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Black Hills National Forest
1019 North 5th Street
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Submitted via: <https://cara.fs2c.usda.gov/Public/CommentInput?Project=293810>

Re: Roby Forest Management Project #293810

Dear Ranger Butler,

As part of our advocacy for sustainable use of public lands, Norbeck Society comments reflect a desire to support management approaches that recognize the imperative of protecting and enhancing the biocomplexity of forest ecosystems across the Black Hills National Forest. A vision for long-term sustainability of all aspects of all resources held in 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 regarding the Roby Forest Management Project #293810. We request that the comments on the following pages be included in the Forest Service Administrative project files.

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

Sincerely,

Mary Zimmerman, President
On behalf of the Norbeck Society
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**The Roby Forest Management Project
Norbeck Society Scoping Comments
July 15, 2026**

[Black Hills National Forest | Project Summary \(#293810\) | Forest Service](#)

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Disclaimer

To the employees on the Hell Canyon Ranger District (HCRD), 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 site-specific Purpose & Need (P&N) that explains goal and the problem or opportunity that the Proposed Action (PA) is intended to address.
2. We want the ability to object. We want the ability to engage with agency leadership on our substantive comments that will be submitted when the preliminary EA is shared with us.
3. For a PA of almost 47,000 acres, there must be at least another action alternative developed and analyzed. The most logical is to consider an alternative where there are no final harvest or other treatments that would reduce mature HSS (HSS4 and HSS5) to younger HSS (3's).
4. 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.
5. Identify stands and correlating silviculture prescriptions that will move mature HSS4s into HSS5, which the forest is significantly devoid, and which the viability of species such as the American Goshawk depends upon.
6. As part of the cumulative effects analysis, we want a complete list of past and present vegetation treatments that have taken place in the project area. As with many other projects we have commented on, we expect it to show a tremendous amount of activity over largely the same ground.
In a field recon trip on July 2, we noted that stands proposed for treatments still had landings with large slash piles with brown needles still attached. That indicates vegetation treatment (likely commercial) has occurred within the last 2 years.
7. *The forest must conduct a plan amendment to adjust ASQ to match on-the-ground conditions and to reset the ASQ to what is sustainable in an even flow, non-declining way.*

Secretary’s Memo 1078-006, Expediated Consultation Process, and EO 14225: Emergency Action Determination Authority

On the bottom half of page 1 in the scoping letter, it states threat “The Roby Forest Management Project has been approved as an authorized emergency action under Section 40807 of the 2022 Infrastructure Investment and Jobs Act (IIJA), which authorized the Secretary of Agriculture to determine that an emergency exists where implementation of emergency actions is necessary to achieve relief from hazards threatening human health and safety or mitigation of threats to natural resources on National Forest System or adjacent lands. On April 3, 2025, the Secretary of Agriculture released Secretary’s Memorandum 1078-006, which designated 112,646,000 acres of

National Forest System lands as an IIJA emergency situation. This project has been approved under that designation.” We find it difficult to understand the “emergency situation” in the Roby Project case. We argue this by teasing apart the Secretary's Memo and that which is shared in the scoping letter in the following:

- (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 Black Hills National Forest 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 an emergency situation on the Black Hills.
- (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 scoping letter is there further explanation of how this specific project area meets the criteria of Very High or High wildfire risk. An easy disclosure is to overlay the Very High and High wildfire risk on the map along with the Management Areas (MA) in the project area. It is critical that the wildfire risk used is known to be updated to the present, reflecting recent fires, prescribed burns, and vegetation treatments.
 - b. As referenced in the Secretary’s Memo, we were able to locate “See “Map #1 Forest Health and Fuels Emergency Situation Determination.” This search located a coarse-scale map ([Emergency Situation Designation - Secretarial Memo 1078-006](#)) that covers the entire Black Hills National Forest. In that same ArcGIS Online (AGOL) we attempted to view the “Wildfire Hazard Potential” layer, and were given “An error occurred loading this layer,” suggesting that layer is not available. However, that layer is important information in support of use of ESD. Without this layer we are unable to view “Very High” and “High” hazard areas and field check these ratings against proposed treatment areas. In the EA it will be critical to display the “Very High” and “High” areas and disclose how the proposed treatments will change that rating 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 “Very High” or “High” based upon the past treatments in the area. We believe the Black Hills National Forest has not updated 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 claimed here. In reality, it is no longer an emergency. The

fact that treatments from past activities have not yet been completed raises serious questions. For example, a stand proposed for treatment in this project area still has slash piles from the previous treatments. In fact, so recent that they still have fine needles attached to the limbs in the piles.

