will this info be conveyed to the authors down the road?
- “Prescribed fire also reduces the horizontal continuity of surface fuels, which limits surface fire intensity and reduces the potential of spot fire ignition,” and “The lower branches of the overstory can be scorched and killed during a prescribed fire, effectively raising the canopy base height of the stand.”
    - We mentioned previously that about 60% of the proposed treatment acres will actually lower the canopy base height. The crown base height, part of the contributor to horizontal continuity, will actually be lower. The disclosure of impacts in the EA suggests they will increase. A higher crown base height argument is intuitively illogical for “final harvest” and group selection treatments.
      - ✓ The canopy base height is the vertical distance from the ground to the lowest point of the canopy. In a mature ponderosa pine stand, the overstory (taller trees) forms the upper canopy, and the canopy base is often located at the lower edge of this upper layer. When overstory trees are removed, the tallest trees are taken out, and the remaining trees (often midstory or understory) are shorter. This shifts the lowest point of the canopy lower, reducing the canopy base height research.
      - ✓ When overstory is removed, more light reaches the forest floor, which can stimulate seedling growth and increase regeneration density in these lower height classes. However, the reduction in overstory height also means the canopy base is lower, which can affect light penetration patterns and microclimate conditions, lower moisture, increasing temperature, and/or increasing wind.
      - ✓ Lower canopy base after overstory removal can improve light availability for regeneration but may also increase the risk of surface fire if understory fuels are not managed. The forest’s past performance on prescribed fire and PCT is not sufficient to handle the substantial workload as is proposed in this EA.
  - “Prescribed fire would only be implemented in areas that have received some form of prior vegetative treatment. If a proposed burn unit has not been previously treated, or if additional treatment is necessary to meet burn objectives, prescribed fire implementation may include pre-treatment of non-commercial fuels.”
    - This statement lacks site specificity and mirrors a more programmatic or even a condition-based management approach. This EA does not follow the process for disclosure in the form of programmatic or condition-based management.
    - The Black Hills National Forest is one of the most data-rich forests in the National Forest System (NFS). Meaning the data to support site-specific treatment prescriptions is available, and a professionally appropriate action needs to occur. The data (FACTS et. al) that support Figure 1, as well as the recent LiDar data, are readily available to you as land managers to use to create site-specific prescriptions.

On page 8, under “Shaded Fuel Breaks,” it states:

- Priority areas for shade fuel break construction would be private property that includes occupied structures.”

- On page 1 (P&N), you refer to the CWPP. Again, as articulated, the CWPP, past management, and best available science, such as PODs report by Pyrologix, are there for you to develop site-specific treatments. The EA lacks site specificity. Working to provide broad-brush polygons as site-specific is disingenuous.
- In September 2021, the Black Hills National Forest (BKF) contracted with Pyrologix to conduct a spatial wildfire hazard assessment across the Black Hills National Forest. The Black Hills National Forest is set to undergo Forest Plan Revision and the Potential Operational Delineations (POD) planning process and identified the need for comprehensive fire modeling to provide supporting documentation. Here is a link to PODs discussion ([BKF Wildfire Hazard Report](#)). A lot of work in the very recent past was spent working with and building a system of PODS. This is an incredible resource for use in a project like this, but it is not used to aid in guiding forest managers to achieve objectives using best available science. Although we do not have access to these layers, we know you do. Having some of these key maps overlaid with the project boundary would be incredibly helpful would be extremely helpful to us in providing substantive comments in a site-specific manner.
- With no fuel report and a lack of disclosure in the EA, we are unclear how treatments and risks were modeled. We are unclear how the acres in Table 3 (EA) were generated. As you can see in Figure 1 and Figure 2 of this comment letter, we cannot reconcile perceived differences in what is in Table 3 and what is conveyed by these two Figures and our on-the-ground observations.

On page 19, under the section of NEPA: Consideration of Reasonably Foreseeable Impacts,” it states that as part of the Fire/Fuels disclosure portion:

- “The purpose of the Benchmark Vegetation Management Project, from a fuels standpoint, is to increase the resiliency of forest landscapes and communities to wildfire, decrease the impacts of wildfires within the wildland urban interface, and allow for an effective and safe response to wildfires when they occur by implementing vegetation treatments that would reduce ladder fuels, thin dense pine stands, and promote the expansion of hardwood stands and meadows while working toward management area objectives within the project area.”
  - First and foremost, the EA does not disclose environmental impacts but rather what appears to be more management activity details. Only Table 3 appears to provide some site specificity; however, the data in the table does not seem to match what we see in site visits and in Dashboards/Databases available to the public.
  - Upon field visits and Google Earth, we are adamant that the database used to populate Table 3 is not properly reflecting the true fire risk in the project area.
  - We are concerned that data/databases used to support treatment rationale is flawed by 1) failure to be updated in a timely manner and/or 2) is a “garbage in/garbage out dilemma. As we understand, these database(s) reflect “accomplishments” and thus are what are being reported as accomplishments to Congress.
  - We are really struggling to see a need or risk from a stand as displayed in Figure 3. This picture was taken recently by a retired forester (retired) and two certified silviculturists (retired). The picture 1) shows resilient stand components, 2) low impact potential from

wildfires, and 3) has terrain effective for safe wildfire response. This is one example where “no treatment” meets stated criteria.

