

**Cement Project Area  
Final Environmental Assessment**

**Appendix D  
Comments on Draft Environmental Assessment**

The Cement draft environmental assessment was issued for public comment in May 2003. More than 400 comments were received. Comments were divided into three categories:

1. Form letters or form e-mails.
2. Comments not requiring a response here (opinions, personal experiences, statements of preference, requests for documents). Many of these were additions to form letters or form e-mails.
3. Original letters requiring response.

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## Category 1. Form Letters

### Form Letter #1 Comments and Forest Service Responses

Comment ID	Comment	Forest Service Response
1A	Please use the boundaries of the Sand Creek Roadless Area as proposed by conservation groups in 1991, not the boundaries as developed by the Forest Service during the Plan revision.	The Sand Creek Roadless Area boundary was set as part of the 1996 Forest Plan Revision. Changing the boundary is outside the scope of this analysis.
1B	Please do not log or build roads in the Roadless Area and please effectively close the Roadless Area to off road vehicle use.	No actions are proposed in the Sand Creek Roadless Area.
1C	Please maintain an area on the southern side of the roadless area as a "primitive buffer", which will receive only light management, retaining the mature yellow bark pine overstory and late successional landscape.	Management area direction is outside the scope of this analysis.
1D	Please protect the wild and pristine values within the entire area of the Cement Project.	<i>Wild</i> and <i>pristine</i> may be defined differently by different people; the project area may appear untouched to some, but human activities, including timber harvest, have taken place in this area for many years. Proposed activities would not modify the overall character of the area.
1E	Please do not construct new nor reconstruct old roads in the entire timber sale area.	Alternative 1 does not include road construction or reconstruction.
1F	Please plan for long term trail system that allows for development of hiking trails in the area which will traverse both the Roadless and "primitive buffer" area and especially protect primitive values along this future trail system.	Trail system planning is outside the scope of this analysis. The proposed activities would leave open many options for any future non-motorized trail system in the form unharvested stands, visual variety, and reduced open road density.
1G	Please protect scenic values along all travel corridors leading to the Roadless Area.	Travelways in the project area that lead to the Roadless Area include U755 and 802.1A. No actions are proposed along 802.1A except road closure. Timber harvest would take place in stands that show evidence of past management along U755, and this unclassified road would be decommissioned.
1H	Please protect at risk plant and animal species.	Effects on threatened, endangered, proposed, and sensitive plant and animal species are disclosed in EA Chapter 3.
1I	Please keep logging out of Section 31 of T51N, R60W and section 25 of T51N, R61W. These are areas that were included, as part of the roadless	See response to comment 1A.

Comment ID	Comment	Forest Service Response
	area, in the conservation community's wilderness proposal. Section 31 hosts a major trailhead, providing access to trails in the roadless area to the north and west, and should have been included as part of the roadless area inventoried by the Forest Service.	

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## Form Letter #2 Comments and Forest Service Responses

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2A	Please stay out of Sand Creek! The boundaries of the Sand Creek roadless area must be based on the 1991 citizens' surveys and wilderness proposal. Fully protect the Sand Creek roadless area within these boundaries. Do not log, construct roads, or degrade the wilderness in these vital lands.	See response to comment 1A (p. 2).
2B	Prepare an Environmental Impact Statement (EIS) for the Cement timber sale. An EIS is the only way to ensure a credible and accurate analysis of environmental impacts and to ensure the wilderness values of the Sand Creek roadless area and other natural values are not significantly impacted	The purpose of this analysis is to determine whether an EIS is necessary. This determination will be documented in the Decision Notice.
2C	Protect all rare and imperiled plants and animals. Fully protect "sensitive" and other rare and imperiled plants and animals. Prohibit logging in the habitat of "sensitive" and other rare and imperiled plants and animals.	See response to comment 1H (p. 2).
2D	Protect old growth forest habitat. Do not log any old growth and protect all dense, mature forest to ensure the creation of future old growth.	No treatments are proposed in old growth stands in the project area. Under both action alternatives, thinning is proposed in some dense, mature stands for reasons stated on EA pp. 7-9.
2E	Protect "interior" forest habitat. Protect and restore large "blocks" of mature and old growth forest to benefit sensitive woodpeckers, forest raptors, pine marten, and other species dependent on "interior" forest habitat.	Effects of proposed activities on threatened, endangered, proposed, sensitive, and management indicator species are discussed in EA Chapter 3.
2F	Protect water quality and soils. Do not construct any new roads and reclaim all user-created (i.e., illegally created) and other unnecessary roads in the timber sale area. Fully protect water quality and soils from further degradation.	Effects of proposed activities on soil and water are discussed in Chapter 3 of this analysis.
2G	Protect non-motorized recreational opportunities. Disallow off-road vehicle use in the Sand Creek roadless area and not log along trails and other recreational areas.	Both action alternatives would increase non-motorized recreation opportunities by closing roads currently open to motorized use. Motorized vehicles are not permitted in the Roadless Area, but illegal use occurs. Proposed closures would contribute towards keeping motorized vehicles out of the Roadless Area. There are no developed trails or recreation sites in the project area.

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## Form Letter #3 Comments and Forest Service Responses

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3A	Because of the Black Hills' ecological significance, I urge the Forest Service to respect and fully protect the Sand Creek Roadless Area within the boundaries established by the 1991 citizens' surveys and wilderness proposal. The Forest Service should not log, construct roads, or degrade the wilderness qualities in these vital lands. We must protect the few remaining roadless areas from unnecessary destruction.	See response to comment 1A (p. 2).
3B	I believe that the Forest Service should prepare an Environmental Impact Statement (EIS) for the Cement Timber Sale. Only an EIS can provide a thorough, credible and accurate analysis of environmental impacts to the unique resources of this area. Only an EIS can help ensure that wilderness values in the Sand Creek Roadless Area and other natural values are not significantly impacted. An environmental analysis is grossly inadequate to either task.	See response to comment 2B (p. 5).
3C	Also, please ensure that no logging occurs in the habitat of "sensitive" and other rare and imperiled plants and animals, in any old growth forest, or in dense, mature forests, especially the sensitive interior blocks.	See response to comment 2E (p. 5).
3D	Finally, I urge that no new roads be built for logging in the timber sale area as these can only damage water quality and further degrade soils.	See response to comment 2F (p. 5).

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## Category 2. Comments Not Requiring a Response

Respondent	Comment
Jean Adams (Form Letter 1)	I have hiked closed roads only to find new rds built to the areas from another direction. I would like a tour of the area for a better idea of what will be effected.
Lee George Aide 5549 Dupont Ave. S. Minneapolis, MN 55419	I am writing to you today about the Black Hills National Forest and the Sand Creek Roadless Area. I often visit this special area and these lands need to be protected. Please fully protect the Sand Creek roadless area within the 1991 citizen's survey boundaries. It is also important to prepare an EIS for the Cement timber sale, which ensures that all rare and imperiled plants and animals be protected from corporate logging. Old growth forest habitat must be saved, in addition to the 'interior' forest habitat which provides protection for water and soils. This is a unique natural resource which must be saved for future generations and area wildlife and not for short-term corporate profit and greed. Thank you very much for your attention to this matter.
Diana Allard (Form Letter 3)	Nearly each summer for the past ten years I have taken road trips to South Dakota's Black Hills and Badlands because they hold so much natural beauty and are such important geological features to the region. When I'm here at home in Nebraska, it's a comfort to know they will be there the next time I visit. That's why I feel it is so important to protect and preserve what we have for future generations.
Art Anderson (Form Letter 1)	Sand Creek has been a very important area for my family and the Audubon chapter that I'm a president of.
Robert E. Anthony 575 28-1/2 Rd. Unit 48 Grand Junction CO 81501	I just wanted to urge you and the Forest Service to do their utmost to protect the Sand Creek Roadless Area by using the boundaries put forth in the 1991 Citizen's Wilderness Proposal. I believe we should do all we can to preserve our pristine areas because some day we will look back and wish we had saved more of them. I have visited the Black Hills National Forest and when I do, it is to seek out areas like this for hiking and quiet recreation. I also appreciate them because we have them in western Colorado, where I live. Thanks for your consideration.
Christopher Azala (Form Letter 3)	These lands belong to me, as an American, and not to greedy timber interests.
Marlene Beyer (Form Letter 3)	This afternoon my grandson told me they were going camping this weekend in a tent. I told him I used to go camping in a tent with my family when I was a child too. I proceeded to tell him about my most favorite trip which was to the Black Hills of South Dakota. I told him how my father had called to me one afternoon to come out of the tent and lay down on the ground beside him. When I did he said look up in the trees. My memory may fade with time but I shall never forget the sight of the flying squirrels in the trees overhead. My father was a great lover of nature and found the most wonderful sights everywhere we went. These beautiful things we watched together in our travels are slowly changing and disappearing. Why must this happen?
Brennan Ross Bilberry 13804 Appaloosa Lane Rapid City, SD 57702	I was very scared to learn of the massive industrial logging proposed to impact over 5000 acres of pristine wilderness. The most disturbing parts of the proposal are the destruction of the Sand Creek area (which would be affected in a large portion of its 10,000 acre boundary), the logging of old-growth forests and the 70+ miles of roads that would be required to create such a large project. I urge you to reconsider this project and especially realize the intense

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	<p>detrimental effect of this logging(preferably through a formalized Environmental Impact Statement) on the wilderness areas and the rare wildlife and plants that depend on the area.</p> <p>Although selective thinning can sometimes be justified, the egregious corporate sell-off of huge tracts of our most valuable natural wildlands. I urge you to subject this plan to much more intense scrutiny than it has received so far. I hope that the next generation will have a Black Hills to enjoy, just as we do.</p>
Ingrid Breneman (Form Letter 3)	<p>We must protect the few remaining roadless areas from unnecessary destruction. The Black Hill's is a valuable part of our country because it IS the wilderness that it is. The Black Hill's are a family vacation for so children growing up in the United States; if people begin tearing down the Black Hill's, so much more than trees will be taken away.</p>
Benjamin Bursell (Form Letter 3)	<p>As a 10-year outdoor wilderness educator with the YMCA and National Outdoor Leadership school I have traveled through many our our country's wilderness areas. From Alaska's Gates of the Arctic National Park, and ANWR, to the Beartooth Mountains in Montana to the Coastal Redwoods of California, From Colorado's western slope to Arizona and New Mexico's desert and Black Mountains I have seen first hand the value of our natural resources and the benefit of teaching our natural history. Currently I am a third year medical student at the University of Minnesota, the health of our citizens and our planet are first on my list of important political issues.</p>
Susan Cee (Form Letter 3)	<p>Thank you for the opportunity to comment on the proposed Cement Timber Sale. I visit the Black Hills annually and save taxpapyers perhaps \$10,000/year in reduced medical care because of these visits. I need to be away from people and to sleep in remote areas. With these breaks, I avoid protracted hospital stays for PTS. I know that \$10,000/year doesn't sound like much compared to what the timber companies are willing to pay, but, please remember, I am writing for many more people who are either incapable or don't know who to write. We (the entire country) needs the biodiversity of the Black Hills. Please ensure that no logging occurs in the habitat of "sensitive" and other rare and imperiled plants and animals, in any old growth forest, or in dense, mature forests, especially the sensitive interior blocks. PLEASE WEIGH THE ECONOMIC BENEFITS OF LOGGING AGAINST THE ECONOMIC BENEFITS OF BOTH TOURISM AND REDUCED MEDICAL COSTS FOR THE MANY OTHER PEOPLE LIKE ME WHO BENFIT FROM WILDERNESS AREAS.</p>
Martha Christensen (Form Letter 1)	<p>I have just heard of a potential threat to the Sand Creek Roadless Area. This letter is to URGE CONTINUED PROTECTION of that magnificent area - - AS DESCRIBED IN THE 1991 CITIZENS' SURVEY AND WILDERNESS PROPOSAL !! Thus, an area of just over 10,00 acres and not less than that. I am 71 years old, have hiked extensively in that part of the Black Hills, and know firsthand of its inestimable value as a FOREST RESERVE. PLEASE HELP US PROTECT IT!!</p>
Duane Claypool 911 S. Sutton Ave. Miles City, MT 59301	<p>Overall I agree with the proposed action (Alternative 2), in particular the closing, placing in storage, and decommissioning of existing roads. Specifically if you could eliminate the construction of the 3.8 miles of new road (any new roads) - this would be preferable. If any new roads must be constructed then they should be kept to an absolute minimum and all BMPs must be applied to avoid environmental degradation ie to streams, soils, habitat. Any work done regarding this project must</p>

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	include the application of all possible practices to prevent degradation to the ecosystem.
Jack R. Cole (Form Letter 1)	Because of the scenic and economic and environmental values of the entire upper Sand Creek area please provide an adequate EIS with information on: 1) your assurance that it won't open up the proposed wilderness area to excessive fire causing motorized use and other threats 2) what is this all costing the taxpayer.
Rose Cordier Rosebud Sioux Indian Reservation PO Box 753 Mission SD 57555	I strongly oppose any logging or any other type of proposed desecration to the Black Hills of South Dakota. Any type of logging or exploring is a direct and blatant violation of the Ft. Laramie Treaty. I am Sicangu Lakota.
Randall T. Cox Gillette, WY mediate@ vcn.com	I am forwarding a message I received from Biodiversity Associates, together with my reply to the person who forwarded it to me. Dear _____: What the Biodiversity radicals aren't telling you is that there is much more timber in the Black Hills now than there ever was during natural conditions. Fire suppression has allowed at least three things to happen: 1. Ponderosa pine has spread into park lands and areas around the hills which were never historically forested. 2. Oak and other undergrowth has proliferated in all areas, including bottomlands and hillsides, supplanting historical savannas and creating much higher risks of crowning fires and hotter fires. 3. All of this proliferation of timber and undergrowth has drastically reduced stream flows. Intensive forest management is required. The Black Hills National Forest lands are highly fragmented because so many mining claims and homestead entries are interspersed with federal land. The so-called Sand Creek area about which Mr. Bonds is concerned does not have any stream flow any more, due largely to the proliferation of trees and shrubs.
Jay Davis (Form Letter 1)	Sand Creek is very important to me as a Black Hills resident, and I have hiked there several times. It is one of the few places in the Hills where a person can escape development and motorized recreation.
Lisa Duncan (Form Letter 1)	Please send a copy of the Draft Environmental Assessment.
Greg Ferri skigroovy@ aol.com	Hi, I would like to voice my opposition to logging and any road building in the Sand Creek Area on the Black Hills. Please protect this small area of our planet for our children. Also realize the entire Black Hills Region is unique and wonderful and any logging projects (Cement timber sales) will do irreparable damage therefore I oppose it until an EIS is prepared. Thank you for helping to protect our forest.
Richard L. Fort (Form Letter 1)	The area at issue should eventually be designated a wilderness area. Compared to other western National Forests the Black Hills forest has an extremely low percent of designated wilderness. Such areas enhance both recreation and preservation values for the forest.
Diane Gartz (Form Letter 3)	I had the opportunity to visit the Black Hills in the 1970's and I still recall the vivid image of the mountains covered with those beautiful trees - almost black in appearance - which whispered so loudly that it sounded like an impending storm. Few sites which I've been able to see in my many years of travel have affected me so deeply. Please guard these precious memories so they can be shared with our children, grandchildren and their progeny. Once gone, we can never get these