There is no emergency here; please step back and go the proper route that allows full public involvement and a thorough, open, and transparent disclosure through a simple EA. Fully disclose the Purpose & Need, the Proposed Action, Alternatives, and the effects including cumulative effects. Be clear and transparent. Provide the opportunity to Object.



- (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 IIJA."
- a. Because it is unclear in the scoping letter what this project truly is pointing to in the Secretary's Memo for the reason of treatment, can we 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."
 - b. If Section 602 is said to apply here, then that has not been disclosed in the scoping letter, 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 IIA 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 scoping letter, nor any other documents made available through the PALS program, does not disclose this. These pieces of information are the foundational building blocks to the Roby Project "Purpose & Need" driving the "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 proposed action and treatments. We request that you provide a more in-depth discussion regarding resilience and resistance as related to proposed treatments in the Roby Project. What we see in our field visits is a majority of stands that, if left alone to grow, would demonstrate resilience and resistance. What argument can you make that management now is so critical?
 - 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, it is fair to ask for disclosure of the existing Fuel Models and Fire Regime Condition Class (FRCC) for this project area. In the EA, we expect to see a site-specific disclosure, rather than coarse-filter mapping. Describe what makes it hazardous, for example, does the current fuel loading exceed a forest plan component? Does the crown base height and associated fuel loading suggest a "High" or "Very High" hazard? We need to see and understand more of the fuel concerns supporting the use of the ESD, not just the commercial harvest and associated timber volume metric deliverable to the timber industry as the primary or sole driver.
- (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. In the expedited consultation process with the respective regulatory agency, be clear that you are likely proposing treatments in Areas to Protect (ATPs) that the Proposed Action does not recognize. The results of this may in fact affect your extraordinary circumstances disclosure, knowing that some of those ATPs were in place for Threatened, Endangered, and Sensitive (TE&S) species.
- (6) Pg 4 of Secretary’s Memo under “Other Emergency Authorities” “The agency shall use IJA 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 helped to build trust and social license between the Black Hills National Forest 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 the species viability 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 fact is the need to retain mature forest in a landscape where these are becoming rare.
 - b. Sound forest management at this point of “active management” across the Black Hills National Forest 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 the action of overharvest and incorporate fire.
 - c. On page 5 of Secretary’s Memo, there is a bullet related to “Develop a strategy to improve the efficiency of delivering the timber program and increase quantity and consistency in volume offered.” This may be valid in some forests across the nation or in the West, but it does not apply here on the Black Hills National Forest. This forest has been overharvested, and it is time to cease that part of “active management” and move into the critical need of re-introducing prescribed fire. That is the strategy the Forest Service needs to develop and implement if anything effective will happen to improve stand and wildfire “durability, resilience, and/or resistance.”
- (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 scoping 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.

National Environmental Policy Act (NEPA) – Purpose & Need (P&N)

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 scoping letter lacks a clear P&N and is written so generically (with the possible exception of one bullet tied to the Fanny/Boles RNA) that it can be overlaid on just about every national forest and be applicable. That fails the test of agency policy on developing a clear P&N. The P&N is written so that it is vulnerable to challenge because it lacks site-specificity, lacks measurability, and opens the door to development of a wide range of alternatives because it is written so vaguely. Our reasoning includes:

1. The purpose statement is framed as a series of non-site-specific bullets.

Current wording: "Reduce fire hazard, decrease potential wildfire severity, and facilitate fire suppression by reducing fuel volume and contiguity through thinning, fuel breaks, prescribed fire, and other activities, especially along egress routes, ownership boundaries, and critical infrastructure, and at potential operational boundaries." Thoughts to consider:

- What specific hazardous fuel conditions exist?
- How have you incorporated Community Wildfire Protection Plan (CWPP), Potential Operational Delineations (PODs), and Forest Plan components into the development of the P&N?
- What “Best Available Science” are you utilizing?
- Why are current conditions inadequate?