**Figure 3: HSS4a stand proposed for “Final Harvest”**



On page 19, under the section of NEPA: Consideration of Reasonably Foreseeable Impacts, it states that as part of the Hazardous Fuel Reduction disclosure portion:

- Fire/Fuels section
  - The reality is that the agency and forest have not been able to place funding emphasis on PCT to support any claims in this EA. Past performances do not support the accomplishment of this quantity of acres. For this reason, why would the district not pinpoint or prioritize treatment areas?
  - The reality is that the Black Hills is not dedicated to prescribed fire, the one tool that is a) reasonably priced, 2) of which you have the skills and talents to accomplish on the forest, and 3) and is a management tool that would truly improve forest health and reduce fire risk.
  - The Dashboard ([U.S. Forest Service Hazardous Fuels Treatments Dashboard](#)) is a real-time display, that reflects accomplishments at the halfway point for this fiscal year. This dashboard displays forest accomplishments; most importantly, it includes the time frame (fall and winter of 2025/2026) that is the best window to accomplish prescribed burning and pile burning. Performance as depicted not his Dashboard does not support the level of activities proposed in this EA.
- “Vegetative treatments would positively affect changes in crown fire hazard.”
  - See Figure 3. If this is truly representative of the majority/all of the 4As in the project area, then you have successfully reduced susceptibility to crown fire and no additional treatment is necessary at this time.

- Most of the prescriptions suggest opening stands, which increase wind, increase temperature, and reduce moisture. These are not characteristics to decreasing fire risk and effects.
- Final harvests actually reduce or lower canopy base height – a key factor to crown fire escalation.
- Retaining mature trees retains important components of fire resilience and resistance
- “Canopy base height, canopy bulk density, and canopy continuity are key characteristics of forest structure that affect the initiation and propagation of crown fire.
  - We mentioned previously that about 60% of the proposed treatment acres will actually lower the canopy base height. The crown base height, part of the contributor to horizontal continuity, will actually be lower. The disclosure of impacts in the EA suggests they will increase. A higher crown base height argument is intuitively illogical for “final harvest” and group selection treatments.

On page 20, under the section of NEPA: Consideration of Reasonably Foreseeable Impacts,” it states that as part of the Commercial Timber Harvest disclosure portion:

- During timber harvest, the crown material and other non-merchantable material can either be left in the woods (lopped and scattered) or can be brought to a central location (whole tree yarding).
  - Leaving activity slash in the woods is in direct conflict to the implied “Purpose & Need” to improve fire risk. Leaving activity fuels on steep slopes will exacerbate fire risk and effects, and not improve it.
  - We do not see any commitment to fund the treatment of smaller diameter/PCT stands to decrease fire risk. The EA mentions this but lacks the site specificity to provide substantive comments to the benefit or detriment of the proposed activities.
  - Again, this write-up, as written, can be applied to any national forest in the West.
  - This is not a disclosure of effects but more of the “how” of management action.
- “Nonetheless cut-to-length harvesting could be implemented within the Benchmark Vegetation Management Project area, which will ultimately generate slash from processing the material at the stump, resulting in slash/residual fuels on slopes not conducive for whole tree yarding (>35%).”
  - Commercial timber harvest – you are willingly adding activity slash in direct conflict to an implied purpose to improve fire risk. Leaving activity flues on steep slopes will exacerbate the problem and not improve it.
  - Identification of proposed treatments is not site-specific.
  - The forest lacks strong performance as related to conducting prescribed burning and small diameter/PCT as substantial scale to address the backlog.
  - The EA does not disclose if actually doing nothing is the better action to take here.
- Table 3
  - Where did the data come from that populated Table 3? What was the source?
  - Google Earth and Landfire do not support Table 3.
  - If the answers are not in the EA, where is the specialist report?
  - Was best available science used?

- On page 21, it states, “Vegetative treatments would affect changes in crown fire hazard ratings on approximately 10,941 acres in the project area.”
  - Would changes in crown fire hazard be made worse? Be made better? We are unclear what this means
  - Without access to a fuels report or additional information we are unable to provide substantive comments.
- On page 22 under Vegetation Treatments, it states, “The risk of uncharacteristically severe wildfire would remain high in much of the project area.”
  - We disagree, and we are supported by site visits (Figure 3) and the plethora of treatments (Figure 1 and Figure 2) that have already reduced the risk of “uncharacteristically severe wildfire.”
  - We cannot find any disclosure in the EA that actually supports this claim.