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	beautiful treasures back.
Michael Garvin 1 Spring Hill Circle Sausalito CA 94965-1776	I would like to comment on the proposed Cement Timber Sale. I urge the Forest Service to fully protect the Sand Creek Roadless Area within the boundaries of the 1991 citizens' surveys and wilderness proposal. I first visited this area as a child on a side trip with my parents after taking in the scene at Mount Rushmore. It was a joyous experience then, far more so than the traffic jams and gawking at Rushmore, a romp through a wilderness untouched by chainsaws and souvenir stores. As an adult I have been back twice since then and enjoyed the area even more, realizing that few such places exist any longer. Please keep logging out of the habitats of rare or endangered plants and animals. And please do not construct any new roads through this beautiful section of the Black Hills. We must keep at least a portion of this spectacular land for the enjoyment of future generations.
Zoe Graul (Form Letter 3)	I believe that the most important thing in America, besides our freedom, is the native land as it was long ago and the culture and heritage of the American Indian. Preservation is of the utmost importance for the present and future.
Shelly Grow (Form Letter 3)	As somebody who grew up going to summer camp in the Black Hills, I feel strongly that we must protect this treasure as much as we can - it is like no other place in the US.
John Hafnor jhafnor@aol.com	As a former long time Black Hills resident, employee of the Rapid City Journal, and author of a pair of book about the hills, I do thought often of those lovely small mountains, and hope you will consider not allowing logging in the Sand Creek area and other sensitive areas. Oh yes, I was also a logger myself for one season many winters ago near Lead, so I can appreciate the pressures you are under from all sides.
Steven Hata (Form Letter 1)	Cutting out all the big trees & leaving dog hair doesn't make good fire protection
Bob Haugen (Form Letter 3)	My family and I have been regular visitors to the Black Hills nearly every summer for many years now. As the entire area has become more and more developed, the need for saving the few remaining roadless areas is that much greater. Please don't add additional roads in this area.
Joshua Holden (Form Letter 3)	My wife, my parents, and I drove to the Black Hills from southern Minnesota. We feel strongly that the Black Hills need to be kept as free of development as possible to preserve them for future generations.
Lilias Jones Jarding 108 East Douglas Road Fort Collins CO 80524	I am writing to ask that your agency protect the Sand Creek roadless area, in line with the 1991 citizens' survey and wilderness proposal boundaries, and that the proposed Cement timber sale be subjected to the full NEPA process, including preparation of an Environmental Impact Statement. As someone who is familiar with the Black Hills, having lived in South Dakota until 2 years ago (including some time in the Hills), I know something about the area and its characteristics. The Black Hills have been logged for years, with only recent attention to retaining desirable environmental qualities of this very unique old mountain range and its plentiful water resources. As you know, without good water quality in the Black Hills, aquifers and water quality are affected throughout a large, semi-arid region. If the unusual habitat characteristics in the few remaining mature forest areas in the Hills are not protected, these types of habitat and the animals that depend on them will be lost. There is no other place that is ecologically or biologically like the Black Hills. There are other ways to meet timber needs. These facts alone dictate that any disturbance of mature or old growth areas in the Black

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	<p>Hills under Forest Service jurisdiction constitute a “major federal action,” requiring the full NEPA process be undertaken.</p> <p>If you have questions or would like to discuss this matter further, please feel free to contact me.</p>
<p>Steve Keith Denver, CO asignmaker7@ wmconnect.com</p>	<p>Leave the Black Hills forest alone. After all the foul things the US government has done to the Native Americans in the name of progress, why does this practice still continue. Enough is enough, let the Black Hills forest remain.</p>
<p>Diane Kelly 1141 E Ramona Ave Apt C Salt Lake City UT 84105</p>	<p>I’m taking the time to write you in the middle of a busy workday because I feel strongly that the proposed “Cement timber sale” is a disaster for the Black Hill National Forest and for taxpaying citizens nationwide. In light of historical human impacts to the Black Hills ecosystem, I urge you to reconsider this sale and, at the very least, to ensure that roadless and old growth areas are avoided and every environmental precaution is observed. Wildlife habitat throughout the Black H has already been severely compromised by more than a century of logging and road building and we simply cannot continue to plunder this resource without risking its biological collapse.</p> <p>First and foremost, I urge you to complete a full Environmental Impact Statement prior to approving a timber sale of such tremendous size and potential impact. It is also vitally important that the sale does not include even a single acre of the Sand Creek roadless area — the largest remaining roadless area in the entire Black Hills National Forest. To meet this objective accurately and in good faith, I hope you will respect the hard work of concerned citizens by following the boundaries of the 1991 citizens’ surveys and wilderness proposal.</p> <p>Responsible stewardship of the forest also requires that all sensitive and imperiled species be fully protected and that old growth and mature stands be left undisturbed. In addition, no new roads should be created in connection with the sale as they will only do more damage to soils and water quality, compounding an already serious problem in an overly roaded forest.</p> <p>Once again, I urge you to demonstrate true interest in forest health by taking every measure to ensure the protection of Black Hills old growth, sensitive species, mature forest, and the Sand Creek roadless area proposed by citizens for wilderness protection. Thank you for considering these official comments.</p>
<p>Nancy Kile (Form Letter 1)</p>	<p>Historically many acres of indigenous people’s holdings have been taken under the guise of protection. As a Native American, my efforts at protecting sacred lands is a contemporary commitment to remind my government and it’s entities that restorative justice is an ideal that is not lost.</p>
<p>Scott Kile scottk@rushmore. com</p>	<p>It has come to my attention that more of our Black Hills forests are under attack. This Cement Timber Sale proposed to log the Sand Creek roadless area should not be allowed. Haven’t we logged, and turned enough of our natural forests into public development areas for a few wealthy interest groups? The trees are the home of many species that aren’t being considered either. The more habitat areas that are destroyed the less habitat there will be. All things are dependent on each other and if we destroy one it will impact another. An Environmental Impact Statement needs to be prepared to ensure that we are not making a terrible mistake. Please protect our old growth forests and the interior forest habitat that is dependent on it.</p>
<p>George Levin</p>	<p>Please don't allow the mining and sawmill interests to set the nations</p>

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(Form Letter 1)	forest policy. It is obvious they are more interested in their bottom line than they are in sound forest management policy.
Jeanne Leske 2001 Newport Casper WY 82609-3803	<p>Please note that I am very concerned with the fact that encroachment/development/logging/off-road vehicle abuse will occur within the Sand Creek roadless area within the Black Hills National Forest. I would hope that you would support an E.I.S. for any change that is proposed for this small, precious area. The proposed Cement Timber sale is a VERY bad idea. Already, the Black Hills National Forest is one of the most logged and roaded National Forests in the N.F. system. Enough is enough!!</p> <p>I support having an E.I.S. on this proposed timber sale, protection for interior "old growth" (precious little), restrictions on motorized vehicles (currently too little), and protections for rare and endangered plant and animal species. Please note that I would suggest that you abide by the 1991 Citizens' surveys that supported wilderness in the Sand Creek roadless area.</p> <p>I will be in the Black Hills this coming weekend to enjoy a Volksmarch, hiking, quiet and solitude.</p>
Jason A. and Linda E. Lillegraven 2443 Overland Road Laramie WY 82070	<p>The existence of areas of old growth is absolutely critical to the health of any forest ecosystem. Because the entirety of the Black Hills has been commercially logged in recent history, local remnants of old growth stands are almost nonexistent. Many animals depend for their very survival in local forests upon the unique ecological settings that characterize mature and old growth stands. I'm sure that you are very much aware of all of those points.</p> <p>We suggest that it should be the responsibility of the U.S. Forest Service to do everything within its authority to preserve unique aspects of its forests upon which the diversity of natural life depends. The remnants of old growth forest included in the proposed Sand Creek roadless area of northeastern Wyoming fall into that category. It is our opinion that the intention to log these rare remnants of mature and old growth forest constitute vandalism to the Black Hills ecosystem, and we urge you with passion not to provide official sanction to such activity. The existing roadless areas within the Hills already are minuscule in terms of ecological relevance, and to put 70 miles of new access roads into the proposed Sand Creek roadless area would further reduce the survival value of several rare species of plants and animals. We ask you to honor the boundaries of the 1991 citizens' surveys and proposed wilderness and protect that area from the ravages of short-sighted logging associated with the Cement timber sale. An environmental impact statement should be developed prior to risking the effects of logging any areas within the Black Hills National Forest that contain remnants of old growth.</p> <p>Thank you for considering our perspectives.</p>
Gayle Little (Form Letter 3)	I cannot believe that you are continue to back the logging business and buy into their thought processes that removing trees from our national forests and parks is good. I have personally seen the results of strip logging and it is not good for the land. Tell the logging companies to take a flying leap off a tall building. They are only in it for the money, not for protecting the environment.
Marc Madow Medicine Bow Gallery brokencamera@	I would like to share with you my concern about the possibility that the wildlife and wetlands of the Black Hills National Forest may be forever damaged by the contemplated logging and road construction which may be about to occur. Please don't proceed to take any actions without at

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yellowhammer.com	least the preparation of an environmental impact statement to insure that imperiled plants and animals are not pushed further to the brink of, or even more horribly, actual extinction. There is nothing to gain which is worth losing any of these precious forest creatures, or the forest itself for. Yourself, and your Ranger District are this generation's stewards who are the frontline protectors of this region. I hope that you will think well beyond the profit motive of lumbering interests and the easy convenience of more and more roads. The meaning of your life will be partly defined by your degree of success at protecting the forest entrusted to you this lifetime. I wish you good luck at determining how to fully succeed.
Lynn Mammenga (Form Letter 1)	The historic & critical importance should require an appropriate environmental impact statement!
Steve McConnell (Form Letter 1)	I have spent a lot of time in the Sand Creek area. Please maintain its pristine value.
Renaë McKeon (Form Letter 3)	If we continue to sell off all the trees within our forests, what will be left? What do you call them then, because a forest has to have trees. Trees support life, and give us oxygen to breathe, and clean the water, and help prevent soil erosion, etc. and once they are gone, you cannot immediately put them back.
Jean Melom (Form Letter 3)	Many years ago I visited a friend at her home in the Black Hills. It remains one of my treasured memories - I could immediately understand the veneration that the native people of this region feel for this amazing site. It saddens me to realize the radical changes that "development" has wrought in the intervening years.
Carol Merriam (Form Letter 1)	Exceptions [to closure of roadless area to motorized vehicles] could be made for those who are unable to walk. Perhaps permits not to exceed four per day would be acceptable.
Jeffrey Miles (Form Letter 3)	Black Hills National Forest is one of my favorite places to hike and photograph; I want it protected from unnecessary exploitation.
Heather Morijah (Form Letter 1)	Enough already! This area should be wilderness, not a cash cow for the timber industry.
Patricia Murphy patmurphy44@aol.com	Please do not log the acres at sand creek in the black hills of south dakota. We have lost so many species of wildlife and plants already, and all this logging is going to destroy what little we have left.
Darby Nelson 1013 Vera St. Champlin, MN 55316	Thank you for allowing me to make the following comments in opposition to the Cement Timber Sale. The Forest Service used to operate under the philosophy of "multiple use". I understand that less than five percent of the Black Hills National Forest is still roadless and wild, and that less than two percent remains in old growth condition. Those statistics speak for themselves. I would urge you to consider that idea of multiple use as you make your decision on the wisdom of the Cement Timber Sale. Has not the forest already more than provided a fair share for the logging use? Has not the wild acreage of the Forest already lost enough of its extent and integrity? Must we ultimately decimate every acre of wild nature? I realize there are those who feel every tree not cut and removed for commercial purposes represents a waste. Yes, we do need to harvest timber for the products we consume, but we also need to protect biological diversity and we also need to protect wild places. To complete the Cement Timber Sale would be to tilt policy on the Black Hills National Forest even further than it has been already away from these other legitimate uses of the national forest resource. I strongly urge you to achieve balance in the uses of the Black Hills by

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	<p>abandonning the Cement Timber sale. At the very least subject the proposed sale to the EIS process.</p>
<p>Lois Norrgard (Form Letter 2)</p>	<p>I am writing on behalf on American Lands Alliance, a nonprofit, grassroots, conservation organization. American Lands has grave concerns on the management of the Black Hills National Forest (BHNF) where less than 2% of the forest can be considered in old growth condition. This forest is heavily fragmented creating major impacts to interior forest habitats and species. We are extremely concerned about the limited acres that presently can be considered “natural forest”. American Lands opposes the perpetuation of overabundant, unnatural, early-successional forests on our public lands. With the overabundance of young immature forest stands existing in the BHNF, the retention of older forests with the specific focus on the values of wildlife habitat and biodiversity is desirable. The NFMA requires the Forest Service to consider all forest resources equally, including wildlife, water, air, and soil quality. How does the project take into account any of these extremely important values as is required on our national forests?</p>
<p>Rhonda Porro (Form Letter 3)</p>	<p>I am a Minnesota resident and have personally visited the black hills on many occassions since childhood and let me say this, it is not hard to understand why many view this land as sacred, u can actually feel the spirit of this land, it speaks to the heart and soul of those who allow themselves to hear its sacred voice. Please open your heart and ears.</p>
<p>Andrea Potts 517 Lion Drive Rapid City, SD 57701</p>	<p>Come on, guys. Stop the Cement Timber sale. Do your jobs for Heaven’s sake. I moved here from the West five years ago, and I have seen what can be done to damage the forest. We are entering an age in which there will be highly increased auto emissions, factory pollution, etc due to the increasing population of the area. Leveling any part of the forest right now will endanger it greatly not only for right now, but for the future, as it will not be healthy enough to recover. Do you really want the forest to dissappear or become just another ‘resource’ for human mass consumption?</p> <p>I know you know this stuff. You wouldn’t be in the position you are in if you didn’t. Please, stop the greed, stop the madness, stop the selfishness, stop the taking, taking, taking. I am willing to live in a house that is not made of wood. I am willing to burn other fuel. I presently constantly seek out other methods of creating energy. Why? Because we as a species are blowing it, and we need to wake up. Our greed and our lack of foresight is really wreaking havoc on our earth. Please help us stop what we are doing to the planet. Money is NOT worth it. When it’s all over and you must face the decision you have made, what will you be feeling? You have a chance to make a better world. Don’t fritter it away for the weight of gold. Honor cannot be bought.</p>
<p>John M. Reed (Form Letter 1)</p>	<p>I have done overnight hikes in the Sand Creek area 3 times in the last several years, the most recent being 3 weeks ago. This is a beautiful area &amp; should be protected. Please do so.</p>
<p>Billie Jean Reese (Form Letter 2)</p>	<p>A very dear friend of mine Pat Gunter sent me the following info and I am mortified at out governments lack of feelings for our country, the eco systems that God put in place for all his critters, two legged, four legged, slithering and flying. If this trans- gression of our land, water and sky is not stopped we are doomed. Read on...Now then upon reading and listening to all of the pleas you will receive on this problem you have to go against the greed of our government, the greed of the logging community, the greed for more money that will ruin our great and grand country. Don't say that it is to save jobs, for our country has proven</p>

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	many times over they care less about jobs for anyone with the cuts that big business has already accomplished thru out the last several yrs. This is Something that has to be SAVED for our posterity and the future.
Gretchen Rowe (Form Letter 2)	I am a huge proponent of preserving the old growth and diversity of the Black Hills National Forest. This is one of the closest places we travel to for wilderness experiences and mountainous experiences. We are able to travel there from Minnesota every few years. Please don't allow the changes that are proposed!
Kristin Ryan (Form Letter 2)	I'm sending an email out from Brooklyn, NY in regards to the newly proposed Cement timber sale that will log the last roadless area in the Sacred Black Hills. Having visited the Black Hills I recognize the sacredness of this amazing forest and feel there is great importance to protect it...It is imperative to protect this sacred forest.
Randy Sailer 1018 Cherry Lane Beulah ND 58523-6421	I am very much against the proposed cement timber sale.We need to protect what remains of the black hills national forest and the majority of the american people very much want it that way.Also,there should be no sale without a eis statement.Your job is to protect your public trust,not destroy it.you represent the public interests,not big business.Have you forgotten?
Nick Scholtes (Form Letter 3)	When I was a child, my parents and grandparents took me to the Black Hills National Forest. It was one of the most extraordinary experiences of my life!! I remember taking a lot of pictures, and marveling at the beauty of the landscape. I was also very disappointed and upset when we had to leave. To this day I want to return as soon as I get the chance, though as we all know, life gets very busy. Suffice it to say, I cherish this area. It holds many, many memories for me and I desperately want it to be preserved and kept untouched. I don't want to plan a trip there only to see that it has been desecrated and destroyed by cheap logging special interests. These areas are for everyone. They belong to ALL of us. They are not the sole property of the government to sell to the highest bidder so as to make the most profit. I find such attitudes completely and totally unacceptable.
The School of Fly Fishing (Form Letter 1)	Send EA, pls.
Elizabeth Schultz (Form Letter 3)	Born and raised in North Dakota, I have visited the Black Hills often. I have enjoyed their splendor and as an adult learned how important they are to Native Americans specifically and to our country as a whole.
Jay Swift (Form Letter 2)	PLEASE PROTECT OUR ANIMALS AND PLANTS. YOU WILL DESTROY THE EARTH! i AM GOING TO SEND THIS LETTER TO GOVERNOR ROUNDS TOO! WHEN WILL DESTROYING OUR NATURAL HABITATS STOP??? YOU ARE KILLING MOTHER EARTH IN THE NAME OF SO CALLED PROGRESS! WHEN WE KILL OUR MOTHER EARTH WHERE WILL WE GO FOR SUSTENANCE AND SURVIVAL? PLEASE RECONSIDER! WE ALL HAVE TO LEARN TO LIVE IN UNITY IF WE ARE GOING TO SURVIVE AS A NATION!
Betty J. Terrill 476 Fish Hatchery Loop Spearfish, SD 57783	Please stay away from logging our Black Hills area, we have so little wild land protected for our plants animals and grandchildren, let us prectect what we have from roads, clearing and timber sales. .Sand Creek is a beautiful raodless area and must be kept as roadless..
Tine Thevenin RR 4 Box 82B Lake City MN	Please: Roadless areas must be protected from unnecessary destruction.