2. The gorilla in the room is that the real "need" is to locate timber volume to feed the timber industry, even if that is contrary to NFMA's direction for non-declining even flow direction.

Current wording: "Produce commercial timber, achieve desired stocking levels, increase growth, initiate new stands, and focus resources on growth of new stands through timber harvest using a variety of silvicultural prescriptions." Please consider:

- Explain why a forest plan amendment is not necessary to recalculate ASQ across the forest. Best available science in the form of LiDAR and the GTR (Graham, et al.), etc. is enough to initiate that evaluation.
- Describe the criteria used to define the acres with hazardous fuel accumulations.
- Describe 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, 20 years?
- Update the Structural Stages (HSS) database before proposing vegetation management prescriptions. The Forest Plan provided direction on HSS5 distributions, and 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. We expect to see discussion on increasing HSS5. There is a much greater need to produce HSS5 than to increase an already high percentage of HSS3. The benefits to increasing HSS5 are worthy of discussion, and we look forward to that discussion in the EA.

3. These Purpose & Need bullets require additional refinement and clarity. The following should be discussed with Line Officer and IDT and clarified:

- Current wording "In riparian areas, decrease pine encroachment and headcuts and increase plant species diversity and woody debris through low-tech process-based restoration techniques."
 - See our comments in the section on "Watershed Deterioration."
- Current wording "Restore meadow and grassland vegetation communities by removing encroaching trees."
 - See our comments in the section on "Mechanical treatment methods."
- Current wording "Restore and maintain the conditions for which the Fanny/Boles Research Natural Area was established by removing encroaching conifers and reintroducing fire."
 - Writing a management plan after proposing specific management treatments is a significant flaw. This needs to be re-evaluated.
- Current wording "Remediate road damage, prevent further damage to roads, reduce illegal use, improve security of wildlife habitat, and decrease road density in big game winter range by closing user-created and other roads using a variety of techniques."
 - This appears to be a precedent-setting argument or a major inconsistency for other projects across the forest.
 - The Travel Management Rule conducted a forest-wide and inclusive effort to identify routes, including consideration for routes within MA5.4. What is the resource issue that is new or significant that would now be driving this "need" to improve security of wildlife habitat and decrease road density in big game winter

range? More importantly, the issue is the uncontrolled OHV challenge across the forest, lack of education & enforcement, and the continued overharvest creating easy access for uneducated OHV users.

- The Travel Management Rule required forests to evaluate their road system. The Black Hills National Forest was very successful in that effort. If there is illegal use and road damage, then that analysis should support resolving those issues – not revisiting that here in this EA. What is at issue is that the forest is failing to manage the overrun of OHVs through permitting, trail permit-funded education and compliance, and signing and maintenance actions. This bullet will not fix that problem.

4. Risk of appearing to predetermine the outcome, essentially by 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, and the best available science says so.
- The Executive Order is written for the entire agency, not specifically the BHNF, the Hell Canyon District, or the Roby Project.
- It is time to rest the BHNF and allow the stands and soils to recover.
- The need to do more “white hat” activities such as small diameter thinning, prescribed fire, and beaver dam analogs is noteworthy, but the reality of the current situation is that they are merely mentioned and rarely acted upon because timber volume to the timber industry is all that matters, and the agency has little to no money/time to do other work. In truth, there is plenty of this other work “on the books.”

The P&N needs substantial improvement before we can provide truly substantive comments to the P&N. As written, it is not a P&N.