Many studies of wildfires and the potential benefit of forest restoration efforts have shown that prescribed fire and fire-use are by far the most effective means to reduce the risk of wildfire to both forests and communities. Thinning and logging often increase the intensity of wildfire behavior; therefore, these tools should be used with great caution if the objective is to reduce fire risk. We need to see less commercial harvest that includes removing large diameter trees and more prescribed burning.

## Discussion Related to Silviculture P&N

Silvicultural practices, applicable to the NFS are “To prescribe, implement, and monitor silvicultural practices that develop and sustain desired forest stand conditions which meet land management objectives designated in regional guides and/or land and resource management plans.” (FSM 2470 - Silvicultural Practices).

First and foremost, we are deeply concerned that there is no silvicultural report that has been completed that supports the PA of over 38,000 acres. That which is “written into the EA, is not site specific nor does it seem to follow accepted professional silvicultural practices. We are aware that any vegetation treatments, including prescribed burns, must be signed by a Certified Silviculturist, who is that on this project?

- ✓ In addition, a certified silviculturist must sign off on such activities a prescribed burn, PCT, hardwood enhancement, etc. The lack of details found in the EA are not site specific or prescription specific enough to aid those that follow to write contracts, burn plans, or other instruments to convey stand treatment objectives and prescriptions.
- ✓ We are deeply concerned with the incongruence of a flawed P&N to the PA and related impacts. The biggest concern we describe beginning on page 17 related to HSS.

On page 18, an example is provided that states “Management that includes prescribed burning and selective thinning of adjacent conifer stands could maintain a mosaic of seral stages, increase available moisture, and decrease the potential for widespread crown fires (Hornbeck et al 2003a).

- ✓ We attempted to locate this citation ([James W. Hornbeck's research works | University of New Hampshire, Durham \(UNH\) and other places](#)), and found numerous articles by Hornbeck. The vast majority were all eastern forest related. We could not seem to locate “Hornbeck et al

2003a.” We feel that the literature on western forests are most applicable to management on the BHNF.

- ✓ For forest thinning, the Stand Density Index (SDI) is the tool most commonly used to determine when and how much thinning is needed. For forest thinning, SDI is the standard metric because it provides a consistent, species- and site-independent measure of stand density, enabling accurate thinning decisions to enhance growth, health, and stand value. The EA states that AMD was used. Without a silvicultural report we are unable to review the use of AMD which is not typically used.

On page 3, it states “Techniques including thinning from below or above are planned to be utilized.”

- ✓ Thin below or above results in different outcomes. This is not a site-specific declaration and impacts to HHSS are unknown.

On page 4, it states “These treatments are designed to progress the stand through the shelterwood system sequence of treatments.”

- ✓ They are designed but do they really progress through? Meaning there are records of past management activities and those treatments, especially in a Shelterwood System, should lay out clearly what treatment is to occur and when it should occur. Why is this then not identified site-specifically?

On page 4, it states “Most of the acreage prescribed within the shelterwood system is comprised of this treatment type, which meets multiple project objectives including added stand resiliency from new pine regeneration, and production of wood commodities.”

- ✓ Of what treatment type? Shelterwood removal, establishment cut, tending? This is not provided site specifically and ultimately has significant impacts to HSS.

On page 4, it states “The harvest provides a moderated stand micro-environment conducive to seedling establishment.”

- ✓ It is well known on the BHNF that pine regen is not an issue. SO much so that a variant in FVS.

On page 4, it states “Stands planned for this treatment have been determined to have met culmination of mean annual increment (CMAI), as per 16 U.S.C. 1604 and 36 CFR 219.16. Residual stocking for such treatments will generally range from 20-50 square feet of basal area per acre, as per Forest Plan guideline 2408f, II-25.”

- ✓ The EA lacks disclosure of this very critical item. As shared on page 35, our site visits question achieving CMAI in a blanket application across all acres of Shelterwood Removal.

On page 5 it states “This treatment type will aid in realigning some of the surplus of structural stage 4A found within the project area, reverting the stand to a younger structural stage 3.”

- ✓ This is foundational flawed. We have articulated this point through our comment letter.
- ✓ In addition, the silviculturist should recognize that the forest is also devoid of HSS5 and that HSS4A is a valuable HSS to place on a trajectory to HSS5. This is achievable in 50 years or so while there is no logic to setting stands back to younger HSS (i.e. 3) where there is now a large surplus and will now take 100 years to get to HSS%. Nowhere does the EA speak to HSS5 or those goals.

