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Title:
Comments: NIOBRARA COUNTY COMMISSIONERS

Mr. Thomas J. Vilsack

Secretary of Agriculture

United States Depa1tment of Agriculture

1400 Independence Ave. SW

Washington, DC 20250

Submitted via Federal eRulemaking Portal

Portal: https://cara. fs2c. usda.gov/Public/CommentInput?Project=653 56

RE: United States Department ofAgriculture Forest Service Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System Draft Environmental Impact Statement (Federal Register Vol.89 No. 120/Friday, June 21, 2024/Notices/Page 52039)

Dear Secretary Vilsack:

On behalf of the Niobrara County Board of Commissioners ("County"), please accept this letter as comments for the United States Forest Service (USFS) National Old-Growth Amendment (NOGA) Draft Environmental Impact Statement (DEIS). Niobrara County's economic viability is highly dependent on federally managed lands for energy development, livestock grazing, wildlife, tourism, and recreation. This plan amendment initiated by the Secretary of Agriculture through the Forest Service will have a significant impact on the socioeconomics, custom and culture of our County and State.

In Wyoming, counties serve as a legal arm of the state entrusted with carrying out statutory and regulatory goals at the local level. County governments are actively engaged in the National Environmental Policy Act (NEPA) processes to assist our federal partners to create management plans that encourage productive and enjoyable harmony between man and his environment. 42 U.S.C. [sect]4321. Niobrara County takes our responsibility as a local government seriously and strives to ensure our community is an economically vibrant, safe, and healthy place to live, work, and recreate. Wyo. Stat. [sect] I 8-5-208(6).

Niobrara County serves as a co-regulator and partner on USFS federal surface that fall within our jurisdictional boundaries. Our County contains varying percentages of federal, state, and private land, which need thoughtful management at each jurisdictional level. Specifically, Niobrara County lands are comprised of less than half of a percent of federal swface managed by the USFS and are part of the Thunder Basin National Grasslands and Bankhead Jones Fann Tenant Lands. These resources are impo11ant for the livelihoods of residents and the attraction of those traveling through our area.

Niobrara County has also enjoyed a long history of partnership with the USFS working together through on-the-ground projects and advisory groups to assist with plan implementation. Beyond cooperating agency work, our County has made substantial investments to strengthen the working relationships we enjoy with the Forest

Service. Niobrara County appreciates the relationship it has developed with the TBNG and has worked directly with the Forest Service by engaging as a cooperating agency in the following ways:

* The County participated in the 2020 Thunder Basin National Grasslands Plan Amendment (Plan).
* The County continues to participate in the TBNG Working Group meetings to engage in discussions and make recommendations to the Forest Service regarding implementation of the Plan.
* The County continues to receive regular updates from the TBNG Ranger District Office on issues related to the management of the area and sincerely work through challenges that arise.
* The County has engaged with TBNG representatives on NEPA training hosted by WCCA. This opportunity has allowed for both pa11ies to better understand roles and responsibilities as it pertains to the land management planning processes along with discussing challenges and solutions for implementation.

As co-regulators, the Niobrara County Commissioners in cooperation with the Niobrara Conservation District adopted a Niobrara County Natural Resource Management Plan on August 3, 2021, to serve as the basis for communicating and coordinating with the federal government and its agencies on land and natural resource management issues. Wyo. Stat. [sect] I 8-5-208(b). Well managed forests are a crucial component to achieving our goals as local governments. Executive Order I 4072 "Strengthening the Nation's Forests, Communities and Local Economies" (EO) recognizes this relationship and expressly connects local economies with forest management activities. Our plans, which the USFS should be consistent with, speak specifically about our local economy and the multiple uses within our federal, state, and private forested lands.

As pa11ners, Niobrara County works diligently to suppor1 the work of our federal land managers to overcome shared challenges and achieve mutual goals. Our County actively participates with Wyoming USFS district offices and the regional office on National Environmental Policy Act (NEPA) projects, trainings and presentations, and special initiatives. Although NOGA is a substantially different planning effort than has ever been contemplated by the USFS, we have committed to participate as a cooperating agency with the USPS and have provided comments, where allowed - but we must do better in our coordination.