National Environmental Policy Act (NEPA) – pre-decisional

Scoping is required for all Forest Service proposed actions, including those that would appear to be categorically excluded from further analysis and documentation in an EA or an EIS (§220.6). (36 CFR 220.4(e)(1)). The process of scoping is an integral part of environmental analysis. Scoping includes refining the proposed action, determining the responsible official and lead and cooperating agencies, identifying preliminary issues, and identifying interested and affected persons. Effective scoping depends on all of the above as well as presenting a coherent proposal. The results of scoping are used to clarify public involvement methods, refine issues, select an interdisciplinary team, establish analysis criteria, and explore possible alternatives and their probable environmental effects.

The Roby Forest Management Project is in the process of scoping, thus, this response. What is confusing is the mention of the BLM Project. It appears to be a connected action.

- On page 4: Bureau of Land Management lands are adjacent to the western edge of the project area. To facilitate timber harvest on these lands, approximately one-half of the road would be constructed, and three miles of road would be reconstructed.”

- ✓ The road work now becomes a connected action to those activities that the BLM is conducting and will need to be evaluated in the cumulative effects analysis. These impacts will need to be disclosed. Unaware of what BLM is proposing, a potential resource concern could be related to the species viability of the American Goshawk. We know the trend of goshawks across the Black Hills National Forest is nose-diving, and at some point a tipping point will be reached. The BLM treatments need to be disclosed, and those treatments need to be discussed in light of the status of the American Goshawk, Northern long-eared bat, and others.

Habitat Structural Stages (HSS)

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

Several groups and individuals administratively appealed the Regional Forester's decision to adopt the 1997 Revised 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 (now known as American goshawk).

The structural stages 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. In your analysis, please disclose:

- the current structural stages and then disclose how the proposed treatments will alter those structural stages.
- provide the status and trend of the American Goshawk specifically through the disclosure of available nest and foraging habitat.

- we expect to see an alternative, other than the no-action, that speaks to the need and opportunities but does not involve converting more mature (HSS4 and HSS5) to younger structural stages through final harvest treatments.

The Roby Forest Management Project appears to be proposing harvest treatments that will involve the alteration of Habitat Structural Stages (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. **If the Roby Forest Management Project continues forward with the vegetation treatments as described, the project would be in clear violation of the National Forest Management Act of 1976 and MUSY of 1960**

MIS – Goshawk; Species Viability

The American Goshawk is both a Management Indicator Species (MIS) and a R2 sensitive species for the Black Hills National Forest. The Hell Canyon Ranger District has historically contained high-quality nesting habitat for the American Goshawk. A recent study validates what Black Hills National Forest nest-site monitoring data and related studies have previously concluded regarding forest changes within the past 30-40 years. Habitats, and specifically nesting habitat, for Northern Goshawk have been and are declining in availability. This study confirms that the most significant Goshawk habitat losses have occurred in the past 15 years. In "South Dakota Wildlife Action Plan Explorer" [Wildlife of South Dakota](#) Final Technical Report Link: [T-84 bruggeman_kennedy_final_technical_report_northern_goshawk.pdf](#) state, "Through a combination of timber harvest practices and unpredictable natural disturbances, our results suggest the BBNF 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 BBNF 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](#).

As a MIS and R2 sensitive species it will be critical for you to disclose the current status of the American goshawk in the project area, and to disclose impacts of further timber harvest to the species. We recognize the steep decline in suitable habitat for goshawks is a result of timber harvests that exceed the ASQ. The proposed harvests are not consistent with silvicultural treatments that favor mature HSS which is deficit across the forest. The agency has had the opportunity to re-assess 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 are not suitable habitats for the goshawk or its prey.

The Black Hills National Forest is legally obligated to ensure that ample habitat will be retained to minimize the potential for federal listing of this species. 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 our lifetimes, maintaining the viability of this management indicator species (MIS).

The Roby Forest Management Project appears to include 12,827¹ acres of commercial harvest including Overstory Removal, Group Shelterwood, Shelterwood seed cut, Improvement Cut, hardwood enhancement, and pine/tree encroachment treatments. These are proposed in stands that will continue to push mature stands to younger stand structures, creating stands that no longer can serve as critical nesting and foraging habitat for the Northern goshawk.