On page 5 it states, “Some stand conditions may be suitable for staged Shelterwood Removal, which is neither a regeneration nor final harvest.”

- ✓ What is a shelterwood removal is not a final harvest? Then what is it?
- ✓ We state that this is not site-specific not a CBM. This is site specific and we are unclear what this sentence in the EA is saying.

On page 5 it states “Additional non-commercial thinning of pine seedlings and saplings is planned to follow up after commercial treatment, where stocking densities exceed favorable growing conditions, as defined by the ponderosa pine stocking chart in Forest Plan Appendix H (USDA-Forest Service 2006a).”

- ✓ Additional non-commercial thinning across all these acres is unrealistic. That has not been past performance for this forest.
- ✓ Can you describe to us what “where stocking densities exceed favorable growing conditions” is?
- ✓ This appears to be written as a programmatic or maybe a little bit as a CBM. This is a site-specific analysis, please describe it in that manner.

On page 6 & 7 it states “Group Selection: Implementation of this technique would target existing stands with at least three distinct age classes of pine or attempt to set stands which exhibit potential on this trajectory. The intent would be to add vertical and horizontal structural diversity to the landscape in certain suitable locations within the project area.”

- ✓ Uneven-aged management is a complicated approach. Without a silvicultural report to see how this is approached we are unable to provide substantial comments.

On page 9, it states that “Sanitation/Salvage Harvest: Sanitation or salvage harvest could occur across the project area as necessary in response to natural disturbance events including but not limited to insect outbreaks, weather, and wildfire. If such an event occurs, the impacted area would be evaluated by resource specialists and any resource concerns would be considered prior to implementation.”

- ✓ This is not a programmatic nor a CBM analysis. It must be site-specific. If it cannot be, as the assumption this is a future action we are talking about then it must be excluded.

We are gravely concerned that the application of professional silvicultural terms and practices are being mis-used to simply produce timber volume to industry. The lack of integrity related to MUSY, NFMA, and agency policy related to silvicultural practices is discouraging and erodes at the social license the forest had for sustainable timber harvest.

## **Discussion related to Insects Epidemics**

Insects, disease, and invasive species are all disturbance agents that play an integral part in the Black Hills National Forest ecosystem and help produce heterogeneity throughout the forest system. It is important to understand these disturbances so land managers can make informed management decisions based on disturbance history and prevalence to improve forest health. When conditions such as stand maturity, overcrowding, drought, blowdown, or poor site conditions act independently or in combination to stress large groups or stands of trees, populations of forest insects and pathogens can increase in these stressed trees, resulting in widespread mortality (“outbreaks”).

(Black Hills National Forest Revised Forest Assessment: Insects, Disease, and Invasive Species; October 2023)

Currently, the insects and diseases having the most significant impact in the Black Hills National Forest are mountain pine beetle (*Dendroctonus ponderosae*), Armillaria root disease (*Armillaria ostoyae*), and occasionally the pine engraver beetle (*Ips pini*). The mountain pine beetle is native to western North America and is also called the Black Hills beetle or the Rocky Mountain pine beetle. This native species is part of the Black Hills ecosystem, and the forest is subject to periodic epidemics (Thom et al. 2020).

The EA has not made a reasonably prudent disclosure to why the threat of “insects and diseases” drives a portion of the P&N, nor supports the use of an ESD. What it does do it forecloses our ability to provide substantive comments (beyond what we have provided in this letter) and forecloses our ability to Object when a decision is made. For more, see our comment responses starting on page 13 of our comment responses). In addition, we highlight the following:

- The landscape does not possess a high risk for wildfire or insect epidemics as current image and site visits depict: See Figure 2, displays a Google Earth view of a portion of the project area. This image is not reflective of stands that are susceptible to the risk of insect epidemics in the Black Hills.
- The EA has not provided a site-specific P&N, PA, or resource impacts disclosure to support the use of this Secretarial Memo: On page 1, under Purpose and Need, it states “The Benchmark Vegetation Management Project area is in a landscape determined by the Secretary of Agriculture (Secretarial Memo 1078-006) to be in an emergency situation in regard to fire and insect risk. Actions to reduce fire hazard and insect risk while providing timber to local industry are priorities in these landscapes (USDA 2025).”
- The PA is setting a clear stage for the next epidemic by creating thousands of acres of same aged and structured stands. A high level of even-aged and two-aged management creates a landscape that is more susceptible and less resilient to MPB mortality when the majority of the ponderosa pine forest is mature. This increased risk and reduced potential for recovery is due to the high level of forest stand with more susceptible trees (sawtimber-sized trees), greater continuity of susceptible trees, an increased potential for hazardous fuel levels following MPB-related mortality, greater loss of seed sources, and lower potential for replacement trees following MPB events, in comparison with a landscape that contains a higher level of uneven-aged structure. (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 8).
- Heterogeneity is a critical need across the landscape: “The current level of uneven-aged management Forest wide (5% of all commercial silvicultural treatments implemented from 1997 to 2021) needs to increase to enhance forest resiliency to large-scale MPB epidemics and better meet other resource needs such as enhancing wildlife habitat for species that rely on forest conditions with complex heterogeneous structure such as the northern goshawk (*Accipiter gentilis*). (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 17)
- The PA is making the insect and fire issue worse: “Majority of the silvicultural practices on the Black Hills National Forest are considered even-aged or two-aged, which create conditions that are more conducive and less resilient to severe bark beetle events. Potential