Niobrara County suppo11s sustaining and protecting some appropriate amount of old growth forests in the national forest units in Wyoming through proactive stewardship. However, the failures in the NOGA NEPA process have created an unworkable and legally tenuous amendment for all of the national forest units across the country. Niobrara County does not suppo11 the USFS conducting nationwide forest planning to address old growth direction in the unique forests and communities across the country. Therefore, the only alternative that we can support is the No-Action alternative, which would allow individual forest units to revise or amend their forest plans as necessary to address contemporary challenges with old growth forests.

In response to the NOGA and DEIS, Niobrara County submits the following detailed comments for the USFSs consideration specific to this plan amendment:

I. General

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* Wyoming Count y Commissioners Association (WCCA) - Niobrara County endorses, and incorporates by reference, comments submitted by WCCA.
* State of Wyoming- Niobrara County endorses, and incorporates by reference, comments submitted by the State of Wyoming.

II. USFS Should Abandon its Top-down One-sized Approach to Old Growth Forests

Niobrara County implores the USFS to set aside political objectives and focus on the actual ecological and

management needs of individual forests. This would require the USFS to abandon its nationally driven NOGA planning effort and encourage and strengthen individual forests' ability to revise and amend their plans to address old growth forests. In Wyoming, there are three forest units that are already in the beginning stages of revision that could benefit from additional USFS resources. Unfortunately, the NOGA planning effort has redirected USFS personnel from the Mountain Planning Service Group, amongst other regional planning groups, to spend time and money on the NOGA.

Staying the course with NOGA as a top-down one-sized approach does not promote the best management for our distinctive forests or produce the best results for our unique communities. By the USFS's own admission in the preamble to the 2012 Planning Rule, '... more specific requirements were not included in the final rule, because these issues are best identified and determined at the forest or grassland level, reflecting ecosystems and plant and animal communities on the unit." The County agrees with this approach in the Planning Rule. A localized planning approach recognizes the vast differences between our national forests and the communities that live in and around them.

As the USFS knows, forest plans are required to balance a multitude of challenges, priorities, and interests on our forested lands. Existing plans were established in good faith with the cooperation, data, and input from counties and other cooperating agencies. Each of the forest units within the state of Wyoming has old growth direction in their existing plans. Forcing a national old growth agenda to layer on top of our existing plans does not strengthen them, it undermines them.

It is our request that any forest unit in Wyoming that is starting or is currently undergoing a plan revision process be excluded from the NOGA in its entirety. These forest units, namely the Bridger-Teton, Black Hills, and Medicine Bow-Routt, may, in consideration with cooperating agencies, and based on their own forest needs, incorporate whatever plan components they deem appropriate for that forest unit. A nationally led directive should not derail the work of our forest planning efforts.

As proposed, the NOGA will inevitably disrupt and negatively impact the revision processes being done across the forests in Wyoming and others around the country. Unlike the NOGA, our Forest Supervisors have been largely successful in communicating the upcoming process with cooperating agencies and the public. Forcing these forest units to also undergo the "required" optional content to create an old growth strategy will take away necessary resources, time, and adds a layer of confusion that is completely unnecessary. one of the overarching goals of the OGA are unable to be accomplished in an individual forest plan revision if that unit desires. Additionally, keeping any possible changes to old growth direction within a plan revision will ensure that old growth management is integrated with other plan components.

Beyond being required, this integration and consistency with other plan components will allow our forests to continue the necessary work of active management. Layering new plan components on to forests that have not evaluated them for consistency and have not integrated them into their plan, will create at best confusion and at worse substantial litigation for all ongoing projects.

In stark contrast to the NOGA, Niobrara County believes that the best forest policy decisions are accomplished through robust local engagement. A local planning approach recognizes the vast differences between our national forests and the communities that live in and around them.

Unfortunately, the NOGA process is far from the EO's goal of collaborative, locally led conservation. Instead of collaboration, it has cut local governments out of the conversation. Instead of being locally led, the NOGA is being driven from the Secretary of Agriculture, the highest bureaucratic position over the USFS and the furthest from the ground. Instead of a conservation solution, the NOGA creates more work for the USFS to address a perceived problem of harvest within old growth forests. Ultimately the NOGA is a solution in search of a problem that does not exist.

The comprehensive locally led approach to forest plan amendments envisioned by the 2012 Planning Rule helps maintain the multiple use and sustained yield mandate. Without the ability to integrate plan components, the NOGA's selective focus on old growth forests will be detrimental to other forest age classes and other uses including timber harvest, water, range, recreation, and wildlife.

