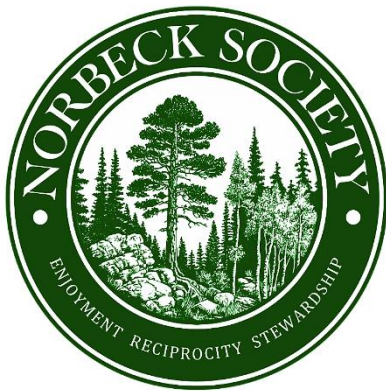




Norbeck Society
P. O. Box 9730
Rapid City, SD 57709

Todd Butler, District Ranger
Hell Canyon Ranger District
Black Hills National Forest
1019 North 5th Street
Custer, SD 57730

October 5, 2026

Submitted via: <https://cara.fs2c.usda.gov/Public/CommentInput?Project=293810>

Re: Roby Forest Management EA #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 EA #293810. We request that the comments on the following pages be included in the Forest Service Administrative project files. In general, The Forest Service's disposition document responds to **only a small subset** of the issues raised in our comment letter. Where given, the responses are **minimal**, mostly just pointing to EA page numbers. Substantive comments require substantive responses. We ask that you respond in detail to our concerns. These deficiencies require correction before the project can proceed.

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

The Roby Forest Management EA Hell Canyon District, Black Hills National Forest Norbeck Society Comments October 5, 2026

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

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.

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PART A. Deficiencies in comment responses

1. Structural Stages (HSS)

Our comment letter includes extensive discussion of:

- outdated HSS data
- need for updated FSVEG
- need to disclose current HSS
- need to avoid downgrading HSS4/HSS5
- need to increase HSS5
- goshawk viability tied to HSS

Disposition response: “See EA pp. 22–23 and 31–32 and silviculture supporting analysis.”

What this addresses: Only the fact that HSS is discussed somewhere in the EA.

What it does *not* address:

- Our request for updated HSS data
- Our request for accuracy verification
- Our request for stand-level disclosure
- Our request for an alternative that avoids downgrading mature HSS
- Our NFMA viability concerns
- Goshawk Habitat Stage Analysis
- Our concern that HSS trends violate Forest Plan Objectives

2. Goshawk & Bat Monitoring

Our comment letter includes:

- MIS viability concerns
- citations to peer-reviewed research
- request for nest occupancy trends
- request for HSS4B/4C/5 mapping
- request for district-wide trend data
- concern that monitoring has not occurred for over a decade

Disposition response: “Analysis is based on available data. Monitoring is conducted at the national forest scale.”

What this addresses: Only that monitoring exists at some scale.

What it does *not* address:

- Any of our specific requests for goshawk data
- Any disclosure of nest success
- Any structural stage mapping
- Any viability analysis
- Any acknowledgment of declining habitat
- Any response to peer-reviewed research we cited
- Any commitment to improve monitoring

3. Purpose & Need (P&N)

Our comment letter includes:

- detailed critique of P&N
- request for site-specific P&N
- request for measurable, non-generic P&N
- request for disclosure of hazardous fuel conditions
- request for alignment with CWPP, PODs, FRCC
- concern that P&N predetermines timber harvest

Disposition response: “See EA p. 1. Use of EAD authority is not discretionary.”

What this addresses: Only that EAD removes objection rights.

What it does *not* address:

- Any part of our P&N critique

- Any request for site-specificity
- Any request for disclosure of fuel conditions
- Any request for scientific basis
- Any concern about predetermination
- Any request for improved P&N clarity

4. Emergency Situation Determination (ESD) / Secretary's Memo 1078-006

Our comment letter includes:

- detailed analysis of the memo
- request for wildfire hazard maps
- request for updated hazard layers
- argument that the project area is not "Very High" or "High" risk
- concern that ESD is misapplied
- request for transparency on ESD rationale

Disposition response: "See EA p. 1. Use of EAD authority is not discretionary."

What this addresses: Only that EAD is being used.

What it does *not* address:

- Any of our wildfire hazard mapping requests
- Any of our arguments about lack of an emergency
- Any of our concerns about outdated hazard data
- Any of our requests for FRCC, fuel models, PODs
- Any of our analysis of resilience vs. resistance
- Any of our concerns about past treatments showing no emergency

5. Alternatives

Our comment letter includes:

- request for at least one additional action alternative
- request for an alternative that avoids downgrading mature HSS
- request for an alternative without final harvest
- request for an alternative focused on prescribed fire

Disposition response: None, except: "See EA p. 1. Use of EAD authority is not discretionary."

What this addresses: Nothing substantive.

What it does *not* address:

- Any alternative development
- Any rationale for rejecting alternatives
- Any NEPA §1502.14 requirements

6. Cumulative Effects

Our comment letter includes:

- request for full list of past/present treatments
- concern about slash piles from recent harvest
- request for disclosure of "ripe" NEPA decisions
- request for disclosure of unimplemented NEPA decisions

Disposition response: "See EA pp. 21–22 and appendix A."

What this addresses: Only that cumulative effects are discussed somewhere.