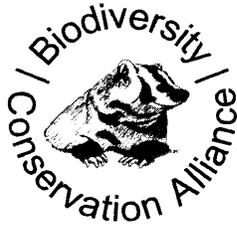
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Diane Thomas 1737 Tepee St Rapid City SD 57702	Please protect non-motorized recreational opportunities. I am asking that the Forest Service not allow off-road vehicle use in the Sand Creek roadless area and that they not log along trails and other recreational areas.
Ed Thomas #3 Kinnear Spur Kinnear WY 82516	I lived in the Black Hills for several years. It is an amazing place and should be left alone. Although I am Native American, I don't rely on the Sacred significance of the Black Hills. Rather, I look at the plan of this administration to rape the environment to pay back their big money supporters. They are after the timber in South Dakota, the oil and methane in Wyoming (where I now live). This is an administration that is all about paybacks to their big contributors and have no regard for the common person or the environment of small population states.
Kim Tostenson (Form Letter 3)	Furthermore the Black Hills have a special significance for the Native Americans of the area. I believe it is both morally and legally imperative that these sacred lands be protected from any further exploitation and that we respect the physical and cultural inheritance of our fellow Americans.
Roxanne Two Bulls Red Shirt Table hasspottedhorses @yahoo.com	Please protect the Sand Creek Wilderness area. Keep roads, logging and other development out of this pristine area. We must consider the future of our planet and its ability to sustain itself and human life. We may not consider this now, but when there is no oxygen to breathe or no water to drink, only then will these cries be heard. Agin, Protect Sand Creek!!!
David Warner (Form Letter 3)	I have spent some time traveling, camping and Hiking in the West. The Black Hills Country has a wilderness that I find particularly appealing. While wilderness in any form is increasingly difficult to find in this Country, that of the Black Hills is unique and I believe that when we order our values as a Society, the preservation of such unique areas should be first among them.
Happy Waters- Catron turtlewaters@ hotmail.com	My name is Happy Waters-Catron and I live in Missouri. I spend a lot of time up in the Black Hills and my friend sent me information concerning the logging proposal. My Uncle Al Rose was the second in charge of Mount Rainer in the 50's and was the head of Hot Springs National Park when he died in 1960. He taught me a lot about logging and NOT logging. His best friend was a main logger in Washington state. From them I learned: Don't log National Parks PERIOD End of Sentence it is a resource that in the coming decades would be the only safe place for many animals and a refuge for people to go when the world was so busy... this was in the 50's. I believe that Uncle Al was right in what he saw for the future. Next was that logging had to be done than it needed to be in a responsible manner. After Uncle Al's passing my Aunt Margaret five years later married his best friend the logger. Uncle Bruce Painter said that for the trees you take out IMMEDIATELY PLANT ANOTHER... and that it could be selective cutting NOT MASS CUTTING like the others were doing. He managed all his life to have plenty to log and rotated the areas. He said when there is mass cutting it is for only one reason MONEY. Greed by whoever is selling the logs. Now Ms. Elizabeth Krueger please look at the whole issue there. I have not been nor am I thrilled by the environmentalist of this day... for the most part they are dangerous and are not in balance with the whole... people and land can get along and thrive. It takes careful, considerate and prayerful action to make it work. I have spoken up because the

Respondent	Comment
	<p>information sent to me was so concise that not to say something would have been really really wrong. Please know that you will be in prayers and one other thing we are all related the plants, the insects, the people, the air, the water and what we PEOPLE do affects all and what happens to the rest happens to us. I lived in an area that was clear cut and I saw the effects on the people 30 years later... not good. Thank you for your time in reading this. Happy Waters- Catron</p> <p>Remember not your own limitations, the help of God will come to you. Forget yourself, God's help will surely come! When you call on the Mercy of God waiting to reinforce you, your strength will be tenfold.</p> <p>- Abdul-Baha</p>
Donna Watson (Form Letter 1)	Please provide an environmental statement.
Elaine Whittlesy RR2 Box 211K Custer SD 57730	<p>There is so much of the Black Hills that needs your attention. For it is an urban forest and like it or not, thinning via logging should occur close to inhabited areas for fire control. This roadless, natural wilderness area should be the last place to concentrate thinning. If private property abuts then it is the owners responsibility to Take care of it. Furthermore the boundary dispute should be settled first. Since little of these kinds of regions in the Black Hills you should protect and preserve it. Valuable research can be done on forests of this area provided you support its purpose. Even Rep. Janklow supports the "scientific" method of managing forests, so why don't you use it, Sand Creek, for the good of the Forest? Leave it as large as possible. Keep roads away, hiking trails only and make it a prime research project. As we know Science, even forest science changes, evolves, given it has the tools to do it, Sand Creek could be one of your tools.</p>
Mary Wilson (Form Letter 1)	Please send EIS
Linda Winter Chaser 701 E Washington Toledo IA 52342	<p>As a Lakota (Sioux) woman, the He Sapa or Black Hills as you may know it, are really special to my people. It was a place where one went to be rejuvenated or reenergized and also to obtain certain plants for use in everyday life. It is a place for the animals to live in beautiful harmony as well as the people.</p> <p>Unfortunately, today we cannot go there without having to pay fees for this and that, when once this land was there for us to use and take care of.</p> <p>Please do not destroy anymore of the land, someday Mother Earth will get tired of all of this that people do for money and their own greed and will shake herself once more to rid herself of all this negative energy.</p>
Bryan Wyberg (Form Letter 3)	<p>I hope that I am not wasting my time writing to provide comments on this matter. I have heard you will no longer invite citizen participation on Forest Service projects, this apparently due to the Bush Administration Forest Service finding itself caught unable to rationally respond to huge majorities opposed to its indefensible pro-industry positions.</p> <p>Nonetheless, I shall take my time to try, because I care so deeply about my National Forests. An especially those in the Black Hills I have visited numerous times.</p>
Mary Zimmerman (Form Letter 1)	A nation as wealthy as ours should have no need to squander the small, yet precious treasures we have left in Roadless areas.
Matthew Kauffmann (Form Letter 3)	The Black Hills Forest is quite special to me and my family. We've spent many a summer there.

### ***Category 3. Original Letters Requiring Response***

Category 3 letters are reproduced below with responses on facing page. Comments are designated with the commentator's name or organization acronym followed by the page number and comment number. As an example, the designation SC-0105 indicates the fifth comment on page 1 of the Sierra Club's comment letter.

# Biodiversity Conservation Alliance



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*Working to Protect Native Species and Their Habitats*

P.O. Box 1512, Laramie, WY 82073 (307) 742-7978 fax: 742-7989

June 9, 2003

Elizabeth Krueger  
Black Hills National Forest  
Bear Lodge Ranger District  
PO Box 680  
Sundance, WY 82729

**Re: Cement Timber Sale**

Dear Ms. Krueger:

Biodiversity Conservation Alliance and Jeremy Nichols submit these comments on the April 2003 Draft Environmental Assessment (“DEA”) the Forest Service (“FS”) recently prepared for the Cement timber sale on the Black Hills National Forest (“BHNF”).

Our primary concern is that the Cement timber sale area is being managed like a tree farm, not for ecological health and diversity. As we will discuss further, the emphasis of the Cement timber sale seems to be on producing merchantable timber, despite the fact that several other goals are also a part of the timber sale. We are concerned that forest health is being confused with tree health, despite the fact that the two are not related and that dead and dying trees provide innumerable ecological benefits. The best available science and research suggests natural processes such as wildfires, insect outbreaks, windthrow, and even natural succession are health and provide numerous ecological benefits. These conclusions are entirely ignored in the Cement DEA. The best available science and research also suggests the Black Hills is suffering from a severe snag shortage, old growth shortage, and decline in spruce. These conclusions are also ignored. In short, the FS has failed to meet even the modest requirements of scientific and professional integrity in the NEPA document.

Most egregiously though, is that the Cement timber sale threatens to despoil the invaluable Sand Creek Roadless Area – one of only three remaining roadless areas on the BHNF (the other two being Beaver Park and the Black Elk Wilderness Additions). While the FS claims this roadless area will not be impacted, citizen surveys in the early 1990’s determined that many areas outside the inventoried roadless area qualify for roadless and wilderness protection. Several hundred acres of these qualifying lands have the potential to be directly and indirectly impacted. Both directly and indirectly, the FS is proposing to sacrifice the roadless and other values found within this invaluable area simply to facilitate a commercial timber sale.

**NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT**

An EIS is required to be completed for all major federal actions that significantly affect the quality of the human environment. See, 40 CFR § 1502.3. As to the question of whether significant impacts will in fact occur and thus require an EIS, it is enough to raise “substantial questions whether a project may have a significant effect” on the environment. See, Blue Mountains Biodiversity Project v. Blackwood, 161

BCA-0101

BCA-0102

## **USFS Response – Biodiversity Conservation Alliance p. 1**

### **BCA-0101**

See response to comment 1A (p. D-2).

### **BCA-0102**

The Cement project does not meet the criteria for automatic preparation of an EIS (40 CFR 1508.4). The Responsible Official will decide whether the effects analysis shows that significant effects may occur, in which case an EIS would be prepared. If not, a Finding of No Significant Impact would be prepared and distributed.

F.3d at 1212 (9th Cir.(Or.)1998), citing Idaho Sporting Congress v. Thomas, 137 F.3d at 1149 (9th Cir. 1998). An EIS must therefore be prepared if “substantial questions are raised as to whether a project... may cause significant degradation of some human environmental factor.” Id. Significance is defined at 40 CFR § 1508.27. In particular, to determine whether a major federal action will significantly impact the environment, the FS must evaluate the impacts of a proposed action in terms of the “context” and the “intensity” of the impacts. 40 CFR § 1502.27(a) and (b). With regards to intensity, the FS must fully consider “the degree to which the effects on the quality of the human environment are likely to be highly controversial,” “the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks,” and “Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.” 40 C.F.R. § 1508.27(b)(4), (5), and (10) (emphasis added).

1. CONTEXT

According to 40 CFR § 1508.27(a), context means that, “...the significance of an action must be analyzed in several contexts such as society as a Whole (human, national), the affected region, the affected interests and the locality.” In light of this, there are several contexts that suggest the impacts of the Cement timber sale will be significant. For instance, in the context of Society as a Whole, the Cement timber sale threatens to impact public lands and natural values that are owned and valued by the entire population of the United States. The impacts thus are not local, but rather affect a broad spectrum of citizens in the entire continental United States and the States of Alaska and Hawaii. Furthermore, every U.S. citizen has a vested interest in the public lands that will be impacted by the Cement timber sale, whether or not they comment on the proposal or not. Indeed, hundreds of thousands of U.S. citizens visit and enjoy the BHNF every year and are affected in some way by the impacts of timber sales, including the Cement timber sale. In this context, the impacts of the Cement timber sale are significant.

The Cement timber sale is also significant in terms of the context of the area affected. According to the DEA, the entire project area is over 20,000 acres in size and over 8,000 acres will be impacted by the action alternatives. This is a very large portion of the BHNF and strongly indicates that, in the context of the amount of area that will be impacted, the Cement timber sale poses significant impacts to the human environment.

Additionally, in the context of the cumulative impacts to the Cement timber sale area, the Cement timber sale is a significant action. Indeed, the Cement DEA indicates that cumulative impacts in the timber sale area have drastically altered the ecosystem, leading to a younger forest that lacks an old growth component that is vital to many species’ survival. For instance, the DEA states:

“Black Hills forests have been subject to modification from their essentially untouched pre-settlement state since the 1870’s. Forest vegetation has been altered by humans through timber harvest, fire suppression, introduction of exotic species, human-caused wildfires, and grazing by domestic livestock. As a result, more of the landscape is forested, though the trees are generally smaller (Parrish et al. 1996, USDA Forest Service [2] p. III-136)....

Timber harvest has been conducted on about 61% of the National Forest land in the cumulative effects area since 1987.” DEA, p. 47.

The DEA also states:

“Past timber sales increased growth in harvested stands, but one cumulative effect is that there are fewer areas of mature trees to cut now and in the near future.” DEA, p. 48.

BCA-0102

**USFS Response – Biodiversity Conservation Alliance p. 2**

See previous response page.

The DEA strongly indicates that 1) Much of the Cement timber sale area has already been impacted by extensive logging, as well as other human actions (e.g., livestock grazing, human-caused wildfires and 2) Because of these impacts, there has been a loss of large trees, dense mature, and late successional forest. In this context, the cumulative impacts of the Cement timber sale are significant.

Indeed, according to the DEA, the cumulative area that will be treated is 72% of the entire timber sale area (DEA, p. 47). This is almost 3/4 of the entire timber sale area. This is a very large proportion of the timber sale area and it is difficult to believe that subjected more than 50% of a project area to timber harvesting and other treatments (e.g., road construction, thinning, etc.) does not pose significant impacts to the human environment. And, according to the DEA, there is very little old growth in the timber sale area. However, given the cumulative impacts to the timber sale area, it seems very unlikely that the existing amount of old growth in the timber sale represents historic conditions. This is corroborated by historic and present-day research. Old growth forest has been described by early expeditions into the Black Hills (see e.g., Dodge 1876, Newton and Jenney 1880, Graves 1899, Shinneman 1996, Shinneman and Baker 1997). Furthermore, Mehl (1992) reports that, "Virtually all of the accessible areas have been cut over at least once since the mid-1870's" and that "Since little old growth ponderosa pine remains in the Black Hills old growth will have to develop from existing stands" (p. 114). Additionally, loss of old growth in ponderosa pine forests has been attributed primarily to human activities such as logging and livestock grazing (Baker and Ehle 2001), as is addressed in the DEA. The lack of old growth and dense mature forest is a significant impact, brought about by past logging and livestock grazing and the Cement timber sale promises only to exacerbate this ecological crisis.

BCA-0102

Baker and Ehle (2001) further report that ponderosa pine forests were historically more dense than today's condition. This is supported by other critiques and research into the Black Hills, especially the northern Black Hills, and its natural values (see e.g., Shinneman 1996, Shinneman and Baker 1997, Frest and Johannes 2002, Mohren 2002). The abundance and distribution of dense, mature and late successional forest in the Cement timber sale area is most likely far below historical figures. This is supported by others (see e.g., Shinneman and Baker 1997, Anderson and Crompton 2002). Anderson and Crompton (2002) state, "Despite increasing demands for timber harvest, large tracts of unlogged, mature forest should be retained throughout the Black Hills" (p. 372). Given the lack of dense mature and late successional forest habitat in the Cement timber sale area and the cumulative impacts to such habitat, the impacts of the Cement timber sale will be significant.

BCA-0301

Finally, both action alternatives call for the removal of more large trees and more mature forest, a strong indication that the Cement timber sale will only exacerbate the shortage of old growth and dense mature forest. Both action alternatives call for the removal of 244 acres of ponderosa pine in structural stage ("SS") 4C. Presumably, SS 4C succeeds into SS 5, which the BHNF considers to be old growth. Both Action Alternatives also call for 236 acres of overstory removal, where "most of the mature trees would be cut." The Action Alternatives also call for 547 acres of shelterwood seed cut, where some of the mature trees are removed. Thus, both Action Alternatives will continue to remove mature forest, old trees, and/or inhibit the creation of old trees to replace those that were lost as a result of cumulative impacts, including past and present-day logging. In the context of the existing ecological conditions (i.e., lack of mature forest, lack of old growth), the Cement timber sale is significant.

BCA-0302

The Cement timber sale will also be significant in the context of cumulative impacts to sensitive species, especially those dependent upon mature and late successional forest, and their habitats. In discussing the northern goshawk, the DEA states:

## **USFS Response – Biodiversity Conservation Alliance p. 3**

### **BCA-0301**

Historical literature for ponderosa pine ecosystems of the Black Hills and the West in general suggest that open, “park-like” forests were the norm, altered by periodic fires (Weaver 1951, 1959, Cooper 1960, 1961, Covington and Moore 1994). Extensive literature and photographic documentation specific to the Black Hills (Jenney 1880, Graves 1899, Progulski 1974, Sieg 1992, Parrish et al. 1996, Ball and Shaefer 2000) suggest that, generally, ponderosa pine is denser and more extensive in the Black Hills now than historically. Lastly, anecdotal evidence from older individuals who have lived in the northern Black Hills for their entire lives suggests that ponderosa pine has become denser and more extensive (Haiar, pers. comm. 2003, Reinecke, pers. comm. 2003).

### **BCA-0302**

The action alternatives would retain all trees over 20” in diameter (EA pp. 33-34). Shelterwood seedcut and overstory removal prescriptions are proposed in stands with pine overstory currently at low to moderate density. The majority of the dense, mature stands (structural stage 4C) proposed for treatment are proposed for thinning. This treatment would remove the smaller trees to improve the growth and resistance to pathogens of the larger trees. At this point, these stands are not considered old growth; the proposed thinning could facilitate development of old growth by allowing the remaining trees to grow larger rather than stagnating, or discourage development of old growth by removing trees that could otherwise become down woody debris or hosts for pathogens on which woodpeckers and other species feed. On the general topic of mature stands (assumed for this discussion to be those with structural stage 4A, 4B, 4C, or 5), there is an excess of 4A and 4B stands in the project area (EA p. 51), and proposed treatments are concentrated in these stands to improve the balance of structural diversity.