If this project does move into analysis, disclose how many known goshawk nest sites have had success over the past 10 years and explain how the district will ensure a viable goshawk population. In addition, please be transparent in how vegetation treatments will move stands away from, or toward, mature HSS and how that is distributed within the project area as well as across the entire district. We expect to see an alternative, other than the no-action, that speaks to the need and opportunities but does not involve treating acres in a way that moves them from mature HSS to younger HSS.

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

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 increment² (CMAI) before a regeneration harvest. This would apply to overstory removal, clearcutting, 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.

¹ The professional standard for consistency in terminology is SAF’s Dictionary of Forestry. There are some consistencies and some additional confusion with the lack of descriptions for proposed treatments. We generated this value as follows: Group Shelterwood (2,734 ac), Hardwood Enhancement (115 ac), Improvement Cut (229 ac), Overstory Removal (960 ac), Shelterwood Seed Cut (492 ac), Pine Encroachment (3,535 ac), Pine Encroachment - savanna (64 ac), and Tree Encroachment Control (4,698 ac).

² 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).

CMAI has been used as a defining metric in the National Forest Management Act of 1976³ 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 Roby Forest Management Project appears to include 12,827 acres of commercial harvest that include Overstory Removal, Group Shelterwood, Shelterwood seed cut, Improvement Cut, hardwood enhancement, and pine/tree encroachment treatments that are proposed in stands that will continue to push mature stands to younger stand structures.

If this project moves into analysis, disclose the CMAI for all stands proposed for commercial treatment, including the site index. In addition, include an alternative that excludes final timber harvest.

If the project continues with commercial treatments involving stands younger than the stand's CMAI, then the project would be in direct violation of NFMA, Regulations, and the agency's policy.

ASQ, Sustained Yield, and non-declining even flow

Lands managed by the Forest Service are managed under a multiple-use-sustained yield model under the Multiple Use–Sustained Yield Act of 1960 (MUSYA). This statute directs the Forest Service to balance multiple uses of their lands and ensure a sustained yield of those uses in perpetuity. Congress, through the National Forest Management Act (NFMA), has directed the Forest Service to engage in long-term land use and resource management planning. In the case of timber, they describe where timber harvesting may occur and include measures of sustainable timber harvest levels.

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 Roby Forest Management Project appears to include 12,827 acres of commercial harvest that include Overstory Removal, Group Shelterwood, Shelterwood seed cut, Improvement Cut, hardwood enhancement, and pine/tree encroachment treatments that are proposed in stands that will continue to push mature stands to younger stand structures. These treatments are proposed in

³ 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.

stands that appear to be well under the CMAI⁴ age as stated in the Black Hills Forest Plan or modeled through the agency's own Forest Vegetation Simulator. Moving forward, please disclose those stands meeting CMAI, as well as how many of the commercially treated 12,827 acres will contribute to volume sold and ASQ.

Research Natural Area (RNA)

A Research Natural Area, is defined as "A physical or biological unit in which current natural conditions are maintained insofar as possible. These conditions are ordinarily achieved by allowing natural physical and biological processes to prevail without human intervention. However, under unusual circumstances, deliberate manipulation may be utilized to maintain the unique feature that the Research Natural Area was established to protect "(FSM 4063.43, para.1).

On the top half of page 4 of the scoping letter, it states "Adjacent to the Fanny/Boles Research Natural Area (RNA), fuel breaks would be established to reduce the risk of high-severity fire negatively affecting the characteristics for which the RNA was established. In the RNA, manual thinning and prescribed fire would be applied to restore natural ecological conditions. Before implementing any approved management activity in the RNA, a Forest Service botanist will develop a site-specific RNA management plan."

Research Natural Area guidance is provided in the [Forest Service Manual \(FSM\)](#) 4063 - Research Natural Areas. Research Natural Areas may be used only for Research and Development, study, observation, monitoring, and those educational activities that do not modify the conditions for which the Research Natural Area was established.