III. The USFS has Failed to Meaningfully Engage with Niobrara County under the National Environmental Policy Act.

Niobrara County sought to actively engage with the USFS on the NOGA after the Notice of Intent (NOi) was released in December, 2023 . 1 Our County has a history of supporting the USFS in developing, revising, and amending forest plans, providing special expertise on socioeconomic issues, including how amendments will affect jobs and the tax base. Our participation also assists the USFS comply with its requirement to coordinate its land management planning with local county land use plans.

Niobrara County has also enjoyed a long history of partnership with the USFS working together through on-the-ground projects and advisory groups to assist with plan implementation. Beyond cooperating agency work, our County has made substantial investments to strengthen the working relationships we enjoy with the Forest Service.

Given the incredibly aggressive timeline the USFS set for itself to complete the NOGA, there needed to be an equally aggressive process to encourage early and meaningful local government participation in the development of the NOGA. Unfortunately, instead of early engagement and a robust cooperating agency process the USFS chose to completely skip cooperating agency work until after the Draft NOGA and Environmental Impact statement was already published in the Code of Federal Regulations on June 21, 2024.

Although the USFS has previously defended its cooperating agency process by listing every communication, public information style meeting, or conversation with our national or state county association - none of these meetings contained any cooperating agency work. Having meetings on a calendar does not constitute compliance with NEPA if those meetings failed to contain any of the expressed requirements for lead agencies. The Council on Environmental Quality (CEQ) has set the floor, not the ceiling, for what a lead agency shall do in a cooperating agency process in CFR [sect] 1501.7(h) and (i). The USFS as Lead Agency with respect to cooperating agencies (counties, states, and tribes) shall:

1. Request the participation of each cooperating agency in the NEPA process at the earliest practicable time.
2. Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expe11ise, to the maximum extent practicable.
3. Meet with a cooperating agency at the latter's request.
4. Determine the purpose and need, and alternatives in consultation with cooperating agency.

(i) The lead agency shall develop a schedule, setting milestones for all environmental reviews and authorizations required for implementation of the action, in consultation with any applicant and all joint lead, cooperating, and participating agencies, as soon as practicable.

The Forest Service failed to meaningfully meet any of these requirements from CEQ. Prior to the release of the Draft NOGA, the USFS did not have any meeting with cooperating agencies to create a timeline, develop the purpose and need, create alternatives, or give cooperating agencies an opportunity to provide environmental or socioeconomic data or analysis.

In fact, prior to the public release of the NOGA the USFS did not share a single document or have a single discussion about any proposed language, analysis, or alternatives for the NOGA with cooperators. In other words, although the USFS finally met with cooperators two times before the publication of the NOGA, and even though the content of the NOGA had already been wholly developed by the USFS (without the assistance of any cooperators), the USFS decided not to discuss any of the NOGA draft content with cooperating agencies in these meetings.

The blatant disregard of anything that could even remotely resemble cooperation under the law before the publication of the Draft NOGA is unprecedented and a clear violation of the act. The USFS created its purpose and need alone. The USFS developed its range of alternatives alone. The USFS drafted all of its environmental and socioeconomic analysis alone. The USFS created the NOGA plan and drafted the EIS by itself while it had a host of cooperating agencies across the country seeking an opportunity to provide input for months.

Over the last few months, the USFS has aggressively met with cooperating agencies in a bid to clarify the intent of the NOGA. While occasionally insightful, these meetings do not reflect the responsibility outlined for a lead agency and do not include the substantive creative work intended to be completed by cooperating agencies. "'NEPA should not become an after-the-fact process that justifies decisions that have already been made." 40 C.F.R. [sect] 1502.2(g). This is clearly not how CEQ envisions the NEPA process operating.

Cooperators have repeatedly raised concerns that the process we were being invited to participate in was not appropriate. CEQ's own guidance warns: "Misuse of the NEPA process to justify decisions already made is counterproductive and can result in litigation that could delay and ultimately prevent a proposed action from proceeding." (Improving the Process for Preparing Efficient and Timely Environmental Reviews Under the National Environmental Policy Act, CEQ, 2012).

The USFS assured cooperating agencies that they had every intent of creating a process where meaningful engagement was encouraged. To this end, the Forest Service chose to conduct a national amendment with an EIS versus the development of a rule, which likely would have still required an EIS. Unfortunately, even with the best intent, the USFS has failed to meet the intent or the letter of the law for meaningful cooperation with cooperating agencies under NEPA.