“Timber harvest over the years has probably resulted in fewer large-diameter trees, less mortality, and more trees overall.” DEA, p. 63

In discussing the black-backed woodpecker, the DEA states:

“Timber harvest over the years has probably resulted in fewer large-diameter trees, less mortality, and more trees overall.” DEA, p. 64

In discussing the brown creeper, the DEA states:

“timber harvest and road building have decreased habitat for this species by removing large trees and snags and preventing widespread natural mortality of large trees....This project would continue the trend of loss of mature, closed-canopy stands but would not add to the effect of large-diameter trees, since all trees over 20” in diameter would be retained.” DEA, p. 81

While we question the FS’s claim that the Action Alternatives will not continue the trend of loss of large-diameter trees (discussed further below), these statements, along with information in the BHNF Revised Forest Plan Final EIS and the Chief’s 1999 ruling on appeals the BHNF Revised Forest Plan, suggest that cumulatively, the Cement timber sale poses significant impacts to the northern goshawk, black-backed woodpecker, brown creeper, and other species dependent upon dense mature and late successional forest habitat (e.g., northern flying squirrel, American marten). This is especially evident in light of the fact that the Cement timber sale will reduce habitat in SS 4C, which is considered dense and mature forest and succeeds to late successional forest (i.e., SS 5), by 244 acres, or 15% of the total amount of SS 4C. In the context of past reductions of such habitat and the impacts to native species dependent on such habitat, the impacts of the Cement timber sale will be significant.

## 2. INTENSITY

The impacts of the Cement timber sale are also significant in terms of intensity. The intensity of impacts are significant in terms of the uncertainty associated with many impacts, the degree to which impacts are likely to be highly controversial, and in terms of the potential violation of federal and state laws.

- Potentially Significant Impacts to Forest Vegetation

As discussed above, the Cement timber sale poses significant cumulative impacts to forest vegetation, especially late successional and dense mature forest. Such habitat was once more abundant in the timber sale area, but past timber harvesting has reduced the amount of dense mature and late successional forest.

Despite the cumulative (past, present, and reasonably foreseeable) impacts to late successional and dense mature forest habitat, the FS appears to be pushing ahead with cutting down even more dense, mature forest, which will one day turn into late successional habitat vital for the survival of several native species. According to the DEA and the FS, these impacts are not significant, yet the DEA provides no explanation as to how the FS assessed the significance of these impacts or what thresholds are typically used to assess the impacts (direct, indirect, and cumulative) to dense mature and late successional forest on the Black Hills. Thus, it appears there is a high level of uncertainty surrounding the impacts of the Cement timber sale to late successional and dense mature forest habitat. That, or the FS is violating NEPA by failing to conduct an adequate analysis and assessment. Additionally, given the amount of concern expressed over the impacts of logging to late successional and dense mature forest over the years, we find it difficult to believe that a significant level of controversy does not exist over the

BCA-0401

## **USFS Response – Biodiversity Conservation Alliance p. 4**

### **BCA-0401**

See responses to comments BCA-0102, BCA-0302, and NECSJ-0202 (p. D-165).

environmental impacts of the proposed timber sale.<sup>1</sup> Furthermore, this controversy is not simply a matter of opposing logging. Biodiversity Conservation Alliance and other groups do not oppose logging. Biodiversity Conservation Alliance supports sound forest management that fully protects the natural values that Congress and the Executive Branch of this government have pledged to protect. In light of the significant lack of dense mature and late successional forest on the Black Hills and in the Cement timber sale area, we are very concerned that the Cement timber sale will not protect the natural values of the Black Hills and is not a reflection of sound forest management. Finally, even members of the scientific community have expressed concern over the lack of late successional and dense mature forest and have even recommended the Forest Service do more to protect such habitat (see e.g., Mattson et al. 1996, Shinneman 1996, Shinneman and Baker 1997, USFS 2000, Anderson and Crompton 2002, Buskirk 2002, Frest and Johannes 2002, Mohren 2002). Clearly, a high level of controversy exists over the impacts of the Cement timber sale.

- Potentially Significant Impacts to the Viability of Species Dependent Upon Dense mature and Late Successional Forest Habitat

As discussed above, the Cement timber sale poses significant cumulative impacts to species dependent upon dense mature and late successional forest habitat. Such habitat was once more abundant in the timber sale area, but past timber harvesting has reduced the amount of dense mature and late successional forest. Consequently, populations of these species may not currently be viable on the Black Hills or their viability may be at risk due to past, present, and reasonably foreseeable logging.

Despite the cumulative (past, present, and reasonably foreseeable) impacts to species dependent upon dense mature and late successional forest habitat, the FS appears to be pushing ahead with cutting down even more dense, mature forest, which will one day turn into late successional habitat that is vital for the survival of these native species. According to the DEA and the FS, these impacts are not significant, yet the DEA provides no explanation as to how the FS assessed the significance of these impacts or what thresholds are typically used to assess the impacts (direct, indirect, and cumulative) to these species. Thus, it appears there is a high level of uncertainty surrounding the impacts of the Cement timber sale to species dependent upon late successional and dense mature forest habitat. That, or the FS is violating NEPA by failing to conduct an adequate analysis and assessment.

This uncertainty is perfectly highlighted throughout the DEA. For instance, the FS concludes that all action alternatives “May adversely impact individuals, but is not likely to result in a loss of viability on the planning area, nor cause a trend toward federal listing or a loss of species viability range wide” for the northern goshawk, black-backed woodpecker, and three-toed woodpecker – all species dependent in some way on dense mature and late successional forest habitat. Yet, nowhere does the DEA reference or present habitat or population trends for these sensitive species, habitat and population distribution data for the project area or the BHNF as a whole, or information explaining how impacts to these species were assessed and what thresholds were used. In fact, the DEA does not even disclose whether populations of these species are currently viable or what even constitutes a viable population. This, despite the fact that

<sup>1</sup> see e.g., Biodiversity Associates et al. Appeal of 1997 BHNF Revised Land and Resource Management Plan, Biodiversity Associates et al. 2002 Peak Project Appeal, Biodiversity Associates’ et al. 2002 Lakes Project Appeal, Biodiversity Associates’ et al. 2001 comments on the Phase I Amendment to the BHNF Revised Land and Resource Management Plan (“Phase I Amendment”), Biodiversity Associates’ et al. 2001 Appeal of the Phase I Amendment, and Biodiversity Associates’ et al. 2002 scoping comments for the Phase II Amendment to the BHNF Revised Land and Resource Management Plan, Biodiversity Conservation Alliances 2002 scoping comments for the Elk Bugs and Fuel Project, Biodiversity Conservation Alliances et al.’s scoping comments for the Prairie project Biodiversity Conservation Alliances’ 2003 comments on the Welcome-Sand timber sale proposal, comments on the Fanny timber sale Draft Environmental Assessment, etc. We incorporate by reference the aforementioned comments and appeals.

BCA-0401

BCA-0501

## **USFS Response – Biodiversity Conservation Alliance p. 5**

### **BCA-0501**

See response to comment NECSJ-0202 (p. D-165).

there is a definition of viability. See, 36 CFR § 219.19. There does not appear to be any information or analysis supporting the FS's claim that the viability of these species will not be jeopardized or that the species and their habitat will not experience significant impacts. Thus, the impacts to these species are highly uncertain.

This uncertainty is highlighted when reviewing the DEA's treatment of the brown creeper. According to the DEA, the brown creeper is a management indicator species whose populations trends reflect the impacts of forest management actions to late successional and dense, mature forest habitat and, since the species is a management indicator species, the impacts of forest management actions to other species dependent on late successional and dense mature forest. The DEA also discloses that the habitat of the brown creeper will be negatively impacted (directly, indirectly, and cumulatively) in a variety of ways. However, no population or habitat trend data is provided as a context for the conclusion that the Cement timber sale will maintain the viability of the brown creeper and the viability of species dependent upon dense mature and late successional forest habitat. The impacts to species dependent upon dense mature and late successional forest habitat are therefore highly uncertain.

Additionally, given the amount of concern expressed over the impacts of logging to species dependent upon late successional and dense mature forest over the years, we find it difficult to believe that a significant level of controversy does not exist over the environmental impacts of the proposed timber sale. Furthermore, this controversy is not simply a matter of opposing logging. Biodiversity Conservation Alliance and other groups do not oppose logging. Biodiversity Conservation Alliance supports sound forest management that fully protects the natural values that Congress and the Executive Branch of this government have pledged to protect. In light of the significant lack of mature and late successional forest habitat on the Black Hills and in the Cement timber sale area, we are very concerned that the Cement timber sale will not protect the natural values of the Black Hills and is not a reflection of sound forest management.

Finally, given that the impacts of the Cement timber sale to species dependent upon late successional and dense mature forest habitat are highly uncertain, it is highly likely that the Cement timber sale threatens a violation of a federal law meant to protect the environment. Namely, the Cement timber sale threatens to violate regulations implementing the National Forest Management Act at 36 CFR § 219.19, which require the FS to maintain viable population of native vertebrate species. A viable population is defined as, "...one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area."

- Potentially Significant Impacts to Soils and Waters

The DEA claims that soils and waters will be adequately protected and will not be significantly impacted because Best Management Practices ("BMPs") will be utilized. Yet, the DEA fails to disclose whether Wyoming BMPs are even effective. This is very disconcerting as South Dakota BMPs, which are assumably similar to Wyoming BMPs, have been found to not be entirely effective. South Dakota BMPs have been found to be effective only 79% of the time, although this figure seems to hover between 70 and 80% in various BBNF documents. While the FS claims that this level of effectiveness is adequate to ensure protection of soil and water resources, we question how this can be so? Given a 79% effectiveness, this also means a 21% ineffectiveness rate. This level of ineffectiveness raises substantial questions over whether Wyoming BMPs are adequate and suggests two things. One, that the impacts to soils and waters in the Cement timber sale area are highly uncertain. And second, since South Dakota BMPs are ineffective 21% of the time, there is a high likelihood that Wyoming BMPs may not be entirely effective, making it likely that the Cement timber sale will violate state water quality law. Indeed, BMPs

BCA-0501

BCA-0601

## **USFS Response – Biodiversity Conservation Alliance p. 6**

### **BCA-0601**

The Cement Hydrologist's Report (project file), pp. 10-11, discusses BMP effectiveness. The Forest Monitoring Report (USDA Forest Service, 2001), p. 6, demonstrates the application and effectiveness of BMPs in Wyoming and South Dakota. The results from monitoring of the Rednose Timber Sale indicate, with an effectiveness score of 0.82, that "field practices are meeting BMP requirements". Scores above 0.70 indicate compliance with BMPs. The 79% value referenced by the respondent is in fact an application "score" of 0.79, and not a percentage of effectiveness. The effectiveness score for timber sales in South Dakota is 0.80. This is above the 0.70 threshold, and therefore indicates that field practices are meeting and occasionally exceeding state BMP requirements.

are relied upon to not only ensure protection of soil and water resources, but to ensure compliance with Wyoming water quality laws. Yet, since BMPs are most likely not entirely effective, it is difficult to understand how the FS can possibly ensure compliance with state law and assert that the impacts of the Cement timber sale are insignificant.

BCA-0601

Additionally, the impacts to soils and waters are highly controversial. Indeed, in the past year or so, water quality issues on the Black Hill have been a major public and administrative issue. In 2002, the Rocky Mountain Regional Office of the FS ruled that the Environmental Assessment for the Canyon/Nest timber sale on the Hell Canyon Ranger District had failed to adequately analyze and assess impacts to water quality. The issue made news in local newspapers and prompted the FS to revisit the Environmental Assessment. Later on, the South Dakota Department of Environment and Natural Resources responded to a water quality complaint filed by Biodiversity Conservation Alliance and others over the Mercedes timber sale on the Mystic Ranger District. While the Department disagreed with much of the claims (which are sure to become the subject of litigation), the Department agreed that the FS may be required to obtain a general storm water discharge permit before proceeding with the timber sale. This issue also made news in local newspapers and also prompted attention from the Environmental Protection Agency and the Fish and Wildlife Service. Most recently, Biodiversity Conservation Alliance and others filed a petition to list the Black Hills population of American dipper under the Endangered Species Act. The petition documented that water quality degradation resulting from logging, roads, and road construction was a significant threat to the species and is pushing the population to extinction. While the Fish and Wildlife Service has yet to make a 90-day finding on the petition, the petition does present a wealth of recent science that supports listing of the distinct population segment. This issue also made news in local newspapers and prompted attention from a variety of agencies, groups, and individuals. Undoubtedly, the impacts of timber sales (and most importantly the impacts of road construction and reconstruction associated with the timber sales), such as the Cement timber sale, to water quality are highly controversial. Thus, the impacts of the Cement timber sale are significant.

BCA-0701

- Potentially Significant Impacts to the Sand Creek Roadless Area as Defined by Citizens' 1991 Wilderness Proposal

The impacts of the Welcome-Sand timber sale are also highly likely to be highly controversial in light of discrepancies over the FS's boundary of the Sand Creek Roadless Area. In 1991, citizens submitted a proposal to protect the Sand Creek Roadless Area as wilderness under the 1969 Wilderness Act. Based on on-the-ground survey work, citizens determined over 10,000 acres of the former Sand Creek RARE II area warranted wilderness designation. Citizens' proposed Sand Creek wilderness boundary is shown in Figure 1. However, on the FS's map of the Sand Creek Roadless Area on page C-22 of the 1997 Revised BHN Forest Plan FEIS, the agency inexplicably omitted several areas that citizens' had originally proposed as meeting roadless area qualifications.<sup>2</sup> For instance, citizens' included portions of Sections 31, 28, 17, and 8 in T 51N R 61W and portions of Sections 36, 35, 26, and 26 in T 52N R 6W. The FS did not include these areas in the Sand Creek Roadless Area and, based on the DEA, still does not recognize these areas as being within the inventoried roadless area.

BCA-0702

This discrepancy poses considerable controversy, especially given the potential impacts of the Cement timber sale. According to the DEA, the Cement timber sale will directly impact the Sand Creek Roadless

<sup>2</sup> However, the FEIS appears in some cases to include these areas (see, FEIS, Appendix C). According to the FEIS, the Sand Creek Roadless Area is 9,948 acres in size, yet the map presented in the FEIS displays Sand Creek as less than 8,000 acres in size. It is difficult to understand which area the FS actually believes is the real Sand Creek. The area that is 9,948 acres in size seems to be more consistent with the citizens' proposed wilderness boundaries, making it likely that the FS already considers lands outside the Sand Creek IRA to qualify for wilderness protection.

## **USFS Response – Biodiversity Conservation Alliance p. 7**

### **BCA-0701**

The Canyon/Nest decision was overturned on appeal due to errors in the analysis, including lack of existing condition description, discussion of BMP effectiveness, and adequate justification to support the conclusions reached (Canyon/Nest Decision Letter, September 12, 2002). The Cement EA and supporting hydrologic documentation include these elements.