effects include the greater loss of large-diameter forest structure, higher hazardous fuels loads, and longer intervals to re-stock stands due to lower numbers of replacement trees and fewer seed sources. (Black Hills Forest Plan Revision Assessment: Timber, June 2022, pg 17)

## **MISC. ISSUES**

We are also concerned with the following items found within the Benchmark Vegetation Management Project preliminary EA:

### **Culmination of Mean Annual Increment (CMAI)**

Forest scientists have found the culmination of mean annual increment CMAI to be the best determinant of the beginning of a “mature” forest. CMAI is not a single age in years, but a comparable age in stand or tree development: it’s the age of biological maturity. CMAI is well understood by foresters and can easily be determined for specific forest types on various growing sites using the Forest Service’s own modeling software (Forest Vegetation Simulator).

Numerous laws, regulations, and policies guide how trees are harvested on National Forest System lands, in this case, the Black Hills National Forest. The National Forest Management Act (NFMA) directs that stands shall generally have reached the culmination of mean annual increment<sup>1</sup> (CMAI) Before a regeneration harvest. This would apply to overstory removal, clear-cutting, shelterwood, and seed tree harvests (even-aged management). NFMA also restricts harvesting to productive timberland where there is assurance that such lands can be adequately restocked within five years after harvest.

CMAI has been used as a defining metric in the National Forest Management Act of 1976<sup>2</sup> to define the age at which trees could be logged or clearcut. Specifically, Congress directed the Forest Service to establish standards to ensure that, before harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated based on cubic measurement or other methods of calculation at the discretion of the Secretary).

The Benchmark Vegetation Management Project includes over 6,000 acres of Shelterwood Removal and sets the table for what appears to be over 7,000 acres (in total) of final harvest. We<sup>3</sup> visited stands prescribed for final harvest, and we randomly sampled larger trees, finding the samples to yield between 83 and 91 years old. Without a disclosure in the silviculture report or in the EA, we

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<sup>1</sup> CMAI is Mean annual increment (MAI) is the average yearly volume growth per acre of a stand. This is computed by dividing the total volume by its age. As the stand increases in age, the MAI also increases until tree-to-tree competition and physiological maturity reduce the rate of increase. The point when a stand reaches its maximum MAI is called the Culmination of mean annual increment (CMAI).

<sup>2</sup> The National Forest Management Act (NFMA) exception language; the Rule provisions are at 36 CFR 219.11(d)(7), which reads as follows: (7) The regeneration harvest of even-aged stands of trees is limited to stands that generally have reached the culmination of mean annual increment of growth. This requirement would apply only to the regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is the primary purpose for the harvest. Plan components may allow for exceptions, set out in 16 U.S.C. 1604(m), only if such harvest is consistent with the other plan components of the land management plan.

<sup>3</sup> Site review made by foresters/certified silviculturists (3) with 100+ years of field experience

are unable to reconcile whether these stands meet CMAI or not. We did sample one tree that was 117 years old, while also measuring the stand at a BA of 20. We could understand a potential CMAI for this stand, yet it conflicts with the prescription as disclosed in the EA. The EA states on page 4, “Residual stocking for such treatments will generally range from 20-50 square feet of basal area per acre as per Forest Plan guideline 2408f, II-25.”

It is clear that CMAI and proposed prescriptions are not aligning; there is a need for more review. Unfortunately, we have not taken the time to follow up on this site visit to conduct more intense sampling but it is clearly warranted based on what is proposed in this EA.