Surprisingly, the USFS provides in its very first sentence of the NOGA EIS, without any justification, "The Forest Service has prepared this environmental impact statement in compliance with the National Environmental Policy Act (NEPA) and other relevant Federal and State laws and regulations." Unfo1tunately, the Forest Service cannot simply asse1t compliance with NEPA, it is required to actually take action to comply with NEPA. The decision to elevate the NOGA decision to the secretarial level only further eliminates cooperating agencies and the public from the ability to file objections. As cooperating agencies, who have participated in countless compliant NEPA processes, we request this NEPA compliance sentence be removed from the document.

In summary, the Forest Service failed to comply with the requirements set out by CEQ for meaningful cooperation with local governments. This procedural flaw has hamstrung our participation in the development of the NOGA and the required analyses under NEPA.

IV. Consistency with Niobrara County Natural Resource Management Plan

Although the NOGA stands to impact hundreds of communities across the country, there is no indication in the DEIS that USFS was apprised of local land use plans and there is no description of how those plans were given

consideration as required by the 2012 Planning Rule and NEPA. At a minimum, the USFS should have included a list of the local land use plans that are within the amendment boundary. However, even an impacted county list would not meet the requirements for coordination and consistency. For convenience, Niobrara County has attached its Natural Resource Management Plan dated August 3, 2021, in its entirety for your consideration. The "Resolution Approving the Niobrara County Resource Management Plan" (Resolution No. 21-12) dated August 3, 2021, is also attached.

NEPA requires that the USFS include a discussion of all "possible conflicts between the proposed action and the objectives of Federal, regional, State, Tribal, and local land use plans, policies and controls for the area concerned." 40 C.F.R. [sect] 1502.16(a)(5). Further, where any inconsistency exists, the USFS is required to provide a statement describing "the extent to which the agency would reconcile its proposed action with the plan or law." 40 C.F.R. [sect] 1506.2(d). There is no discussion of any possible conflicts in any of the myriads of documents and reports that seemingly make up the NOGA's analysis.

The DEIS acknowledges in section 1.11.6 on page 12 "Coordination with Other Planning Efforts" that "The 2012 Planning Rule (36 CFR 2 l 9.4(b)) requires the Forest Service to coordinate land management planning activities with federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments." However, the DEIS simply claims that the USFS will "In the course of coordinating with other public planning efforts the Forest Service will consider ways the proposed old[shy] growth amendment could contribute to common objectives, address impacts, resolve or reduce conflicts, and contribute to compatibility between Forest Service and other agencies' plans." This does not satisfy the USFSs requirement to coordinate with local governments nor does it clearly identify a detailed consistency review that ensures local plans were addressed adequately in the NEPA process and every effort was made to resolve outstanding management issues.

On page 12 of the EIS, the USFS stated that it "requested that each Cooperating Agency provide applicable planning documents or policies related to forest management and any information regarding specific areas of conflict between their plan or policy and the proposed National Old Growth Amendment, and suggestions to address those conflicts." At the time the USFS requested possible conflicts with local plans or policy, the USFS had not yet shared any draft of the NOGA. Nevertheless, numerous cooperators sent in plain language, none of which made it into any pmtion of the EIS.

Now that the draft NOGA has been released to the public, and cooperators have been able to see the draft, there remains a substantial hurdle with identifying inconsistencies. The way the proposed NOGA is drafted puts the creation of substantive plan components into the hands of collaborative groups developing "Adaptive Strategies." Therefore, it remains impossible to provide a complete list of inconsistencies until the Adaptive Strategies have been created. And by the time the Adaptive Strategies have been created, there will be no NEPA to require consistency with local plans.

For the USFSs convenience we have identified a few priority policy positions from our County Natural Resource Management Plan that are impacted by this DEIS and can be found on Pages 6-7 of the County Plan. This is not a comprehensive list and USFS is encouraged to review the entirety of the County Plan for more details:

Niobrara County believes that the USFSs approach of waiting until the final stage to address inconsistencies in the EIS is flawed. This delay prevents state and local government agencies from providing input during the drafting phase prior to the DEIS being issued, which could have led to substantive comments that might alter the project's components and subsequent analyses. Additionally, a federal agency should not address consistency solely by responding to concerns raised through comments or cooperating agency meetings. Instead, the development of the Purpose and Need statement and the alternatives should have taken an active approach in identifying inconsistencies and addressing them concurrently. It is clear that the process by which USFS included a thorough consistency review of the Niobrara County natural resource plan fell far short of adequate

consideration of our local plan, which is a significant omission in the DEIS and this process.