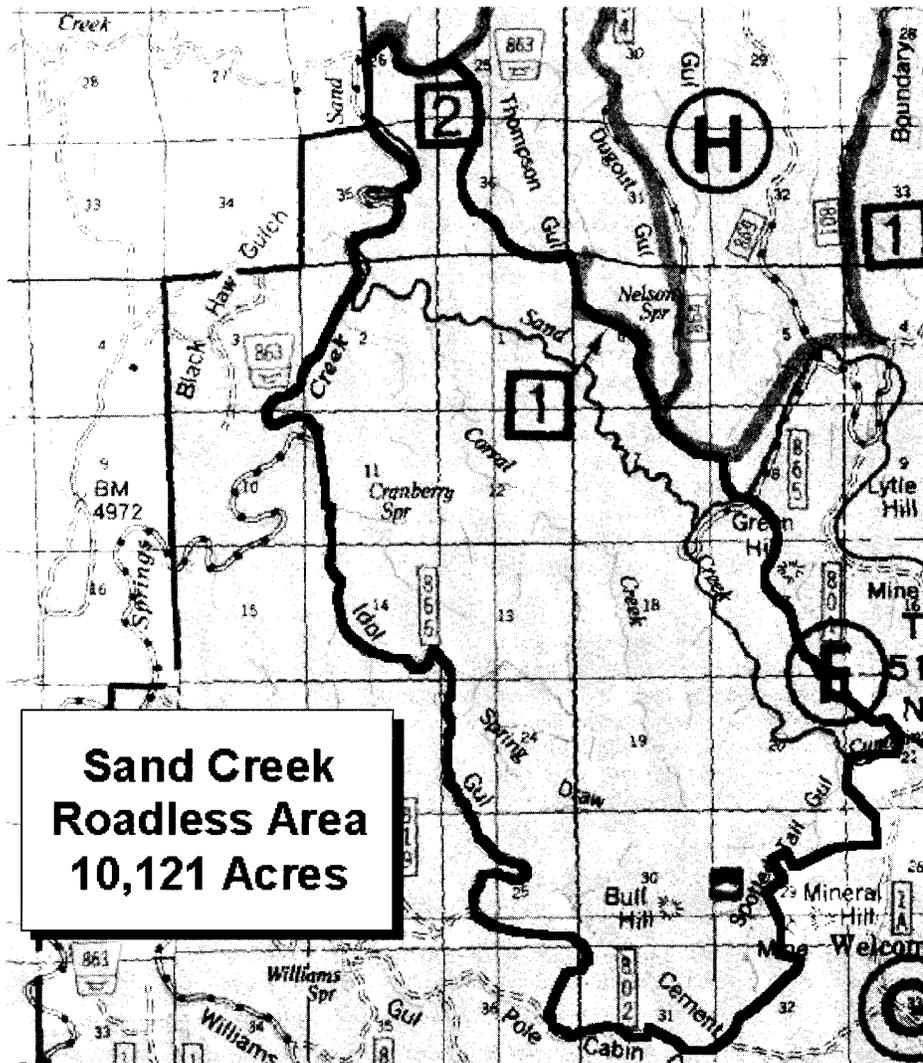
Several issues related to water have appeared in local newspapers in the past year. Concerns about Rapid Creek in South Dakota were discussed in the Rapid City Journal in late January 2003. Black Hills National Forest Hydrologist Monte Williams explains that road decommissioning and reconstruction can improve watershed condition. Such activities are proposed in both action alternatives of the Cement project, particularly around the few perennial watercourses that exist in the analysis area.

### **BCA-0702**

See response to comment 1A (p. D-2).

Re footnote: The boundary of the Sand Creek Inventoried Roadless Area has not changed since issuance of the Revised Forest Plan. The boundary shown on p. C-22 of the Revised Forest Plan FEIS is the final boundary. The GIS layer of this boundary indicates that the Roadless Area overlaps the Cement project area by approximately 20.8 acres. No activities are proposed in the overlap area.

Area as defined by the 1991 citizens' proposal. While the FS may feel that the Sand Creek Roadless Area will not be impacted, based on citizen surveys, this conclusion is flawed. To appropriately and adequately address this controversy, the FS must prepare an EIS.



BCA-0702

Figure 1. Citizens' Proposed Sand Creek Wilderness.

**USFS Response – Biodiversity Conservation Alliance p. 8**

See previous response page.

If the FS believes that the impacts of the Cement timber sale are not significant, we ask the agency answer the following questions to help explain why:

- How is the proposed action not significant in terms of context? How did the FS measure and assess the context of the impacts of the proposed action? What threshold was used?
- How are the impacts to dense mature and late successional forest habitat not significant? What threshold did the FS use to assess the significance of impacts to forest vegetation? How are the impacts to dense mature and late successional forest habitat not significant?
- How are the impacts to the viability of species dependent upon dense mature and late successional forest habitat not significant? What threshold did the FS use to assess impacts to the viability of species dependent upon dense mature and late successional forest habitat? What constitutes a viable population of these species? How are the impacts to these species not controversial?
- How are the impacts to soils and waters not significant? What threshold did the FS use to assess impacts to soils and waters? How can BMPs potentially be 21% ineffective and still ensure protection of water quality? How are water and soils impacts not controversial? How is there not a potential for violation of state and federal law?
- How are the impacts to the Sand Creek Roadless Area as defined by the 1991 Citizens' Wilderness Proposal not significant? What threshold did the FS use to assess impacts to Sand Creek? How did the FS assess controversy?

If the FS chooses not to prepare an EIS and does not answer these questions, we will interpret this as a failure to respond to public comment.

**FAILURE TO CONSIDER A RANGE OF REASONABLE ALTERNATIVES**

The DEA also fails to adequately analyze a range of reasonable alternatives. Indeed, the only two action alternatives analyzed in the DEA are both very similar, indicating the FS has not developed alternatives to respond to unresolved conflicts over the use and management of natural resources on the BHNH and significant issues identified during the scoping process. See, 42 USC § 4332(2)(E), 40 CFR § 1502.14(a), 36 CFR § 219.12(f), and FSH 1909.15, 14.

For instance, both action alternatives propose the exact same levels of timber harvesting, despite the fact that comments expressed concerns over the impacts of timber harvesting to wildlife (especially sensitive species of wildlife) and suggested the FS propose little to no timber harvesting. Both alternatives propose to harvest 10.39 million board feet of timber (“MMBF”).

While the FS may believe that consideration of the No Action Alternative may address commentors' concerns of timber harvesting, this misses the point. While the commentors expressed concern over the impacts of timber harvesting, commentors also suggested several “Action” alternatives. In our scoping comments, we specifically requested the FS consider alternatives that decommission roads, that do not provide commercial timber, and that propose only prescribed burning. Unfortunately, the FS never considered these alternatives in detail and therefore failed to develop alternatives that respond to

BCA-0901

BCA-0902

## **USFS Response – Biodiversity Conservation Alliance p. 9**

### **BCA-0901**

See response to above comments, particularly BCA-0102.

### **BCA-0902**

The range of alternatives for action in the Cement project area is based on public comment during project scoping and relevant issues. Some of the alternatives requested by members of the public were dismissed from consideration for a variety of reasons (EA pp. 36-37 and Appendix B). Elements of others were included in the alternatives considered in detail (EA pp. 14-27). Several alternatives with no commercial timber harvest were requested in response to scoping, but no other alternatives that varied in level or type of timber harvest were requested.

As stated on EA p. 23, the alternatives vary by approach to fuel treatment and travel management, since scoping results indicated a need to address these topics in alternative ways. To clarify, proposed new road construction totals 3.8 miles. Reconstruction is proposed on 63.4 miles.

unresolved conflicts over the use and management of BHNF resources and to significant issues identified during the scoping process.

There are also more similarities between the Action Alternatives. As Table 1 discloses, there are no substantive differences between the Action Alternatives:

**Table 1. Similarities Between Action Alternatives, DEA p. 38.**

<b>Action</b>	<b>Alternative 2</b>	<b>Alternative 3</b>
Commercial thin (60 BA)	<b>196 acres</b>	<b>196 acres</b>
Commercial thin (80 BA)	<b>491 acres</b>	<b>491 acres</b>
Commercial thin/Overstory removal	<b>52 acres</b>	<b>52 acres</b>
Commercial thin/POL	<b>958 acres</b>	<b>958 acres</b>
Aspen enhancement	<b>17 acres</b>	<b>17 acres</b>
Overstory removal	<b>236 acres</b>	<b>236 acres</b>
Patch clearcuts	<b>92 acres</b>	<b>92 acres</b>
“Products other than logs” thin	<b>78 acres</b>	<b>78 acres</b>
Storm salvage	<b>145 acres</b>	<b>145 acres</b>
Shelterwood seedcut	<b>529 acres</b>	<b>529 acres</b>
Seed cut/Overstory removal	<b>1,322 acres</b>	<b>1,322 acres</b>
Seed tree cut	<b>18 acres</b>	<b>18 acres</b>
Seed tree cut/Overstory removal	<b>179 acres</b>	<b>179 acres</b>
Precommercial thin	<b>1,171 acres</b>	<b>1,171 acres</b>
Road construction/reconstruction	<b>67.2 miles</b>	<b>67.2 miles</b>
Conversion of road from unclassified	<b>12.78 miles</b>	<b>21.81 miles</b>
Roads decommissioned	<b>21.7 miles</b>	<b>12.7 miles</b>
Roads to be “gated”	<b>12.0 miles</b>	<b>32.3 miles</b>

While Table 1 is a summary of Table 2 in the Cement DEA, Table 1 shows that the only actions that vary are how much road closure and obliteration will be undertaken, how many roads will be added to the road system, and how many roads will be gated. However, it is difficult to see how these minor differences are substantive and reflect adequate consideration of the major issues. Furthermore, there are more similarities than differences between the alternatives. For instance, both alternatives propose the same amount of commercial thinning treatments, overstory removal treatments, shelterwood seedcut treatments, road construction and reconstruction, etc., etc. And, because the proposed actions are not substantively different, it is no surprise that the effects of both action alternatives are strikingly similar:

BCA-0902

**USFS Response – Biodiversity Conservation Alliance p. 10**

**BCA-0902**

See previous response page.

Table 2. Similar Impacts Under Both Action Alternatives.

Impact	Alternative 2	Alternative 3
Acres of ponderosa pine in structural stage 4C harvested	244 acres	244 acres
Treatments in goshawk PFAs	Unknown because DEA doesn't disclose impacts	Unknown because DEA doesn't disclose impacts
Impacts to Northern Goshawk (DEA, p. 39)	"No actions are proposed in any stands with known goshawk nests. Precommercial thinning and fuel treatment proposed in potential nest stands would improve foraging habitat and reduce risk of stand-replacing fire. Timber harvest and fuel reduction would take place in post-fledging areas and would improve the balance of vegetation structural stages. Timing restrictions would prevent or minimize adverse effects."	"There would be less burning, resulting in less increase in habitat diversity. Otherwise, similar to Alternative 2."
Impacts to Sensitive Plant Species (DEA, p. 39)	"Proposed actions could cause a loss of individual sensitive or rare plants, but proposed mitigation would prevent effects on known populations and minimize negative effects on high-potential habitat (p. 32). Reduction of fire hazard may prevent destruction of habitat by catastrophic wildfires."	"Closure of fewer roads could allow vehicles to enter high-potential habitat and disturb soils and vegetation. Otherwise, similar to Alternative 2."
Other sensitive species (DEA, p. 40)	"Individuals of some sensitive species could be adversely affected by the proposed actions, but there would be no effect on populations."	"Closure of fewer roads would leave a higher potential for loss of snags along open roads and damage to moist habitats. Less increase in habitat diversity due to less burning. Otherwise similar to Alternative 2."
Impacts to flammulated owl (DEA, p. 71)	"Alternatives 2 and 3 could adversely impact individuals but are not likely to result in a loss of viability on the planning area nor cause a trend toward federal listing or a loss of species viability rangewide."	"Alternatives 2 and 3 could adversely impact individuals but are not likely to result in a loss of viability on the planning area nor cause a trend toward federal listing or a loss of species viability rangewide."

BCA-1101

## **USFS Response – Biodiversity Conservation Alliance p. 11**

### **BCA-1101**

Effects of treatments in goshawk PFAs are disclosed on pp. 61-68 of the EA.

The alternatives analyzed in detail address the purpose of and need for action in the project area and respond to the relevant issues raised during public scoping (EA pp. 11-12). Description of the alternatives' response to issues is found on EA pp. 19 and 24.

Re "economy" of timber harvest (BCA p. 12-13): As p. 12 shows, the complete statement is "timber harvest is an economical means of implementing many fuel reduction and habitat improvement projects." To clarify, timber harvest is often a more economical means of accomplishing fuel reduction and other projects than implementing the projects without sale of commercial timber. Sale of the timber offsets the costs of the other projects and in some cases results in funds for this work (i.e. Knutsen-Vandenberg). If a fuel reduction or other project would remove timber in any case, sale of the timber helps pay for the project. Proposed treatments in the Cement project area would accomplish a variety of goals; while production of timber is one of these goals, it would also be a means by which to accomplish many of the others.

Impacts to black-backed woodpecker (DEA, p. 65)	<b>“Alternatives 2 and 3 could adversely impact individuals but are not likely to result in a loss of viability on the planning area nor cause a trend toward federal listing or a loss of species viability rangewide.”</b>	<b>“Alternatives 2 and 3 could adversely impact individuals but are not likely to result in a loss of viability on the planning area nor cause a trend toward federal listing or a loss of species viability rangewide.”</b>
Impacts to three-toed woodpecker (DEA, p. 67)	<b>“Alternatives 2 and 3 could adversely impact individuals but are not likely to result in a loss of viability on the planning area nor cause a trend toward federal listing or a loss of species viability rangewide.”</b>	<b>“Alternatives 2 and 3 could adversely impact individuals but are not likely to result in a loss of viability on the planning area nor cause a trend toward federal listing or a loss of species viability rangewide.”</b>
Impacts to brown creeper (DEA, p. 81)	<b>“Alternatives 2 and 3 would temporarily decrease forested stands’ suitability as brown creeper habitat.”</b>	<b>“Alternatives 2 and 3 would temporarily decrease forested stands’ suitability as brown creeper habitat.”</b>

Table 2 highlights perfectly how the FS failed to analyze in detail alternatives that address unresolved conflicts. Indeed, while “Biodiversity” was identified as a major public issue during the scoping process, Table 2 shows that the impacts of the Cement timber sale to several sensitive wildlife species and a management indicator species and their habitat are the same for both action alternatives. For instance, it seems that the same amount of goshawk habitat in PFAs will be treated both alternatives, indicating the FS has not responded to public concerns over the impacts of the Cement timber sale to the sensitive goshawk. It is difficult to understand how the FS has appropriately responded to concerns over threatened, endangered, sensitive, and management indicator species when there is no difference in how action alternatives affect these species.

Further highlighting the failure of the FS to analyze a range of reasonable alternatives is the fact that several proposed alternatives were eliminated for erroneous reasons. For instance, an alternative that provides no commercial timber was eliminated because:

“1) this option is represented by the no action alternative, 2) providing commercial timber is part of the purpose and need for action, and 3) timber harvest is an economical means of implementing many fuel reduction and habitat improvement projects.” DEA, p. 37.

However, this statement misses the point of commentor’s request. First of all, a no commercial timber harvest alternative is not represented by the No Action alternative. Indeed, the No Action alternative does not include road closures, road obliteration, and other treatments that may be needed to protect the natural values in the Cement timber sale area. Additionally, while the No Action alternative doesn’t propose commercial timber harvest, it doesn’t even propose noncommercial timber harvest. It is difficult to understand how a no commercial timber harvest alternative can be met by the No Action alternative. Second, simply because providing commercial timber is a “part” of the purpose and need does not preclude full consideration of a no commercial timber harvest alternative. The Forest Service appears to be elevating the “need” to produce timber above all other “needs,” despite the fact that there are several components of the purpose and need for the Cement timber sale. Essentially, the “need” to produce commercial timber appears to be the driving goal of the Cement timber sale, despite the fact that several other goals, including providing for wildlife habitat, are listed and presented as coequals. Furthermore,

BCA-1101

**USFS Response – Biodiversity Conservation Alliance p. 12**

**BCA-1101**

See previous response page.

the Forest Service is not even required to sell timber on the BHNF, raising serious questions as to whether the purpose and need is valid. In a recent appeal decision, the Regional Office stated concretely that, “The Forest Supervisor is not required to make available for harvest any trees, merchantable or not.” January 8, 2002 Appeal Recommendation and Decision on Appeal #02-02-02-0003 of the Little Bighorn Prescribed Burn, Bighorn National Forest. And third, how is providing commercial timber through the Cement timber sale economical? According to the DEA, the Cement timber sale may cause the Forest Service to lose over \$900,000 (DEA, p. 108). And, the DEA states that, “...costs would exceed benefits.” *Id.* How is losing money “economical”?

Additionally, by eliminating an alternative simply because it does not provide commercial timber, the FS is unreasonably narrowing the purpose and need as to only be accomplished by one alternative – an alternative that provides commercial timber. In addition, the FS may not fail to analyze alternatives that only address part of the project’s purpose. “[An] EIS must...consider alternatives to the proposed action as may partially or completely meet the proposal’s goal and it must evaluate their comparative merits.” *Natural Resources Defense Council v. Callaway*, 524 F.2d 79, 93 (2<sup>nd</sup> Cir. 1975); see also, *North Buckhead Civic Association v. Skinner*, 903 F.2d 1533, 1542 (11<sup>th</sup> Cir. 1990), *citing North Buckhead Civic Association v. Skinner*, No. 88-2477 at 27 n.5 (N.D. Ga. 1989). (alternatives “partially satisfying purpose and need of the proposed project” need to be considered if they are “reasonable”). Furthermore, a discussion of alternatives that would only partly meet the goals of a project may allow the decisionmaker to conclude that meeting part of the goal with less environmental impact may be worth a tradeoff with a preferred alternative that has greater environmental impact.” *Id.*

Finally, the DEA supports analyzing in detail an alternative that provides no commercial timber because such an alternative would meet one of the goals of the Cement timber sale, to “Provide for a variety of life through management of biologically diverse ecosystems.” For example, the DEA discloses that under the No Action Alternative, goshawk habitat would not be treated and several other sensitive and management indicator species would not be adversely impacted. Although the No Action alternative IS NOT THE SAME AS AN ALTERNATIVE THAT PROPOSES NO COMMERCIAL TIMBER, it does indicate that an alternative proposing less commercial timber harvesting than the proposed Action Alternatives will benefit a number of wildlife species, ultimately meeting the goal to “Provide for a variety of life through management of biologically diverse ecosystems.” Thus, an alternative that proposes no commercial timber harvest meets part of the goals for the Cement timber sale and must be fully explored.