- Guidance about the evaluation of potential RNAs is found in FSM 4063.05
- Guidance about RNA protection and permitted use is found in FSM 4063.3
- Guidance about RNA establishment criteria is found in FSM 4063.4

The agency's policy is clear regarding activities that may occur with RNAs; however, the scoping letter does not allude to or speak to any special approval sought or gained to allow treatments within the Fanny/Boles RNA.

Ultimately, we are concerned about the arbitrary and capricious nature of the statement made in the scoping letter, "Before implementing any approved management activity in the RNA, a Forest Service botanist will develop a site-specific RNA management plan." If this moves forward in analysis, please speak clearly about how any activities will meet the policy on RNAs.

Watershed Deterioration

Congressional direction for the administration of the forest reserves, now called national forests, began in 1897 with the passage of the Organic Administration Act. One of the defined purposes for which forest lands were set aside from settlement was "securing favorable conditions of water flow." Subsequent passage of over 25 other federal statutes further defined watershed

⁴ The NFMA requires that stands must "generally" have reached the CMAI before they are harvested. The Forest Service interprets "generally" to mean within roughly 95 percent of the CMAI.

management on these lands. Water is one of the most important natural resources flowing from forests. We applaud the attention to identifying watershed health issues and the related desire to address these issues.

- On page 4 of the scoping letter, it states “Low-tech process-based riparian restoration techniques are proposed where stream and channel conditions warrant.”
 - ❖ The letter is devoid of any kind of specifics, including where, what, and how. Please address this deficiency in the preliminary EA, so it is clear to us what is being proposed so that we may provide substantive comments. Maps and photos are exceptionally helpful in disclosing what is being proposed.

Travel Management

36 CFR Part 212, also known as the Travel Management Rule, was published in 2005 to regulate motor vehicle use on National Forest System (NFS) lands. Its primary goal is to designate roads, trails, and areas where motor vehicles are allowed, while prohibiting off-route or unauthorized vehicle use. This ensures protection of natural resources, public safety, and sustainable recreation opportunities.

36 CFR Part 212 provides the structured framework for sustainable travel management on National Forest lands. By designating roads, trails, and areas for motorized use, requiring travel analysis, and involving the public, the rule ensures that motor vehicle access supports forest management objectives, protects natural resources, and enhances recreational opportunities ([eCFR :: 36 CFR Part 212 -- Travel Management](#)). Specifically, 36 CFR § 212.54 governs when and how designations of National Forest System roads, trails, and areas for motor vehicle use can be changed. Revisions of designations shall be made in accordance with:

- The requirements for public involvement in § 212.52,
- The requirements for coordination with governmental entities in § 212.53,
- The criteria in § 212.55, and
- Shall be reflected on a motor vehicle use map pursuant to § 212.56

The Forest Service cannot simply “delete” a road from the analysis without following the 36 CFR 212.54 revision process, using the Travel Analysis Report (TAR) as the basis, and ensuring public and agency coordination. This ensures the change is legally sound, transparent, and consistent with the Travel Management Rule’s goals.

- On page 4 of the scoping letter, it states “Approximately 10-16 miles of system roads would be closed and removed from the Motor Vehicle Use Map to reduce damage to soil and water and disturbance of Wildlife. Various methods and combinations of methods are proposed, depending on current road conditions and future needs. User-created roads that connect system roads would be closed. Other unauthorized roads would be closed at the opportunity areas.”
 - ❖ Black Hills National Forest designated which routes (roads and trails) are open to motorized travel. In so doing, the agency will comply with requirements of the Forest Service 2005 Travel Management Rule. Some areas were considered for cross-country travel designation, but no areas are included in this proposal. As a result of

these travel management decisions, the Forest Service will produce a Motorized Vehicle Use Map (MVUM) depicting those routes on the Black Hills National Forest that will remain open to motorized travel. The MVUM will be the primary tool used to determine compliance and enforcement with motorized vehicle use designations on the ground. Those existing routes and other user-created routes not designated open on the MVUM will be legally closed to motorized travel. The decisions on motorized travel do not include over-snow travel or existing winter-use recreation ([MVUM Record Of Decision 03222010.pdf](#)).