V. The USFS has Not Articulated a Need for Changing the Black Hills National Forest Unit Plan

The USFS has not articulated a need for "consistent" management of old growth forests across the United States nor has the USFS specifically articulated a need for change of the existing old growth direction in the Black Hills National Forest. The 2012 Planning Rule requires the USFS to identify its need for change on a new assessment, monitoring report, or other documentation, changed conditions, or changed circumstances. 36 C.F.R. [sect] 219.12(6)(1). Unfortunately, the threat assessment associated with the NOGA effort was released after the NOi and clearly after the NOGA had already been drafted.

Furthermore, the threat assessment identifies fire, insect and disease as the primary threats to old growth, yet the NOGA focuses on restricting old growth harvest through the creation of standards and guidelines. Ironically, and unfortunately, substantial p01tions of the old growth forests across the forest unit system are already within designations that extremely limit or prevent active management, namely Roadless Areas, Wilderness Areas, and National Monuments. Regardless of the new standards and guidelines the NOGA will foist upon local forests plans, these areas will continue to not be managed.

Additionally, although Appendix C could lead the public to believe that all but 18 of the existing forest management plans across the country are substantially lacking in old growth direction, this is simply inaccurate. It is unclear what, if anything the USFS did to evaluate existing plans to create Appendix C. For example, Category 3 is supposed to be a unit that has desired conditions, "but does not have standards/guidelines that constrain management activities in old growth - or these do not apply forest-wide or are not as restrictive as the proposed NOGA standards." Yet, as just one example, the Bighorn National Forest in Wyoming, which is rated a Category 3 has extensive old growth direction in its existing management plan. In the plan's biological Diversity section, it provides Standards and Guidelines to:

Manage for late-successional (old growth) forested resources according to the following criteria. An old-growth inventory will be kept on file at the Supervisor's Office.

a. Within a geographic area (9 total on Forest), maintain I 0% of existing forest cover types (except for spruce-fir) in old growth, and maintain 15% of the spruce-fir cover type in old growth. In half the acres, meet both the standard and quality (higher value) attributes identified in Mehl (1992)

b. Use the Mehl (1992) definitions of old growth to identify and manage stands. Use remote sensing correlated to Mehl (1992) to designate old growth stands where field inventories have not been completed.

c. Emphasize retention of larger, functional blocks of old growth with minimum stand size of 100 acres. Include stands that are remote (difficult to access), on north slopes, or in npanan areas.

d. Identify recruitment areas if old growth requirements cannot be met under current conditions. Favor stands without past logging treatments, and unsuited acres.

e. Old growth may rotate on the landscape in response to disturbances (natural and management induced) and should occur in proportion to the existing slope classes occurring in the area.

f. Use mechanical or prescribed fire vegetation treatments to foster old growth conditions as appropriate by community type structure and as referenced by Mehl (1992).

Bighorn National Forest, Revised Land and Resource Management Plan, Forest wide Direction, Chapter 1, page 27-28.

If the Bighorn National Forest, that contains substantial direction for old growth management, is a Category 3, it strains credulity that the USFS evaluated the existing plans it hopes to amend. If Appendix C is simply a table illustrating that existing plans do not contain the exact same direction as the NOGA, then it is sufficient. However, to the extent that Appendix C is supposed to identify which plans have existing direction it needs to be updated. The USFS should include actual references to old growth direction from these plans so that the public is aware what NOGA is being layered onto.

VI. NOGA's Use of Optional Plan Content Violates the 2012 Planning Rule

A Forest Plan is the guiding document for actions and projects within a forest unit boundary. They are developed and amended with the help of cooperating agencies, as well as the public, through the NEPA process as set forth in the Council of Environmental Quality's regulations for implementing NEPA.

The proposed NOGA contains new plan components that would be added to all forest plans as well as "optional content" that it is requiring forest units to create. Understanding the variety of forest types across the National Forest System, differing characteristics of ecosystems and species, and that the threats to old growth forests differ in regions and geographies, the NOGA is requiring that each national forest unit develop an "Adaptive Strategy for Old-Growth Forest Conservation" within 2 years.