What it does *not* address:

- Whether the list is complete
- Whether recent treatments were included
- Whether slash piles indicate missing data
- Whether past NEPA decisions were incorporated
- Any of our specific cumulative effects concerns

7. ASQ / Sustained Yield / NFMA

Our comment letter includes:

- request for ASQ recalculation
- concern that ASQ is outdated
- concern that harvest exceeds sustainable yield
- request for plan amendment
- request for CMAI disclosure

Disposition response: “Revising ASQ is beyond the scope of this analysis.” “See EA pp. 25–26 and supporting analyses.” (regarding NFMA/MUSYA)

What this addresses: Only that ASQ will not be revised.

What it does *not* address:

- Any of our ASQ concerns
- Any CMAI disclosure
- Any sustained yield analysis
- Any NFMA compliance concerns
- Any discussion of overharvest

8. Travel Management / Road Closures

Our comment letter includes:

- detailed citation of 36 CFR 212.54
- requirement for public involvement
- requirement for TAR basis
- concern about illegal OHV use
- concern about precedent-setting road closures inconsistent with Travel Management Plan

Disposition response: “The planning process associated with the Roby project satisfies the requirements of 36 CFR 212.54.”

What this addresses: Only a conclusory statement of compliance.

What it does *not* address:

- Any of our legal citations
- Any of our procedural concerns
- Any of our OHV management concerns
- Any explanation of how compliance was achieved

9. Aspen Management

Our comment letter includes:

- request for use of Kitchen et al. (2019)
- request for functional type evaluation
- request for location-specific disclosure

Disposition response: “The process used by the project silviculturist was similar to the methodology outlined by Kitchen et al.”

What this addresses: Only a general claim of similarity.

What it does *not* address:

- Any functional type analysis
- Any location-specific disclosure
- Any evaluation of cumulative impacts
- Any mapping or data requests

10. Invasive Species (EO 13112)

Our comment letter includes:

- request for invasive species status
- request for disclosure of risk from mechanical equipment
- request for compliance with EO 13112

Disposition response: None.

11. Watershed / Riparian Restoration

Our comment letter includes:

- request for maps
- request for specific locations
- request for detailed methods

Disposition response: “Pending.”

What this addresses: Only that the agency has not yet prepared the information.

12. Mechanical Treatment Methods

Our comment letter includes:

- request for cost estimates
- request for treatment descriptions
- request for acres by treatment
- request for funding disclosure

Disposition response: “Implementation costs can vary... A cost estimate has not been calculated.”

What this addresses: Only that costs are not available.

What it does *not* address:

- Any treatment descriptions
- Any acres by treatment
- Any funding concerns
- Any feasibility concerns

Summary: What Was Addressed vs. Not Addressed

Addressed (minimally):

- Structural stages (only by pointing to EA pages)
- Goshawk/bat monitoring (only by stating monitoring exists)
- Aspen methodology (only by claiming similarity)
- Road closure legality (only by asserting compliance)
- Costs (only by saying they vary)
- Some suggestions (e.g., MA 5.4 language removed)

NOT Addressed (substantively):

- Purpose & Need deficiencies
- Emergency Situation Determination rationale
- Wildfire hazard mapping
- FRCC, fuel models, PODs
- Alternatives development
- Updated HSS data
- Goshawk viability analysis
- ASQ recalculation
- CMAI disclosure
- Cumulative effects completeness
- Invasive species compliance
- Watershed restoration specifics
- Mechanical treatment descriptions
- Aspen functional type analysis
- Travel Management Rule procedural requirements
- RNA policy compliance
- Species monitoring deficiencies
- Connected actions with BLM
- Nearly all legal citations you provided

Part B. Procedural & Legal Deficiencies in the Roby Forest Management Project Process

I. Introduction

Here we identify **procedural failures, legal deficiencies, and non-compliance with NEPA, NFMA, MUSYA, and applicable Forest Service regulations** in the Forest Service's handling of the Roby Forest Management Project. The *Public Input Review and Disposition* document demonstrates that the agency:

- did **not** meaningfully respond to substantive comments,
- did **not** provide required disclosures,
- did **not** comply with NEPA's procedural requirements,
- did **not** demonstrate NFMA consistency,
- did **not** justify the use of Emergency Action Determination (EAD) authority,
- and did **not** meet the standards of reasoned decision-making required under the Administrative Procedure Act.

This is based on the Forest Service's own statements in the disposition document, including repeated responses such as:

"See EA p. 1. Use of EAD authority is not discretionary."

and

"Revising ASQ is beyond the scope of this analysis."

These responses fail to meet legal requirements for NEPA scoping, alternatives development, scientific integrity, and NFMA compliance.

II. Procedural Deficiencies Under NEPA

1. Failure to Provide a Site-Specific Purpose & Need (NEPA §1502.13)

The disposition states:

"See EA p. 1. Use of EAD authority is not discretionary."

This does **not** address the requirement for a **site-specific** Purpose & Need. NEPA requires:

- a clear statement of the problem or opportunity,
- a rational connection between existing conditions and proposed actions,
- and a Purpose & Need that does **not** predetermine the outcome.