We request the FS correct these deficiencies in either a revised draft environmental analysis for the Cement timber sale or a draft Environmental Impact Statement for the Cement timber sale. We request the FS rigorously explore and objectively evaluate a range of reasonable alternatives that respond to unresolved conflicts over the use and management of the natural resources of the BHNF and that respond to significant issues identified during the scoping process. Accordingly, we request the FS analyze alternatives with substantive differences and that actually result in substantive on-the-ground differences in the way wildlife and wildlife habitat, especially sensitive species and their habitat, are affected.

To that end, we also request the FS rigorously explore and objectively evaluate the following reasonable alternatives:

- An alternative that harvests no stands of ponderosa pine in SS 4C or 4B;
- An alternative that prohibits logging any trees over 10” in diameter;
- An alternative that proposes no new (temporary or permanent) road construction; and

BCA-1101

**USFS Response – Biodiversity Conservation Alliance p. 13**

**BCA-1101**

See responses on pp. D-57 and D-57.

- An alternative that doesn't impact the Sand Creek Roadless Area as defined by the 1991 Citizens' Wilderness Proposal.

**FLAWS IN DEA**

**1. IMPACTS TO SAND CREEK ROADLESS AREA**

As discussed earlier in these comments, the DEA entirely fails to address the potentially significant impacts of the Cement timber sale to the Sand Creek Roadless Area as defined by the boundaries of the 1991 Citizens' Wilderness Proposal.

While the FS has yet to adequately address why the citizens' proposed boundaries are not valid, it appears that they may be valid regardless. In the FEIS for the 1997 BHNH Revised Forest Plan, the FS described the Sand Creek Roadless Area as 9,948 acres in size (USFS 1996). See, Table C-2 in Appendix C of FEIS. Yet, according to the map presented in the FEIS on page C-22, the Sand Creek Roadless Area is much smaller than 9,948 acres, actually less than 8,000 acres. Thus, it is questionable whether the USFS even mapped Sand Creek accurately to being with. Thus, the boundaries that exist today are highly suspect and warrant another look from the FS to ensure the Cement timber sale doesn't log or construct roads in the Sand Creek Roadless Area contrary to the 2001 Roadless Area Conservation Rule that is in effect.

BCA-1401

**2. DENSE MATURE AND LATE SUCCESSIONAL FOREST**

The DEA discloses on page 56 that dense, mature conifer stands exist on about 11% of the project area. Is this within the range of natural variability? Are these stands well distributed? The DEA also discloses that both Action Alternatives will reduce dense, mature forest by 13%. What is the significance of this impact? Additionally, how does this impact relate to the ability of the landscape to recruit future old growth? While the FS is obviously deferring treatment on some stands, won't these stands most likely be treated in the future?

Finally, late successional forest is typically defined by the ecological benefits the habitat provides. For instance, researchers have documented that late successional forests typically provide abundant dead and dying trees, coarse woody debris, dense canopy closure, and a diverse understory. Do the late successional stands that exist in the project area exhibit these conditions? The answer to this question would provide much-needed insight into whether these stands are actually able to support species dependent on late successional habitat. The FS also claims that thinning will encourage growth and the development of late successional forest on many occasions in the DEA. How is this possible, meaning how is it possible to thin and create old growth? Doesn't thinning remove stems that are valuable for the creation of future snags and coarse woody debris? Doesn't thinning decrease mortality, thereby decreasing snag availability and coarse woody debris? Furthermore, experts have noted that the process by which a stand becomes old growth is just as important as the old growth itself (USFS 2000). Before the FS simply claims that thinning will help create old growth, we request that the agency present information and research to support this claim.

BCA-1402

Additionally, what is the slope that the stands of ponderosa pine in SS 5 and SS 4C are on? Is it steep, gentle? What is the slope of the late successional stand on the north side of Plato Gulch? Northern goshawks have been found to nest primarily on "benches" with a mean slope of 12.% (Erickson 1987). Thus, understanding the slope of the late successional and dense mature forest stands in the project area

BCA-1403

## **USFS Response – Biodiversity Conservation Alliance p. 14**

### **BCA-1401**

See response to BCA-0702 (p. D-49).

### **BCA-1402**

The EA does not claim that thinning will create old growth forest. Page 56 states “proposed thinning and fuel treatments would increase growth and decrease the likelihood that stands would be lost to insects or wildfire; these stands could develop closed-canopy late succession characteristics over time if future management retains the largest stems and relatively high basal area.” The conclusion is that thinning can result in increased growth in remaining trees, leaving options for future management open; there is no inference that large tree diameter alone equates ecologically to old growth forest.

Stands in which treatment is deferred under the Cement EA could be treated in the future. There are no site-specific plans for future harvest at this time, and future forest-wide and management area direction are not known.

Project area old growth stands are described on EA p. 56. These stands are structurally diverse with generally high crown closure and multiple canopy levels.

### **BCA-1403**

The designated old growth stands north of Plato Gulch comprise the southwest and northwest aspects and top of a gently sloping ridge. Three northern goshawk nests are known to exist within these stands. Slope at the nests was measured at 8%, 12%, and 17%. Topography in this area is gently rolling. Nests are located in areas with greater slope than what is generally available throughout the old growth stands. Structural stage 4C stands are generally on gentle slopes, with the exception of those near the mouth of Surprise Gulch.

can help understand their value for sensitive species habitat. To that end, what is the slope that the untreated stands of ponderosa pine in SS 4C are on?

What is the patch size of the late successional areas in the project area? This information is needed to understand the ecological value of the late successional habitat in the area. For instance, certain species of wildlife, namely black backed and three-toed woodpeckers, require large blocks of dense mature or late successional forest to ensure their survival (USFS 2000). Additionally, species like the marten typically require large stands of mature or late successional forest either as home range habitat or for connectivity habitat (Buskirk 2002).

BCA-1501

3. IMPACTS TO MIXED CONIFER/HARDWOOD FOREST HABITAT AND ASSOCIATED SPECIES

There is no discussion of the impacts of the Cement timber sale to mixed conifer/hardwood forest, despite the fact that several native species rely on mixed habitat. Three-toed woodpecker, northern flying squirrel, ovenbird, hairy woodpecker have all been found to rely to some extent on mixed conifer/hardwood habitat (Reunanen et al. 2000, Mohren 2002, Anderson 2003, USFS 1996). Since the FS is proposing to remove “encroaching” pine from 17 acres hardwood stands, it stands to reason that several native species will experience adverse impacts from the direct loss of habitat. If the agency chooses to proceed with the 17 acres of pine removal from hardwood stands, we request the FS provide information and analysis showing that pine regeneration is actually occurring and is actually posing a threat to aspen stands (i.e., aspen regeneration is being inhibited).

BCA-1502

4. IMPACTS TO SPRUCE

While the DEA discloses that there is no spruce in the Cement timber sale area, was there historically? How has logging influenced spruce distribution in the Black Hills in the past? Before the FS simply discounts the presence of spruce, we request the FS seriously assess the historical conditions of the project area.

BCA-1503

5. CUMULATIVE IMPACTS OF LIVESTOCK GRAZING

There is no discussion of the cumulative impacts of livestock grazing to forest stands. Belsky and Blumenthal (1997) state:

The studies cited above strongly suggest that livestock as well as fire suppression, logging, and other anthropogenic activities, have contributed to altered ponderosa pine and mixed conifer forests throughout the Interior West. Not only have cattle and sheep helped convert the original park-like forests into dense stands of less fire-tolerant species, but they have changed the physical environment by reducing fire frequencies, compacting soils, reducing water infiltration rates, and increasing erosion. (p. 324)

BCA-1504

They also emphasize, “The effects of livestock grazing are, of course, not homogenous across the western landscape.... Nonetheless, the similarities of the changes occurring in grazed low- and mid-elevation forests through the Interior West suggest that livestock grazing has had profound effects over a wide range of conditions” (p. 324). It is entirely evident that livestock grazing on the Black Hills affects ponderosa pine stand condition and this must be addressed in an EIS. This is especially necessary given that the DEA discloses livestock grazing occurs in the timber sale area (DEA, p. 91).

6. FRAGMENTATION AND EDGE EFFECT

## **USFS Response – Biodiversity Conservation Alliance p. 15**

### **BCA-1501**

The largest old growth stands in the project area occur together in a contiguous block of 321 acres. Effects on black-backed and three-toed woodpeckers are discussed on EA pp. 68 and 70. Marten is discussed on EA p. 61.

### **BCA-1502**

Treatments originally proposed in mixed pine/aspens/birch stands were dropped due to the potential sensitivity of this habitat and lack of evidence of succession (EA p. 16). Field examination showed that pine regeneration is occurring in the aspen stands in which removal of conifers is proposed (17 acres, or less than one percent of the hardwood acreage in the project area). Effects on this habitat type would be very small. Potential effects on three-toed woodpecker are disclosed in the EA (p. 70). Ovenbird and northern flying squirrel are not threatened, endangered, proposed, sensitive, or management indicator species and were not addressed in the analysis.

### **BCA-1503**

See response to comment NECBB-0401 (p. D-141).

### **BCA-1504**

EA cumulative effects discussions acknowledge the effects of livestock grazing. The overall grazing program is outside the scope of this analysis.

The DEA fails to provide any analysis and assessment of the direct, indirect, and cumulative effects of the Cement timber sale to in the project area. This, despite the fact that studies have documented that the northwestern portion of the Black Hills is highly fragmented due to reduced patch size caused by roads and logging (Shinneman 1996, Shinneman and Baker 2000). Furthermore, studies have shown the level of fragmentation that exists in this area of the Black Hills is outside the range of natural variability (Shinneman 1996, Shinneman and Baker 1997). This is supported by historical accounts of the area, which reported larger expanses of mature forest as well as stand-replacing fires (Dodge 1876, Newton and Jenney 1880, Graves 1899, Duthie 1930). Shinneman and Baker (2000) state:

Our study demonstrates that the Black Hills National Forest is presently a highly fragmented landscape, with high road density, patchy forest conditions, much edge and little interior habitat, few large interior areas, and very little dense old-growth forest. Moreover, these conditions represent a significant deviation from the large patches and dense old forests, which are a component of the Black Hills range of natural variability. Thus, widespread application of proposed thinning and fragmenting management strategy will move the forest farther from its range of natural variability by decreasing patch size and increasing patch edge in an already severely fragmented landscape. (p. 322)

The two also recommend:

...our analysis suggests that restoration of the Black Hills National Forest landscape to its range of natural variability will require: (1) restoration and maintenance of some large patches in order to regain large interior areas, (2) restoration of large areas of dense old-growth forest in order to increase rare interior old-growth habitat, (3) a strategy for road closures, as well as careful site selection for new roads, to reduce road edge habitat on the landscape, and (4) a management plan that maintains or restores connectivity between large core areas with similar habitat in order to reduce the degree of habitat isolation for species dependent on habitats such as old growth forest. (p. 322).

In light of these findings, we request the FS take measures to restore and maintain large patches of dense, mature forest in the Cement timber sale area, take measures to restore large areas of dense old-growth forest in the timber sale area, reduce road edge habitat, and restore connectivity between large core areas with similar habitat. Indeed, connectivity has been defined as crucial for the survival of marten and northern flying squirrel (Buskirk 2002, Reunanen et al. 2000), both species for which there are currently viability concerns on the BHNF. We also request the FS fully analyze and assess the impacts of fragmentation.

Additionally, the DEA entirely fails to provide an analysis and assessment of the edge effect caused by roads and logging. The creation of "edge effect," which is defined by Baker and Dillon (2000) as "the suite of differences in microenvironment and biota across edges between forest and nonforest or early successional vegetation" (p. 221, citations omitted), can be detrimental to plants and animals and their habitats (Murcia 1995). Logging and roads create edge effects between cut and uncut forest (i.e., the edge) and as a result, create environments that are different from interior or undisturbed forest habitat. Logging and road construction most often creates edges between older forest and younger forest, but in some cases (i.e., clearcutting, road placement) creates edges between older forest and no forest. The creation of edges often leads to increased levels of light, increased air and soil temperatures, lower soil moisture, increased exposure to wind and other weather, and decreased diversity when compared to interior or undisturbed forest (Baker and Dillon 2000). Additionally, edges amplify or alter the effects of natural disturbances, such as fire (Baker and Dillon 2000). However, the impacts of "edge effect" often extend beyond the edge itself (Murcia 1995, Baker and Dillon 2000). The depth-of-edge influence, or the

BCA-1601

## **USFS Response – Biodiversity Conservation Alliance p. 16**

### **BCA-1601**

Forest fragmentation is discussed in the Revised Forest Plan FEIS, pp. III-247 through III-275. Stands proposed for harvest under the Cement EA have been harvested before. Proposed road closures would decrease disturbance.

distance over which an edge environment differs from an undisturbed forest environment, may extend 60 meters (approximately 197 feet) or more from an edge into undisturbed forest (Baker and Dillon 2000). Thus, the detrimental impacts of logging and road construction (i.e., increased insolation, increased ground temperature, increased exposure, decreased moisture and humidity, and decreased diversity) may be experienced by plants and animals and their habitat even though logging may be occurring 60 or more meters away. In terms of sensitive plant management, edge effect should be a great concern of the FS, yet there doesn't appear to be any consideration given to this situation. The Cement DEA does not address the "edge effect" that is caused by roads and logging and thus has failed to adequately analyze and assess impacts.

BCA-1601

#### 7. NORTHERN GOSHAWK

The northern goshawk is suffering now, more than ever, on the BHNF. In the past few years, the BHNF has experienced several largescale fires, losing several known goshawk nest locations and thousands of acres of potentially suitable goshawk nesting habitat. Additionally, according to biologists on the Forest, several known goshawk nests on the Northern Hills Ranger District have been vandalized in recent years. These nests were completely destroyed and the nest sites rendered unsuitable for future nesting. Finally, less than 2% of the entire BHNF is considered to be old growth, which is optimal nesting habitat for northern goshawk. The amount of old growth that may even be suitable for nesting habitat (e.g., considering aspect, slope, and tree species) is considerably lower. It is safe to say that, in light of these fires, vandalism, and old growth shortage, the northern goshawk is facing a grim situation on the BHNF.

Compounding this situation is the fact that the Phase I Amendment, approved in 2001, provides entirely inadequate protection for the northern goshawk and its habitat. In fact, the agency itself claims in the Phase I Amendment Biological Evaluation that it is "uncertain" whether the amendment can actually ensure the viability of the northern goshawk. While this "uncertainty" is disturbing, especially considering the importance of the northern goshawk and its habitat to the overall health of the Black Hills ecosystem, it is nevertheless erroneous, unsupported, and highly suspect. Given the following examples, there is every reason to conclude the Phase I Amendment and current FS management is contributing to the extirpation of the northern goshawk on the BHNF:

BCA-1701

- In 1997, the USFS concluded that 10-15 pairs of northern goshawk inhabited the BHNF and that such a population was viable. In 1999, the Chief of the FS subsequently ruled this conclusion to be flawed. The population figure still exists, however.
- Less than 2% of the 1.2 million acre BHNF is considered to be old growth. Even less is old growth ponderosa pine that exists on slopes and aspects conducive to goshawk nest establishment.
- Leading USFS goshawk researchers have concluded the BHNF could support up to 300 pairs of northern goshawk.
- Since 1997, thousands of acres of goshawk nesting habitat and countless nest sites have been destroyed throughout the Black Hills by fire and storms.
- Experts have all concluded that current goshawk management on the BHNF places the species at greater risk of extirpation (USFS 2000).
- The Phase I Amendment only protects "known" northern goshawk nest sites. However, many of these "known" goshawk nests are abandoned or no longer suitable due to storm damage, fires, or vandalism. Additionally, by protecting only "known" nest sites, the USFS is essentially ignoring the need to provide habitat for goshawk expansion, dispersal, and reestablishment in other areas of the BHNF. The USFS is essentially managing for the demise of the northern goshawk.

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### **BCA-1701**

Species viability across the National Forest is outside the scope of the Cement EA.

Northern goshawks are known to use the Cement project area and have been observed nesting at several locations in recent years. The District has in the past monitored and continues to monitor all known goshawk nests for nest site occupancy and productivity. Surveys for new nests are conducted using broadcast survey methodology based on Kennedy and Stahlecker (1993). Experimental and correlative evidence exists that prey availability and predation limits goshawk recruitment and correlative evidence that density-dependent territoriality regulates population growth rate (Kennedy 2003).