**We have a deep concern, like many other 4A stand conversions utilizing a final harvest treatment, that they violate NFMA, as these stands have not yet met CMAI. The Benchmark Vegetation Management Project fails to disclose CMAI for the stands proposed for final harvest. Without a silvicultural report to supplement what has been “written into the EA” it fails to disclose CMAI. The inability to confirm final harvest treatments as meeting CMAI, this project directly violates NFMA.**

## 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).

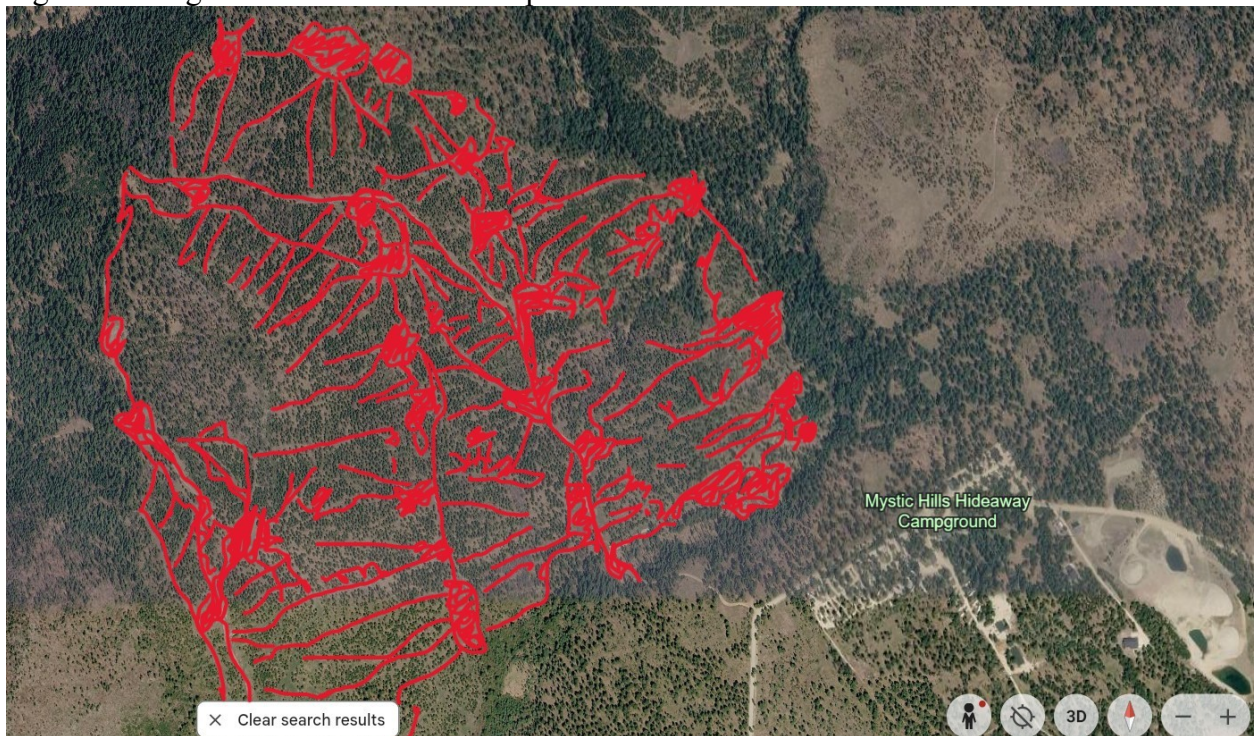
Appendix A lists “Past and Ongoing Activities in the Benchmark Project Area.” There are at least 49 commercial timber-related projects totaling 48,633 acres, as well as 13 grazing allotments and 221 miles of roads open to motorized travel. Sadly, we are fully aware that OHV use in this area is at an unmanageable state, and these users are not constrained to the 221 miles of trails as displayed in the EA. In fact, it is well known that there is more widespread travel occurring illegally. The point here is that the EA fails to disclose site-specific effects in a cumulative approach. We are at or rapidly approaching a tipping point in a forest that is normally exceedingly resilient.

We want to Figure 4 and 5 as a stark example of our concerns. This is in the general vicinity of our site visit. This could be argued as a “cherry-picked” example, but it is easy to see from Figure 4 that there are areas even more impacted than the sample area we chose. Our point is simple: Figure 5 is a very coarse and imprecise, but valid point that this project area is heavily impacted by management activities. Appendix A taps at that significance, but Figure 5 really emboldens the impacts to our forests and our soils. Yes, the EA does speak to this concern on pages 25 and 26, making mention. We are also aware that beyond the Level 1 and Level 2 roads in the project area, there is repeated use of the same temp skid trails and landings. Repeated use and repeated pile burn in these areas are truly detrimental. Figure 5 attempts to denote these and to suggest that these detrimental impacts are extensive.

Figure 4: Google Earth: Benchmark sample area



Figure 5: Google Earth: Benchmark sample area of disturbance



Because the EA does speak to this concern on pages 25 and 26, we respectfully appreciate this disclosure. We remain highly concerned and, for that reason, would like to request a site visit so that we could see how that assessment is determined, preferably replicating one of those that is disclosed on pages 25 and 26. We cannot definitively say there is a violation of NFMA; we do have significant concerns, as made evident in Figure 5.