The Forest Service did not respond to any of the detailed Purpose & Need deficiencies raised in the comment letter, including lack of:

- hazardous fuel condition disclosure,
- FRCC and fuel model data,
- CWPP/POD integration,
- site-specific justification for treatments,
- scientific basis for "need."

This is a **procedural violation** of NEPA.

2. Failure to Develop a Reasonable Range of Alternatives (NEPA §1502.14)

The disposition provides **no response** to the request for additional alternatives, except to cite EAD authority.

NEPA requires agencies to "rigorously explore and objectively evaluate all reasonable alternatives." A 47,000-acre project cannot legally proceed with only one action alternative.

The Forest Service did not respond to:

- the proposed alternative avoiding downgrading HSS4/HSS5,
- the proposed prescribed-fire-focused alternative,
- the proposed alternative avoiding final harvest,
- the proposed alternative increasing HSS5.

This is a **substantial NEPA violation**.

3. Failure to Provide Required Cumulative Effects Disclosure (NEPA §1508.7)

The disposition states:

"See EA pp. 21–22 and appendix A."

This does not address:

- missing past treatment data,
- slash piles indicating recent commercial harvest,
- unimplemented NEPA decisions,
- connected actions with BLM,
- cumulative impacts to goshawk habitat,
- cumulative impacts to structural stages.

The Forest Service did not provide the required “hard look” at cumulative effects.

4. Failure to Provide Required Scientific Integrity (NEPA §1502.24)

The disposition states:

“See EA pp. 22–23 and 31–32 and silviculture supporting analysis.”

This does not address:

- outdated HSS data,
- inaccurate FSVEG layers,
- lack of updated wildfire hazard layers,
- lack of FRCC and fuel model disclosure,
- lack of site-specific fuel hazard justification.

NEPA requires use of **high-quality, accurate scientific information**. The Forest Service did not meet this requirement.

5. Failure to Provide Objection Rights (NEPA §218)

The disposition states:

“Use of EAD authority is not discretionary.”

This does not address:

- the requirement for meaningful public participation,
- the requirement for administrative recourse,
- the requirement for leadership engagement.

The Forest Service’s use of EAD authority is **not justified** by site-specific conditions and is therefore a **procedural failure**.

III. Legal Deficiencies Under NFMA and MUSYA

1. Failure to Demonstrate NFMA Consistency (36 CFR §219)

The disposition states:

“See EA pp. 25–26 and supporting analyses.”

This does not address:

- goshawk viability concerns,
- loss of HSS4B/4C/5 habitat,
- fragmentation of mature forest,
- failure to maintain MIS viability,
- failure to maintain R2 sensitive species viability.

NFMA requires the Forest Service to maintain species viability. The Forest Service did not respond to any of the detailed viability concerns raised.

2. Failure to Address ASQ and Sustained Yield Requirements

The disposition states:

“Revising ASQ is beyond the scope of this analysis.”

This is legally incorrect.

NFMA requires:

- ASQ to reflect actual forest conditions,
- ASQ to be non-declining and sustainable,
- ASQ to be recalculated when conditions change.

The Forest Service did not respond to:

- evidence of overharvest,
- evidence of declining mature forest,
- evidence of unsustainable yield,
- evidence of ASQ inconsistency with best available science.

This is a **substantive NFMA violation**.

IV. Deficiencies in Emergency Action Determination (EAD) Justification

The disposition repeatedly states:

“Use of EAD authority is not discretionary.”

This does not meet legal requirements for EAD justification.

The Forest Service did not respond to:

- lack of evidence of “Very High” or “High” wildfire hazard,
- outdated hazard layers,
- lack of FRCC disclosure,
- lack of fuel model disclosure,
- lack of site-specific emergency conditions,
- evidence of repeated past treatments indicating no emergency,
- slash piles indicating recent commercial harvest.

The agency did not demonstrate that the project area meets the criteria for EAD under Secretary’s Memo 1078-006.

This is a **procedural and substantive deficiency**.

V. Failure to Follow Required Road Closure Procedures (36 CFR 212.54)

The disposition states:

“The planning process associated with the Roby project satisfies the requirements of 36 CFR 212.54.”

This conclusory statement does not address:

- lack of public involvement,
- lack of TAR basis,
- lack of site-specific disclosure,
- lack of enforcement analysis,
- inconsistency with Travel Management Rule.

This is a **procedural violation**.

VI. Failure to Respond to Substantive Comments

The disposition document contains numerous “Pending” responses and repeated deflections to EA page numbers.

This does not meet NEPA’s requirement to:

- identify issues,
- respond to substantive comments,
- refine the proposed action,
- develop alternatives,
- disclose environmental effects.

This is a **procedural failure** under NEPA.

VII. Conclusion

The Forest Service’s *Public Input Review and Disposition* document demonstrates widespread **procedural and legal deficiencies** in the Roby Forest Management Project process. The agency has not met its obligations under:

- **NEPA,**
- **NFMA,**
- **MUSYA,**
- **36 CFR 212,**
- **Secretary’s Memo 1078-006,**
- **Administrative Procedure Act.**

These deficiencies require correction before the project can proceed.