There is insufficient information available to make population trend determinations for the Black Hills. Kennedy (1997, 1998) concluded there is no strong evidence to indicate that goshawk populations in the United States are declining, increasing, or stable (Kennedy 2003).

Contrary to the commentator's assertion, both known and potential nest sites would be protected under this project. Known nest stands would be excluded from the project (standard 3108, EA p. 62). Potential alternate nest stands would also be excluded. Where territories are not known to exist, the best potential nesting habitat would be protected.

Nesting and post-fledging habitat would be protected and managed in compliance with the Revised Forest Plan and Phase 1 Amendment.

Sufficiency of the Revised Forest Plan and Phase 1 Amendment is outside the scope of this analysis.

- Protection of active nest sites is extremely limited. Disturbance within ¼ mile of an active nest site is only required to be “minimized” during the nesting season, but is not prohibited. Additionally, there is no indication that such protection is even sufficient, especially given that virtually every acre of the BHNF is within one mile of a road or nearer. Furthermore, goshawks on the Black Hills have been documented to be especially sensitive to disturbance (Erickson 1989), yet this doesn’t appear to be receiving any consideration by the FS.
- Even in protecting “known” nest sites, the Phase I Amendment fails to define how much acreage will be protected and what stand conditions will be included in nest site protection.
- While requiring goshawk nest surveys before projects, the Phase I Amendment again fails to account for the need to provide for more northern goshawk habitat, especially nesting habitat, on the BHNF. Surveys do not protect species.
- The Phase I Amendment fails to provide even minimal protection for the northern goshawk and its habitat across the BHNF landscape, instead providing limited protection for sparse and isolated PFAs that are usually no more than 420 acres (the USFS defines a landscape as 5,000-10,000 acres) and that are usually only located around “known” nest sites. Some “known” nest sites include nests found years ago that are now abandoned or destroyed.
- Even in protecting designated PFA’s, the USFS is only required to provide for a minimum of 126 acres of nesting habitat, yet northern goshawks typically require blocks of old growth larger than 180 acres for nesting.
- Even in protecting designated PFAs, the Phase I Amendment does not limit activities that adversely impact northern goshawk and its habitat.
- Even in protecting designated PFAs, the USFS more often than not fails to include nearby old growth ponderosa pine. This inclusion would at least provide a remote chance that a PFA may be used by a nesting pair of northern goshawk.
- In managing designated PFAs, the USFS prioritizes creating early successional vegetation where old growth is either nonexistent or severely lacking. The USFS thus limits the availability of future old growth and future goshawk nesting habitat.
- The Phase I Amendment provides no direction for old growth recruitment or protection. The USFS is continuing to impede old growth ponderosa pine recruitment overall on the BHNF by cutting thousands upon thousands of acres of dense, mature forest, claiming that because of the “interim” nature of the Phase I Amendment, there is no need to manage for old growth.
- The USFS continues to ignore the impacts of largescale fires, vandalism, and storm damage to northern goshawk nesting habitat, nest sites, and individuals, to the overall population and viability of the northern goshawk. The USFS refuses to limit logging and thinning in order to compensate for old growth and nest site losses on the BHNF.
- The USFS is pushing ahead with logging and thinning in the Norbeck Wildlife Preserve and Beaver Park Roadless Area, areas that the agency described as providing excellent northern goshawk nesting habitat.
- The USFS is pushing forward with extensive logging and thinning projects with the aim to reduce the density of ponderosa pine on the BHNF. Northern goshawk require dense ponderosa pine stands with greater than 60% canopy closure for suitable nesting habitat.
- The USFS has failed to develop and implement any consistent and accurate monitoring plan for the northern goshawk. Indeed, the agency is only focusing attention to “known” nest sites and even then does not monitor all “known” nest sites.
- The USFS continues to mislead the public into believing the BHNF needs to be logged, thinned, and otherwise turned into a tree farm to “reduce fire risk.” Amazingly, some of the largest fires to burn recently on the BHNF burned in areas that were heavily logged and thinned and otherwise turned into tree farms (see e.g., USFS 2001).

BCA-1801

**BCA-1701**

See previous response page.

Despite these glaring facts, the USFS somehow believes it does not have enough information to conclude one way or the other whether management (i.e., logging and thinning) of the BHNF is threatening the viability of the northern goshawk. There is no doubt in our mind that the FS is pushing the northern goshawk to extinction on the BHNF, just as the agency is doing so in other National Forests throughout the western United States.

BCA-1701

To this end, the Cement timber sale adds to the long list of threats to the goshawk and its habitat on the BHNF. As disclosed on pages 62 of the DEA, the FS is proposing treatments in the eight PFAs to “move VSS distribution closer to the desired condition by increasing acreage in young, open classes and decreasing stands dominated by 9-14” trees” DEA, p. 62. While the DEA fails to disclose the existing vegetative conditions of the eight PFAs and the effects of the Action Alternatives to vegetative distribution in the PFAs, most likely there is no VSS 6 and very little to no VSS 5 in all eight. Indeed, nearly every other PFA designated by the FS on the BHNF through timber sales has lacked adequate VSS 5 and 6. Therefore, by treating these PFAs, the FS will ultimately limit the availability of future VSS 5 and 6 – optimum goshawk nesting habitat. While the FS claims these treatments area necessary to meet “desired conditions” (DEA, p. 57), we question how VSS 5 and VSS 6 standards are not “desired conditions”? Why isn’t the FS deferring treatments in order to meet VSS 5 and VSS 6 goals? Why is the FS continuing to inhibit the development of nesting habitat?

BCA-1901

While the FS may claim that it needs to manage for goshawk prey, the goshawk is facing significant nesting habitat shortages on the BHNF – there is no prey shortage and there is no foraging habitat shortage. Indeed, experts have identified nesting habitat as a limiting factor on the BHNF (USFS 2000). By reducing the availability of future nesting habitat in PFAs, the FS is not providing for the biological needs of the goshawk and is further threatening the habitat of this species. How can the USFS possibly believe that providing more “foraging” habitat will benefit the goshawk while it continues to log and otherwise degrade nesting habitat?

BCA-1902

In terms of protecting northern goshawk nesting habitat (VSS 5 and VSS 6), there is no discussion of slope. Erickson (1989) found that goshawk nests on the Black Hills were located on slopes around 12.6%. Thus, slope appears to be a factor limiting goshawk nest placement on the BHNF. However, it is unclear whether any of the nesting habitat or potential nesting habitat in either of the eight PFAs is on slopes around 12.6%. It is unclear whether any of the protected nesting or potential nesting habitat is actually on suitable ground.

BCA-1903

The DEA also states:

“Timber harvest over the years has probably resulted in fewer large-diameter trees, less mortality, and more trees overall. The no action alternative would continue this trend, which could affect goshawks through loss of openings for foraging and development of increased nesting habitat, though risk of stand-replacing fire, which would destroy nesting habitat, would also increase.” DEA, p. 63.

BCA-1904

This statement is confusing at best. Are we to understand that the no action alternative will perpetuate the impacts of past logging to the northern goshawk and its habitat? This is difficult to believe, as it would seem more likely that the impacts of the Action Alternatives would perpetuate the negative impacts of past logging to the northern goshawk and its habitat. Additionally, where is the research showing that the risk of stand-replacing fire threatens the northern goshawk on the Black Hills? Based on USFS information, nesting habitat seems to be the factor limiting northern goshawk populations on the Black Hills. While fires may reduce nesting habitat, it would seem that logging thousands upon thousands of acres of the BHNF every year also threatens nesting habitat. Furthermore, a wildfire creates

## **USFS Response – Biodiversity Conservation Alliance p. 19**

### **BCA-1901**

Vegetation structural stage data is displayed in more detail in the final Cement EA (pp. 62-66). Proposed activities would not reduce VSS 550 or 6 below the desired range, and in all cases these VSS classes would be at least as well represented in 20 years if the proposed treatments take place as compared to the no action alternative. In several cases VSS 550 or 6 would be better represented in 20 years if proposed treatments take place, mainly due to proposed thinning that would allow increased tree growth. Furthermore, proposed activities would provide VSS 1, currently completely absent in most of the PFAs. Patch clearcuts that would produce the VSS 1 would take place in VSS 4 stands, which occur in excess of the recommended distribution.

### **BCA-1902**

See above response and response to comment BCA-1701.

### **BCA-1903**

Bartelt (1977) reported goshawk nest sites in South Dakota were located on gentle (0-40% slope) on north and east facing aspects or benches.

Also see response to comment BCA-1403 (p. D-63).

### **BCA-1904**

The quoted statement has been clarified (EA p. 67). Stand-replacing fires destroy nesting habitat, as acknowledged above by the commentator (BCA-1701). Wildfires can create other habitat components, though the utility to goshawks of interior areas of very large, intense fires is questionable.

numerous snags, openings, and down woody debris, which provide habitat for goshawk prey species, whereas a timber sale doesn't leave anything standing, removes boles, and builds roads that inhibit the dispersal and restoration of goshawk prey species. Accordingly, how did the FS assess the cumulative impacts of logging to the northern goshawk and its habitat? What thresholds does the FS rely upon to assess significance?

BCA-1904

Furthermore, how can the FS conclude with any certainty that if individuals are impacted, the viability of the northern goshawk will be maintained? What is the current population size of the northern goshawk? What is the current availability of nesting habitat? Is this a viable population? Is habitat well distributed in the project and planning area? Since the northern goshawk is also an MIS on the BHNF, what population trend data does the FS have for this species?

BCA-2001

We also ask that the USFS analyze and assess the impacts of the Cement timber sale in terms of the distinct possibility that the bird may be listed under the Endangered Species Act in the very near future. Therefore, in assessing whether the project will lead to the listing of the species, the USFS must consider the fact that: 1) A federal court is still reviewing whether or not the Fish and Wildlife Service erred in concluding the northern goshawk west of the 100<sup>th</sup> Meridian did not warrant listing and 2) That any continued impacts to the northern goshawk and its habitat on the BHNF will be documented and sent to the U.S. Fish and Wildlife Service to add to the record supporting listing of this imminently threatened forest raptor.

BCA-2002

8. BLACK-BACKED WOODPECKER

The DEA fails to provide important information necessary to understand the impacts of the Cement timber sale. For instance, the DEA simply states that, "Alternatives 2 and 3 include timber harvest prescriptions that would result in loss of large trees and reduction in stand density, though all trees greater than 20" in diameter would be left standing." While it is difficult to believe that prospectively meeting snag standards through green tree retention can protect this species at the present, this isn't an analysis. What treatments will result in the loss of large trees and a reduction in stand density? How many acres will these treatments occur on? And, how did the FS assess impacts to this sensitive woodpecker? Overall, the DEA fails to adequately analyze and assess the impacts of the Cement timber sale to black-backed woodpecker.

BCA-2003

This is of great concern given the body of knowledge that exists about the species (see e.g., Anderson 2003). For instance, the species depends heavily on wood-boring beetles for survival and thus insect outbreaks and burned areas provide excellent habitat and are necessary for the survival of populations (Hutto 1995, Murphy and Lenhausen 1998, Imbeau et al. 1999, 2001, Mohren 2002, Powell et al. 2002). Dense mature and late successional forests are also essential to ensure persistence of the species in between largescale fire and insect episodes (Settingington et al. 2000, Mohren 2002, Anderson 2003). Snags are also vital and may be limiting populations on the Black Hills (Mohren 2002). The species also responds negatively to logging (Saab and Dudley 1998, Hutto 1995, Murphy and Lenhausen 1998, Imbeau et al. 1999).

BCA-2004

Black-backed woodpeckers are most likely suffering on the Black Hills due to low snag densities, a lack of old growth, and insect and fire prevention and control measures (Mohren 2002). Mohren (2002) makes several suggestions for how to mitigate impacts to the black-backed woodpecker, stating:

Permitting wildfires to burn in the Black Hills may improve the population size of the species. (p. 89)

**BCA-2001**

See response to comment BCA-1701.

**BCA-2002**

The northern goshawk is currently considered sensitive in Forest Service Region 2 and is not listed as threatened, endangered, or proposed for listing. The analysis conducted for the Cement EA followed Forest Service Manual direction for consideration of sensitive species.

**BCA-2003**

All proposed silvicultural treatments (EA pp. 14-15) would reduce stand density. All except POL and precommercial thinning would remove some large trees, though the largest would be retained as noted in this comment. Proposed acreage for each treatment is displayed on EA p. 38. Effects on black-backed woodpecker were determined as discussed in the EA (p. 68) and project Wildlife Biological Evaluation/Biological Assessment.

**BCA-2004**

Black-backed woodpeckers are not common in the Black Hills and probably never were. However, black-backed woodpeckers are increasing across the BHNF (Panjabi 2003, M. Retter pers. corr. with C. Staab, 2003). The prevalence of cavity nesting species on the Bearlodge District has been noted by other biologists (Loose pers. comm. 2003). The project wildlife biologist's observations across the Bearlodge District indicate cavity-nesting species, including black-backed woodpeckers, appear to be more prevalent than in other areas of the National Forest. This may be attributable to recently burned areas, large areas of storm damaged trees, and abundant coarse woody material, as well as the continued increase in mountain pine beetle activity across the District.

Wedemeyer and Wedemeyer (1928) found this species to be more abundant in logged or burned stands. In the Black Hills, Dykstra et al. (1999) observed more black-backed woodpeckers in harvested compared to unharvested stands. This species has been found in both immature and mature stands with high (>60%) canopy cover (Mohren 2001). Mohren (2001) also suggested that human activity such as residential development, logging and roads do not have a direct effect on the location of black-backed woodpeckers. The habitat requirements suggested in the literature presented in this comment are not at issue. There is, however, no evidence that the species is "suffering" or is imperiled. Black-backed woodpeckers have persisted across the District, and there is no indication that they will not continue to do so; in fact, studies show numbers are increasing.

Allowing stands to mature and become decadent will help provide foraging habitat for black-backed and three-toed woodpeckers. (p. 89)

Creating stands that become susceptible to wood-boring beetles will provide an abundance of available prey for both these [black-backed and three-toed woodpecker] species. (p. 89)

Additionally, Anderson and Crompton (200) make a similar recommendation, stating “Despite increasing demands for timber harvest, large tracts of unlogged, mature forest should be retained throughout the Black Hills” (p. 372). It is thus difficult to see how the Cement timber sale provides any of these benefits and thus, how the black-backed woodpecker will not be significantly impacted as a result.

The DEA also states, “Thinning treatments would promote the development of large-diameter trees, which would eventually provide large-diameter snags.” DEA, p. 64. Yet, we can find little support for this assertion. For instance, what is the likelihood that thinning units will be commercially harvested in the future? How long will this process take? The DEA does not provide this information and this statement holds no weight.

Overall, there doesn’t appear to be much support for the FS’s viability determination for this species. What is its current population? Is it viable? Is its population and habitat well distributed?

9. THREE-TOED WOODPECKER

The DEA’s discussion of the three-toed woodpecker is vague and cursory. The FS simply states, “Alternatives 2 and 3 include timber harvest prescriptions that would result in loss of large trees and reduction in stand density, though all trees greater than 20” in diameter would be left standing,” echoing exactly what was said about the black-backed woodpecker. While it is difficult to see how prospectively meeting snag standards through green tree retention can protect a species at the present, the FS again ignores much of the habitat needs and vulnerabilities of this species.

For instance, several reports have documented the importance of late successional forest that has been undisturbed by timber management and where natural processes, such as insect outbreaks and wildfires are allowed to occur (Settingington et al. 2000, Imbeau and Desrochers 2002, Mohren 2002). Aspen also appears to be an important nest tree in the Black Hills (Mohren 2002). Furthermore, researchers have found that simple snag retention standards may be inadequate to protect the three-toed woodpecker (Imbeau and Desrochers 2002). Imbeau and Desrochers (2002) state, “Among snags, which were preferred over live trees for foraging, recently dead trees were used more often than more deteriorated ones. Among live trees, more deteriorated, dying trees were preferred over healthy ones.” (p. 229). The two conclude, “Demonstrating the importance of recently dead or dying trees – as opposed to all types of snags – for foraging three-toed woodpeckers, illustrates the importance of natural disturbance dynamics as a key factor ensuring woodpeckers persistence in managed forests” *Id.* Based on this existing research, it doesn’t even seem that the FS’s proposed snag and green tree retention standards are adequate for the three-toed woodpecker. Therefore, the FS must revisit its analysis of impacts to the three-toed woodpecker and ensure that the species is adequately protected.