Under the 20 I 2 Planning Rule, all forest plans have required content, often referred to as plan components. Plan component categories are terms of art with specific definitions and detailed content requirements. Plan components are used to address the resources within the forest unit and require analysis under NEPA. Plan components include goals, desired conditions, objectives, standards, guidelines, suitability, and monitoring.

Under the 2012 Planning Rule, the USFS may also include optional content in its forest plans. "A plan may include additional content, such as potential management approaches or strategies and partnership opportunities or coordination activities." 36 CFR [sect] 219.7(f)(2). However, the Forest Service's Planning Handbook clarifies and admonishes that optional content should never be worded to suggest they are plan components. Further, the Planning Handbook provides that any optional content may be changed administratively, without going through NEPA.

The NOGA includes two layers of optional content, by writing a "management approach" that requires the creation of a "strategy" in the next two years. At its heart, the management approach forces the USFS to create a strategy that will change a plan's desired conditions and where plan components are implemented. Specifically, Management Approach I .a (v) requires the USFS to identify and prioritize areas for recruitment, retention, and promotion of old growth forests. On Page 117, the USFS also states that "The purpose of amendment is to establish a baseline for OG management, not dictate which areas are managed. These are detennined through local definitions and Adaptive Strategies."

Proposed Guideline 1 then requires that "In areas that have been identified in the Adaptive Strategy for Old-Growth Forest Conservation as compatible with and prioritized for the development of future old growth forest, vegetation management projects should be for the purpose of developing those conditions." In other words, the strategy is designed to change how and where projects will be prioritized and implemented.

Not only does this Adaptive Strategy fall outside of the 2012 Planning Rule and the Planning Handbook because it is being treated as a requirement, but this optional content, which would ordinarily not require NEPA analysis, would necessarily require additional NEPA. The planning rule clearly states that "...a plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic areas)." 36 C.F.R. [sect] 2 I 9. l3(a).

Since the NOGA Adaptive Strategies are designed to change "where plan components will apply" by identifying and prioritizing areas for old growth forests, the USFS would be required to complete an additional amendment process and comply with NEPA. The NOGA does not contemplate additional NEPA taking place in its Management Approach I .a.

This approach bypasses the required forest plan amendment process including plan integration, NEPA analysis, co-creation of alternatives with cooperating agencies, and public input. Additionally, since optional content can be changed administratively, any forest supervisor can by themselves completely change the strategy at will.

The optional content strategy opens a substantial threat to litigation for current and proposed projects. Since strategies are not plan components under the 2012 Planning Rule, they should not require project or activity consistency. However, since the NOGA strategies are clearly designed to change the location and purpose of projects then project and activity consistency would be required. Every national forest has a host of ongoing projects, projects in the works, and projects in the early developmental stages. Beyond initial uncertainty, this could immediately halt projects, create a significant effect on new project development (waiting 2 years to create and comply with a strategy), and open up every existing project to litigation.

This is especially concerning considering the substantial investment being made and the important work being done with Good Neighbor Authority (GNA). Beyond the importance of these projects to our communities, stopping work "mid-stream" would be devastating, in terms of accomplishing on-the-ground work as well as the relationship between the USFS and the states.

For these reasons and more, Niobrara County urges the USFS to identify the No-Action Alternative as the preferred alternative and allow the process to play out through the proper legal and regulatory channels.

VII. Private Property Rights

As stated earlier, Niobrara County is rich in federal resources such as fa1ming, ranching, energy development, tourism and recreation, which all contribute heavily to the heritage of the County. Rangeland used by livestock and agricultural producers continues to be the dominant land use and federal agencies should consider the effects their decisions will have on neighboring private lands.

Furthe1more, access to, or restrictions from, crossing federal, state, or county managed lands should not entail encumbrances or constraints on private property. Private property rights are the cornerstone of our County and must be protected to ensure that our continued customs and culture remain intact. When an agency decision or proposed action will have a negative impact to the current use of neighboring private lands, that federal undertaking may not be suppo1ted by the County.

For the USFSs convenience we have identified a few priority policy positions from our County Natural Resource Management Plan that are impacted by this DEIS and can be found on Pages 9-10 of the County Plan. This is not a comprehensive list and USFS is encouraged to review the entirety of the County Plan for more details.