Misc ISSUES

We are also concerned with the following items found within the Roby Forest Management Project's scoping letter:

Planting

NFMA states clearly the need to reforest areas within five years of creating openings as a result of final harvest treatments. On page 4 of the scoping letter, it states, "Tree planting would occur on 1,442 acres in areas burned by recent wildfires."

As you move forward through the NEPA process, please address the following questions:

- Identify the "recent" wildfires that will be replanted.
- Identify the number of acres of planting the district has promised to do or needs to do to be compliant with NFMA. Display the acres and timeframe planned to accomplish this work.
- It is unclear how many acres are proposed for final harvest treatments in the Roby project, such as clear cuts, seed tree, shelterwood, and overstory removal. The analysis will need to disclose the acres that will require reforestation and then speak to how planting will be accomplished within the 5-year timeframe required by NFMA for reforestation.

We suggest that it would be most prudent to develop an alternative analyzed in detail that excludes any silvicultural treatments that involve final harvest treatments. By default, this would not produce acres to re-plant and thus would not contribute to the backlog of reforestation needs.

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). For the cumulative effects analysis:

- List all the reasonable past and present projects occurring within the project area.

- List all NEPA decisions the district considers “Ripe,” and identify the work that is yet to be implemented in those decisions.
- If there are NEPA decisions that the district considers no longer ripe, then please disclose them.

Cohesive Strategy

The genesis of the Cohesive Strategy began in the 2001 National Fire Plan. That National Fire Plan identified Communities at risk through a Federal Register process [Federal Register:: Urban Wildland Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire](#). In time agencies moved onto the National Cohesive Wildland Fire Management Strategy, which was completed in 2014, and framed around the following vision and elevated three national goals: To safely and effectively extinguish fire, when needed; use fire where allowable; manage our natural resources; and as a Nation, live with wildland fire, striving to meet the three national goals:

- 1) Resilient Landscapes,
- 2) Fire Adapted Communities, and
- 3) Safe and Effective Wildfire Response.

When moving through the analysis, please speak specifically to how the Roby Project will align with those three national goals, as well as the following:

- Describe how the area meets the “Communities at Risk” and/or how the area meets the WUI definition as defined in the Federal Register.
- Describe clearly how those proposed treatments support the applicable CWPP, while not conflicting with the Black Hills NF Forest Plan.
- If proposed treatments rely on fire risk, provide modeling outputs.
- PODs were designated through local collaboration; is this something that has happened recently? Please disclose this collaborative process in the analysis and share a map of these PODs.
- Fire Regime/Condition Class (FRCC) is an important piece of science that helps to inform how far departed these stands are, contributing to risk assessment that is a piece of the PODs effort. Discuss the Fire Regime(s) within the project area, disclose past treatments, and display the current condition classes.

Goshawk and Bats Monitoring

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.

The scoping letter does not speak to the status of the American Goshawk territories in the project area. Goshawk nest stands typically consist of mature pine at moderate to high density.”

- Disclose the current trends of occupancy and success rates of goshawk nests.

- Disclose the preferred goshawk nest habitat that consists of Structural Stages 4B, 4C, and 5 in map and table form, which is the primary method of measuring the required habitat for the Goshawk. Please display by project area and at the Ranger District level.
- Disclose the current known population and trend data of the Northern long-eared bat.

We are concerned about the viability of these species and the provision of necessary habitat in the Black Hills National Forest. The scoping letter contains no mention of monitoring. Required Forest-wide monitoring has not been conducted for more than a decade. Those reports up to the last one in FY2014 indicated that structural stage objectives were below target for Goshawk, as an example. Moving forward in this analysis:

- Provide a monitoring plan discussion on how purpose and needs outlined in the scoping letter will be monitored.
- What are the current HSS in the project area and across in the district? HSS percentages as a critical component directed in the Forest Plan.
- Provide a discussion of what is known about recent trends of bat and goshawk populations in the project area as well as the district as a whole.