## **Meadow Enhancement**

Meadows in the BHNH are determined by mapping vegetation, assessing wildlife habitat needs, and aligning with the Forest Plan's goals. Meadows in the BHNH are identified and managed through a combination of ecological assessment, vegetation mapping, and wildlife habitat needs, guided by the Forest Service's Land and Resource Management Plan and Forest Plan. It is assumed that forest managers use detailed vegetation surveys and remote sensing to map current land cover. This would help distinguish grasslands and meadows from forested areas, especially in the lowlands where native grasses and forbs dominate.

In Table 1, there is a disclosure of 74 acres of Meadow Enhancement, and then on page 8 of the EA there is a simple two-sentence description of Meadow Enhancement. In this case, we can see the site-specific nature of the Meadow Enhancement and can only assume that the district will adhere to the Forest Plan 2107. “\*Conifer encroachment on areas that have formed over grass, meadow, or hardwood vegetation may be treated (e.g., to conserve habitat for threatened, endangered, and sensitive species, management indicator species and species of local concern, maintain forage base, and landscape diversity). Consider soils that formed under grass or meadow plant communities and other factors in determining the extent of pine-encroachment removal. GUIDELINE.”

**We look forward to viewing these polygons as treatment areas that we can visit before and after treatment to monitor results.**

## **Hardwood Enhancement**

In Table 1, there is a disclosure of 821 acres of Hardwood Enhancement, and then on page 8 of the EA there are 3 simple sentences providing a very general description of Hardwood Enhancement. In this case, we can see some site-specific nature of the Hardwood Enhancement and can only assume that the district will adhere to the Forest Plan 2107. “\*Conifer encroachment on areas that have formed over grass, meadow, or hardwood vegetation may be treated (e.g., to conserve habitat for threatened, endangered, and sensitive species, management indicator species, and species of local concern, maintain forage base, and landscape diversity). Consider soils that formed under grass or meadow plant communities and other factors in determining the extent of pine-encroachment removal. GUIDELINE.”

Where we think, the district is failing to provide site specificity is in the P&N for the hardwood enhancement. We cannot tell if there will be oak hardwoods generated for the purpose of turkey habitat or if it is all for aspens.

If the majority or only reason for hardwood enhancement is for the purpose of aspen, then the lack of specificity to the P&N for aspen-related treatments makes it difficult to understand what is proposed. To aid in disclosing when and what is the right treatment for aspen in the project area, please utilize the “Six Steps of the Aspen Restoration Decision Chain” found in the highly respected document - [Guidelines for aspen restoration in Utah with applicability to the Intermountain West](#).

**We look forward to viewing these polygons as treatment areas that we can visit before and after treatment to monitor results.**

## **Botanical Areas**

Management Area (MA) 3.1 is identified in the Forest Plan as “This area is managed for protection of unusual or special characteristics.” These areas are protected to maintain their botanical interest values.

The Benchmark Vegetation Management Project EA refers to the project area, which includes 164 acres of MA 3.1. It is unclear if or what treatments are proposed, and additionally, the EA fails to disclose impacts from those treatments on the “unusual or special characteristics” for which the Forest Plan set this area aside. How does the treatment, whatever that treatment is, do to “protect the unusual or specialist characteristics.” A map of MAs overlaid with proposed treatments would have been helpful to us to answer this question for ourselves. No map could be found in the EA or BE, so we raise this concern for lack of clarity here.

**If treatments are proposed within MA 3.1, then the Benchmark Vegetation Management Project fails to disclose the impacts of treatments in MA 3.1.**

## **Big Game Winter Range**

Management Area (MA) 5.4 is identified in the Forest Plan as “These areas are managed to provide high-quality winter and transitional habitat for deer and elk, high-quality turkey habitat, habitat for other species, and a variety of multiple uses.”

The Benchmark Vegetation Management Project EA refers to the project area, which includes 4,352 acres of MA 5.4. Nowhere in the EA or the BE can we locate the type of treatments prescribed within MA 5.4. There is not even a map that overlays MAs and proposed treatments that we could at least do our own deciphering. We are aware that some kinds of treatments are occurring, as we can see major shifts of mature HSS% to younger HSS% in Tables 6, 7, 8, and 9.

There is no disclosure of what treatments are proposed in MA 5, nor is there any disclosure of impacts in the EA. How does the treatment, whatever that treatment is, do to “managed to provide high-quality winter and transitional habitat for deer and elk, high-quality turkey habitat, habitat for other species.” Because of this, there is no way for us to provide substantive comments as it is unknown/unclear what is proposed and related impacts.