Changing circumstances in management prescriptions can impact surrounding non-federal property which can impact authorized multiple uses. The USFS should acknowledge and analyze the cumulative effects the management restrictions to access would have to adjacent private and state lands along with and socioeconomic to our communities. The USFSs socioeconomic analysis should describe the human interests and values shaping public lands management, identifying effects of proposed actions on communities and economies, and promote the economic and social sustainability of communities near public lands.

VIII. Socioeconomics

Economic impacts do matter. Access to federally administered lands and resources are critical to ensure the socioeconomic well-being, custom, culture and stability of our communities. In Niobrara County, lands under federal or state control and decisions made for public land management agencies can directly impact the service and non-service industries, public accessibility, and the demographics of an area. Effective coordination and consultation between the County, federal and state agencies is critical to ensuring that land management agencies thoroughly consider the effects that proposed actions have on custom, culture, and economic stability, conservation and use of the environment and natural resources in the County along with multiple use. Counties receive revenue from federal lands in many ways including mineral leasing and development, agriculture, recreation, travel, and tourism, etc. Any cu1tailment of access to public lands will directly impact the socioeconomics of the County.

For the USFSs convenience we have identified a few priority policy positions from our County Natural Resource Management Plan that are impacted by this DEIS and can be found on Pages 135-150 of the County Plan. This is not a comprehensive list and USFS is encouraged to review the entirety of the County Plan for more details.

The County cannot state clearly enough the importance of our ability to access federal lands to drive vibrant economic communities. The USFS significantly undervalued and under-analyzed the mineral and timber contributions to the counties and state in the socioeconomic section. The USFS must include a robust socioeconomic analysis clearly demonstrating the differences between management prescriptions in the Alternatives, which includes impacts to the tax base (royalties, rents or bonus bids, severance taxes, ad valorum taxes, sales and use tax employment income, and direct and indirect employment.)

Additionally, Niobrara County remains concerned that NOGA's identification process for old growth forests (and individual trees) will ultimately be treated as a form of designation. The designation of wilderness, roadless areas and now old growth in our national forests will have significant impacts on our ability to access those federal lands; thereby impacting the economics of our communities. The USFS must also consider the cumulative impacts of existing and proposed management restrictions on the local economics, custom, and culture. For example, while the County does support proactive stewardship of our forests, management decisions must be balanced with other resource uses and generally the County does not support overly restrictive management directives such as these.

For the USFSs convenience we have identified a few priority policy positions from our County Natural Resource Management Plan that are impacted by this DEIS and can be found on Page 28 of the County Plan. This is not a comprehensive list and USFS is encouraged to review the entirety of the County Plan for more details.

The "Draft Social, Economic and Cultural Impacts Analysis Report for the Draft EIS for Amendments to LMPs to Address Old-Growth Forests Across the NFS" lacks appropriate details in the socioeconomic analysis needed to determine impacts of this landscape scale planning amendment. The USFS must analyze for the cumulative impacts to counties specific to the management decisions under each Alternative and how they will affect local and state economic well-being along with impacts to state and private adjacent lands. In addition, the analysis should consider increased costs to state and local communities associated with a higher risk for fire management, disease, and insects due to limited management direction for Old Growth areas. The County can assist in providing the most up-to-date information available for the Forest Service analysis.

IX. Conclusion

In conclusion, the decision by the USFS to hastily push this national plan amendment through the NEPA process in a condensed timeframe that excluded counties as cooperating agencies in a crucial part of the planning process will result in a failed end product. For reasons outlined in this letter, the Niobrara County implores the Secretary and the USFS to select the "No Action Alternative" for the Final EIS and Record of Decision. That

decision will allow old growth forest direction to be appropriately crafted in local planning efforts as envisioned by the 2012 Planning Rule.

Niobrara County remains committed to continuing our engagement as a cooperating agency to assist the USFS to work through these important issues.

Sincerely,

The USFS has clarified that it's removal of local governments from the list of entities encouraged to seek cooperating agency status was done in error.

ATTACHMENT: NiobraraCounty_NaturalResourceManagementPlan_Final_08.03.2021 (1).pdf - Niobrara County Resource Management Plan

ATTACHMENT: Res 21-12 Natural Resource Managment Plan Resolution.docx (2).pdf - Resolution 21-12 approving Niobrara County Resource Management Plan

ATTACHMENT: Niobrara Co Commissioner Comments_USFS NOGA DEIS.pdf - this is the same content that is coded in text box; it was originally only included as an attachment