Mechanical treatment methods

In the Interior U.S. West, more than 73 million acres of national forests (4) and millions more acres in forests with other ownership have lost ecological integrity because of the major change over the years in vegetative structure and composition. Over time, the elimination of fires has created forests that are characterized by significantly overstocked stands of material, which are now creating substantial wildfire hazards. A dense understory in the forest creates a ladder-type fuel that can lead to high-intensity crown fires. These fires spread fast and can cause catastrophic alterations to our forested landscapes and watersheds.

- On page 3 and 4 of the scoping letter it begins by stating that “Activities that may include a component of commercial timber harvest are proposed on an additional 19,885 acres. These activities include thinning of smaller trees, creation of shaded fuel breaks, and removal of encroaching conifers from aspen stands, meadows, and shrublands. Any merchantable trees would be removed and sold. Slash from cutting smaller trees would be chipped, piled and burned, or otherwise mitigated.”
 - ✓ The scoping letter does not include descriptions for any of the proposed vegetation treatments, such as Pre-Commercial Thinning (PCT) and Product Other than Log (POL)/PCT, “Tree Encroachment Control” and others.
 - ✓ The scoping letter does not include a display of acres by treatment. We made a request for this information and believe that the applicable acres connected to this comment include: Pine encroachment of 3,535 acres, Pine encroachment (savanna) of 64 acres, Tree encroachment control of 4,698 acres, PCT only of 713 acres, and POL/PCT of 21,902 acres.
 - ✓ Depending on stand density and other factors, manual thinning can be expensive to implement and generally requires dedicated funding.” Funding is a concern and with the current Forest Service budget deficits this situation is exacerbated. In developing alternatives, evaluate alternatives that consider the full silvicultural treatment regime, so that treatments are proposed that do not just start a silvicultural treatment but that have the reasonably foreseeable ability to finish or place the stand on the trajectory to

finish that treatment regime. For example, if overstory removal is proposed, then funding needs to be demonstrated to implement the next logical steps such as prescribed burning, growing seedlings, and planting seedlings if that is what is prescribed by the silviculturist for that stand to meet the objective(s).

Additionally, moving into analysis, please:

- Disclose cost estimates per acre of each treatment type, including mechanical and manual treatments, prescribed burning, and follow-up weed treatments.
- Provide information on road construction and reconstruction, temporary and permanent. What are the miles and costs? How many will be obliterated at the end of the project?
- What will be the total cost of the PA, and will this analysis produce below-cost timber sales?
- Describe how the goals of the Roby Forest Management Project will be affected if the Hell Canyon Ranger District does not conduct all of the small tree thinning and prescribed burning. For example, if funding does not become available, then the stated improvement in fire risk is not accomplished.

Aspen Management

Healthy quaking aspen communities are characterized by high productivity and structural diversity. High-functioning non-riparian aspen forests support a more diverse array of plant and animal species than any other upland forest type in the western United States. However, conifer presence with aspen does not by itself indicate unhealthy conditions or an inherent need for restoration. Aspen and conifers have co-mingled and will continue to coexist. ([Guidelines for aspen restoration in Utah with applicability to the Intermountain West](#)).

- On page 3 of the scoping letter, it states “These activities include thinning of smaller trees, creation of shaded fuel breaks and removal of encroaching conifers from aspen stands, meadows, and shrublands.”
 - ❖ The lack of specificity to the purpose and need 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](#).

If moving forward in analysis, please disclose the evaluation of the Aspen functional types and a demonstration of some silvicultural evaluation of the premises found in the professionally respected and notable work associated with this peer-reviewed paper ([Guidelines for aspen restoration in Utah with applicability to the Intermountain West](#)). In addition, please also speak to the following:

- Specify the locations targeted for treatment and also provide information about the interface of these areas with the cumulative management impacts such as grazing, commercial timber harvest, etc.
- Clarify whether you are converting vegetation types, as this has an impact on timber suitability and calculation of ASQ

Executive Order 13112 – Invasive Species

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).

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."

The proposed action states numerous activities that are vectors to invasive introduction and spread. If this moves into analysis, please disclose the status of invasives within the project area and if moving forward with activities that include mechanical equipment please, "determine and make public the 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."