What is implied in Tables 6, 7, 8, and 9 appears in direct conflict with the Forest Plan, as shown in the following screen capture: “Managed for the following percentages of structural stages in ponderosa pine across the management area in a variety of sizes and shapes.”

## **Wildlife**

5.4-205. \*DELETED

5.4-206. \*NEW. Manage for the following percentages of structural stages in ponderosa pine across the management area in a variety of sizes and shapes.

### **OBJECTIVE**

|      |     |      |      |
|------|-----|------|------|
| SS1  | 5%  | SS4A | 25%* |
| SS2  | 5%  | SS4B | 25%* |
| SS3A | 10% | SS4C | 5%*  |
| SS3B | 15% | SS5  | 5%** |
| SS3C | 5%  |      |      |

\*10% of the structural stage 4 ponderosa pine acreage in the management area will have an average tree size of "very large". Seek opportunities to increase understory shrubs in open-canopy structural stages.

\*\*Active management is allowed, and may be necessary, to provide desired late-successional characteristics.

**The Benchmark Vegetation Management Project fails to disclose the impacts of treatments in MA 5.4. This directly violates NEPA, NFMA, and APA.**

## **Executive Order 13112 – Invasive Species, specifically Hound’s Tongue**

Invasive exotic plants constitute 8 to 47 percent of the total flora of most States in the United States... There are approximately 4,500 exotic species in the United States that have established naturalized populations and at least 15 percent of these cause severe harm (Sieg, et al, 2010, p. 35).

Invasive species significantly impact U.S. ecosystems and are one of the greatest threats to forest, rangeland, and urban forest health. They have contributed to increases in fire frequency and intensity; reduced water resources, forest growth, and timber; and negatively affected native species and their habitats throughout the United States. Forest and rangeland managers urgently need effective management techniques to reduce invasive species’ effects” (Dix & Britton, 2010, p. 1).

On page 10 of the EA in section on Design Criteria, it states, “This document tiers to the Forest Plan and incorporates all standards and guidelines listed in the Forest Plan (USDA-Forest Service 2006a). Design criteria listed below are additional project-specific measures to minimize the impacts of the PA n each respective resource.” Then on pages 12 & 13 it lists Design Criteria NW-1, NW-2, NW-3, NW-4, NW-5, NW-6, NW-7, and NW-8, all related to noxious weeds.

Executive Order 13112 is in place and states “do not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.”

In our site visits to the project area, we noted Hound's Tongue in locations of past logging disturbance, including pile locations. We are unclear about the Class A and Class B as referred to in the Noxious Weed Design Criteria section. We searched online to see if South Dakota operates on a Class A or B noxious weed system, and the results told us that South Dakota does not. We additionally dug and located a two-tier system in use across South Dakota. The first 6 noxious weeds were determined at the state level, of which Hound's Tongue does not appear on the first tier, and then the state gave a second tier of up to 6 noxious weeds for the county to identify. We understand that the project is officially located in Lawrence County and Hound's Tongue does not appear to be listed on the second-tier list. The project is extremely close to Pennington County where Hound's Tongue is listed on their second-tier list. Our concerns:

- Design Criteria NW-3 "Clean and inspect heavy off-road equipment." It has been a very inconsistent battle in application across the forest. It is known that the timber industry fights this practice. It is a critical item as equipment disturbs the ground where Hound's Tongue is and then transports it to a nearby location where it does not exist. Yes, there are other vectors, but this one is truly in the control of the agency and contractor. We can review timber sale contracts or other contracts to monitor that this Design Criteria is indeed applied.
- Design Criteria NW-1 and NW-2 "treat." Forest Service budgets are tight; we understand that. We are also aware that KV Funding was established as a means to acquire funds from timber receipts to use to treat noxious weeds in the sale area. KV funding has been seriously impacted; some of its uses for that funding are likely illegal, but nonetheless, those funds appear to have dried up. How does the district plan to treat these weeds as it is known they are present?
- Design Criteria NW-6 "Minimize ground disturbing in meadows or grasslands." We have not done site visit to the meadow areas. We assume the district has and will adhere to this Design Criteria. In the interim, we look forward to visiting the meadow areas and monitoring for weeds.
- Finally, and ironically, as we looked on Google Earth related to other questions, we did note that an OHV was captured on Google Earth in the exact area we identified Hounds Tongue. The risks are high and they are real. OHVs are a vector of spread and do travel between counties.

**The Benchmark Vegetation Management Project is likely to fail in its efforts to successfully implement Noxious Weed Design Criteria. This is not an unrealistic outcome. This has been going on for a very long time. In this case, it would be better to disclose this as it will occur to happen rather than bury our heads in the sand and think it will not. It will, and for that reason, your actions related to noxious weeds are arbitrary and capricious.**