Furthermore, while the FS discloses that there is no white spruce in the project area, the agency does not disclose whether white spruce habitat exists near the project area. This is important to know. Mohren (2002) states, “In order to improve densities of this species, it is not only important to have available habitats of ponderosa pine, white spruce, and aspen, but they may need to be in close proximity to each other” (p. 41). Thus, the proximity of white spruce to the project area needs to be understood to ensure the FS is providing adequate for this sensitive woodpecker.

BCA-2004

BCA-2101

BCA-2102

BCA-2103

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### **BCA-2101**

See responses to comments BCA-1402 (p. D-63) and NECBB-0501 (p. D-143).

### **BCA-2102**

Three-toed woodpeckers are strongly associated with spruce habitat (Pettingill and Whitney 1965, Anderson 2002, Panjabi 2003). There is no white spruce habitat within the project area. Three-toed woodpeckers have not been documented in the project area, and suitable habitat does not exist.

Anderson (2002) states that three-toed woodpeckers are negatively affected by logging and fire suppression **if** these activities reduce the number of snags present in the landscape. She further states that prescribed fires will likely benefit these birds (Anderson 2002). Proposed activities would not reduce the number of snags present in the project area (EA pp. 56-59).

The commentator asserts the importance of natural disturbance dynamics for ensuring woodpecker persistence in managed forests. The occurrence of timber harvest or prescribed burning in some stands does not mean that natural disturbance dynamics stop across the project area. Natural processes continue in both human-altered and non-altered stands. Wildfires will continue to occur, storms and wind events will kill trees and create snags, and mountain pine beetles will continue to infest trees. The proposed activities would not substantially affect the project area's ability to support woodpeckers.

### **BCA-2103**

White spruce is known to occur within approximately 10 miles of the project area. See previous comment and response to comment NECBB-0401 (p. D-141).

Finally, the FS claims, “In the Bearlodge Mountains and northwestern Black Hills, spruce forest has not increased in the near-absence of fire, suggesting a natural lack of this species” DEA, p. 67. The FS is making a significant stretch here and is wholly unsupported. For instance, while fire may not have dominated the landscape of the northwestern Black Hills and Bearlodge Mountains after European settlement, timber harvesting, livestock grazing, and prescribed burning have. Yet, there is no discussion of how and to what extent past timber harvesting, livestock grazing, and prescribed burning have affected white spruce distribution and abundance in the Black Hills. Furthermore, timber harvesting has oftentimes targeted white spruce, an attempt to replace spruce stands with pine stands. In the recent DEA prepared for the Power timber sale, the FS discloses that 95 acres of spruce had been cut in the project area in the near-past, strongly indicating that spruce abundance has been influenced by logging. If the FS does not believe past timber harvesting, livestock grazing, and prescribed burning has influenced white spruce abundance and distribution, we request the agency fully explain its position and answer these questions: Did historical logging eliminate white spruce to promote ponderosa pine regeneration? To what extent did this conversion occur? Is white spruce still cut down on the Black Hills? Overall, it does not appear that the FS fully considered the cumulative impacts to the three-toed woodpecker.

BCA-2103

Is there currently a viable population of three-toed woodpeckers on the BHNF? How did the FS assess impacts to the viability of this species?

10. FLAMMULATED OWL

There is no discussion of the cumulative effects of timber harvesting to the flammulated owl. Given the species’ rare status throughout its range, its dependence upon old growth ponderosa pine, and the fact that this species’ existence has only recently been confirmed on the BHNF, there is significant concern over the impacts of forest management activities – especially logging and thinning – to this species and its habitat. Special attention must be given to the owl to ensure its habitat is adequately protected and that the owl and its habitat do not suffer adverse impacts as a result of the Cement timber sale (see e.g., Linkhart et al. 1998, Linkhart and Reynolds 1997, Reynolds and Linkhart 1992, 1987a, 1987b).

BCA-2201

11. PYGMY NUTHATCH

It is very difficult to believe that the Cement timber sale can impact individual pygmy nuthatch and not affect the viability of this bird’s population. According to monitoring reports (Panjabi 2001, 2003), pygmy nuthatch are very, very rare. Panjabi (2003) states, “Pygmy nuthatch is a rare bird in the Black Hills. We recorded only two individuals on point-transects in 2002, at different locations than where we recorded the species in 2001” (p. 75). However, it does not seem that the FS took into consideration the fact that the pygmy nuthatch is so rare. These reports also identified key survey needs, stating, “More specific efforts aimed at locating individuals and important breeding areas are needed” *Id.* Yet, it does not seem that the FS has taken any action to locate individuals and important breeding areas. Overall, it doesn’t appear the FS has addressed relevant information suggesting the Cement timber sale may jeopardize the viability of the pygmy nuthatch.

BCA-2201

Compounding the failure to consider key information is the fact that the analysis and assessment in the DEA is incredibly flawed. For instance, the DEA states, “Alternatives 2 and 3 could reduce preferred habitat for this species by removing large overstory trees and cutting hazardous snags” (DEA, p. 72). The DEA continues, “All trees greater than 20” in diameter would be left standing (p. 33). This would meet Revised Forest Plan direction to provide sufficient large-diameter green trees across the landscape, and presumably would eventually provide enough snags for this species” *Id.* However, there is no support for this statement. First, a sufficient amount of trees greater than 20” in diameter doesn’t even

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### **BCA-2201**

Cumulative effects on flammulated owl are discussed on EA p. 71. Given the species' habitat preferences, there is no indication that forest management presents a risk to its occurrence in the Black Hills.

### **BCA-2201**

There are no pygmy nuthatch records on the Bearlodge Ranger District. The project wildlife biologist assumed that this species could occur in the project area based on its habitat requirements. The EA (p. 76) presents reasoned discussion of the potential direct, indirect and cumulative effects on the pygmy nuthatch, and makes a determination of effects based on the limited information that is known about this species. Proposed projects may adversely impact individuals and would likely have some beneficial impacts by providing preferred habitat. Because this bird is evidently so rare, the possibility of adversely impacting an individual bird is remote.

Species viability across the Forest is outside the scope of this analysis.

exist in the project area, so it is difficult to see the benefits derived from this measure. Second, even though green trees may be retained, there is no indication that they will die and become snags any time soon. Thus, the FS has failed to provide any temporal context for its assessment. It is difficult to see how prospectively meeting snag standards can provide any protection at the present from the cutting of the species' habitat.

Additionally, the DEA states that this species' habitat could be increased through the creation of open pine forest and mature, single-story stands (DEA, p. 72). Yet, it is difficult to understand how simply creating more open pine forest can increase habitat for this species. How is it possible that open pine forest, without snags, can actually create habitat for this species? Additionally, the species needs very large diameter trees, so unless there is some understanding of existing and future tree diameters, it is further difficult to see how creating more open pine forest can benefit this sensitive species.

BCA-2201

12. FRINGE-TAILED MYOTIS

There is really no context provided for the analysis and assess of the impacts of the Cement timber sale to the fringe-tailed myotis. For instance, the DEA states, "Salvage harvest could reduce potential roost sites" (DEA, p. 73). By how much? To what extent will salvage harvest reduce potential roost sites? The DEA continues, "Road construction proposed under both action alternatives could temporary increase disturbance to bats and other wildlife, but all new roads would be closed to motorized vehicles except when access is needed for proposed timber harvest and other activities and again after activities are completed" *Id.* However, the DEA provides no context for the word "temporary." Thus, it is difficult to understand how these temporary impacts will be insignificant. Additionally, while the FS may believe the impacts will be "temporary," there is no information presented or referenced that shows the fringe-tailed myotis can withstand temporary disturbances. On the contrary, fringe-tailed myotis have been found to be extremely sensitive to disturbance (Schmidt 2002), indicating that even temporary disturbances could be devastating.

Finally, the DEA downplays the importance of snags as roost sites for the fringe-tailed myotis. Several reports have documented the importance of snags with loose bark as roost sites (Cryan 1997, Cryan et al. 2001, Mattson et al. 1996, Rabe et al. 1998), which is often found in late successional forest stands. While the FS claims that, "Protective measures for snags and retention of green trees for snag replacements would provide roosting habitat over time," there is no support for this assertion. For instance, are snag densities currently adequate to offset the impacts of logging in the next year to five years? Rabe et al. (1998) recommended snag densities around 10.6/hectare (4.04 snags/acre) for a community of bats and Mattson et al. (1996) recommended snag densities of 21/hectare (8.50 snags/acre) for silver-haired bats. Current snag standards require a minimum of 2 snags per acre and a maximum of 4 snags per acre, depending on aspect, strongly indicating that even snag management direction may not provide adequate snags for bats like the fringe-tailed myotis in the future. Additionally, snags used by reproductive females in the Black Hills were found to be 43.2 +/- 12.1 cm (~17.28 +/- 4.84 inches) in diameter (Cryan et al. 2001) and the mean day roost snag diameter in northern California was found to be 120.8 +/- 5.3 cm (~48.32 +/- 2.12 inches (Weller and Zabel 2001). Current snag standards require a minimum diameter of 10 inches, strongly indicating that existing snag diameter standards are inadequate to protect the fringe-tailed myotis.

BCA-2301

Finally, the FS claims that "Since there are no known caves or other sites for hibernacula or maternity roosts in the project area, cumulative effects have probably been minimal" (DEA, p. 73). Yet, there is no support whatsoever for this statement, rendering the cumulative effects discussion severely flawed. For instance, simply because there are no "known" caves or hibernacula, does not mean the species has not been adversely impacted. Additionally, fringe-tailed myotis have been found to use snags extensively as

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### **BCA-2301**

The EA (p. 77) presents a reasoned discussion of the direct, indirect, and cumulative effects on the fringed-tailed myotis and makes a determination of effects based on information on this species. Proposed projects may adversely impact individuals and will likely have some beneficial impacts by providing preferred habitat. Proposed activities would comply with Revised Forest Plan snag direction (EA pp. 56-59).

Based on comparison with published literature and locally conducted studies, the commentator appears to overemphasize the use and importance of snags for this species. Snags are not the only potential habitat for day and nighttime roosting. In fact, capture of this species in the Black Hills (Tigner 2003) and radio-telemetry studies (Cryan and Bogan 1996) suggest that rock and soil crevices are of primary importance. While there are no known caves or mines within the project area, rocky cliff habitat is present with crevices that could be used for roosting. None of the alternatives propose activities that would affect cliffs or other rocky areas.

maternity roosts, strongly indicating that there are known maternity roosts in the project area (Cryan et al. 2001, Schmidt 2002). Furthermore, there is no support for the claim that, “Protective measures for snags would prevent any addition by this project to cumulative effects” (DEA, p. 73). The current snag standards appear to be inadequate for this species’ needs and there is no indication that current snag densities and standards are adequate. Furthermore, by harvesting trees and inhibiting tree mortality, it is difficult to see how the FS can possibly ensure the creation of an adequate amount of future snags.

BCA-2301

13. BLACK HILLS RED-BELLIED SNAKE

The FS simply claims that the proposed road construction would not take place between wetlands or riparian areas and potential hibernacula. Where are the hibernacula located? How does the FS know that road construction will not take place between hibernacula and wetlands or riparian areas? Furthermore, how will road reconstruction affect connectivity between hibernacula and riparian areas and wetlands?

BCA-2401

We also question the FS’s claim that, “Alternatives 2 and 3 would counteract effects of prior management to some degree by reintroducing fire, reducing stand density, and closing roads. These changes would benefit red-bellied snakes.” According to the DEA, the Cement timber sale involves a significant amount of timber harvesting, thinning, road construction, and reconstruction. As a rhetorical question, how do these actions reflect a change in past management? As it is, we cannot understand how the proposed action poses any beneficial impacts. Compounding this confusion is the fact that the FS doesn’t even describe red-bellied snake habitat in the project area. Where does it exist? Where does it exist in proximity to roads? There is no discussion of the existing condition of Black Hills red-bellied snake habitat and thus, the FS has failed to provide any context for its assessment.

BCA-2402

14. TAWNY CRESCENT

Similarly, the DEA entirely fails to disclose the existing condition of tawny crescent habitat in the project area. Instead, the DEA simply restates its habitat preferences. Where are moist forest borders located in the Cement timber sale area? Where are these areas located in relation to the proposed actions? And, while the FS claims that “Alternatives 2 and 3 would benefit the tawny crescent by providing open habitat for establishment of blue aster and other native forbes,” we can find no support for this statement. How does the FS know that the openings it will create will promote the development of blue aster and other native forbes? How will nonnative plant proliferation affect the ability of this species’ larval plants to inhabit areas? Furthermore, how can the FS possibly assert that simply creating openings will benefit this species? The species has fairly specific habitat needs that must be met and generally creating openings doesn’t seem to provide any benefits. To that end, how can the FS ensure that openings will even be used? How will the Cement timber sale affect connectivity and the ability of the tawny crescent to disperse into new habitats?

BCA-2403

The DEA also states that tawny crescent have been observed in the project area. Are these sites being protected? If so, how? Have any further surveys been done to ensure the project will not affect this sensitive butterfly?

BCA-2404

Finally, the FS claims, “Proposed actions may also provide a slight increase in water for seeps, springs, and riparian areas (p. 96). This is outrageous to say the least. While the FS claims that there is a potential for increased water yield, we cannot understand how this translates into increases in water for seeps, springs, and riparian areas. There is no indicating that subsurface water flow will be impacted in any way except that the proposed actions may lead to increased soil compaction, increased exposure to sun, wind, and rain, and increased disturbance overall. These impacts indicate that, if anything, the amount of moisture that will be absorbed into the soil will actually be reduced. At the least, the DEA

BCA-2405

## **USFS Response – Biodiversity Conservation Alliance p. 24**

### **BCA-2401**

Because there is no data on red-bellied snake hibernacula in the project area, there is no guarantee that road construction would not take place between wetlands and hibernacula. Most of the proposed construction is, however, located on ridgetops or near the top of gentle slopes. Road reconstruction would not affect connectivity between hibernacula and wetlands and riparian areas.

### **BCA-2402**

Proposed activities differ from much of the management conducted in the past as stated in the section quoted from the EA: prescribed fire and road closures. Fire has generally been excluded for many years, and more roads have been constructed than closed. The effects of fire and road closure would be expected to benefit red-bellied snakes (EA p. 78).

### **BCA-2403**

The EA presents a reasoned discussion of the direct, indirect, and cumulative effects on the tawny crescent and makes a determination of effects based on information available for this species. Suitable habitat within the project area includes draw bottoms, meadow openings, roads, trails, and open forests. Suitable habitat has declined with the general increase in forest density and continuity caused by fire exclusion. The proposed activities would protect or enhance habitat for the tawny crescent.

It is common knowledge that if pine overstory is removed in the Black Hills, understory production will subsequently increase (Uresk and Severson 1989). Smooth blue aster is a common, early successional plant throughout the Black Hills and the Cement area in open forests, clearings, meadows, and grassland habitats (Larson and Johnson 1989). If overstory trees are removed, growth of smooth blue aster and other shade-intolerant pioneering plants in the understory will be encouraged.

Creation of openings would benefit this species of butterfly because of its habitat requirements. Neither the butterfly nor its larval host plant is found in dense wooded habitat. The body of literature supports the theory that logging and moderate grazing are beneficial to many butterfly species, including the tawny crescent.

### **BCA-2404**

This species has been observed in the project area near Bear Lake (T51N R61W sec. 25). No activities are proposed at this location.

### **BCA-2405**

See hydrology discussion on EA pp. 98-103. The EA does not state that this project would be likely to increase water yield measurably or that any increase in water yield would translate to springs or seeps.

provides no insight into how the Cement timber sale will affect hydrology of the area and the FS has failed to provide any support for there being a relationship between a potential water yield increase and an increase in water for seeps, springs, and riparian areas.

15. SNAILS OF SPECIAL CONCERN

The DEA presents no mitigation measures to protect known colonies of snail species of concern. For instance, the DEA simply states for the Cooper’s Rocky mountainsnail that, “The known snail colony would not be disturbed under any of the alternatives.” Similarly, the FS simply states that other snail species of concern colonies will be “avoided.” While we appreciate the FS’s claim that snail colonies will not be disturbed or will be avoided, the DEA fails to show how and to what extent this will be done. Will a buffer be used? Will habitat in and around the colonies be protected? How will the colonies be protected on the ground?

BCA-2501

Furthermore, the FS’s analysis and assess of impacts to snail species of concern is entirely lacking. For instance, while the FS claims that snail colonies will not be directly impacted, even logging and road construction and reconstruction that does not directly impact a Black Hills mountainsnail colony may be detrimental to the species and its habitat. The creation of “edge effect,” which is defined by Baker and Dillon (2000) as “the suite of differences in microenvironment and biota across edges between forest and nonforest or early successional vegetation” (p. 221, citations omitted), can be detrimental to land snails and their habitats (Murcia 1995). Logging and road construction creates edge effects between cut and uncut forest (i.e., the edge) and as a result, creates an environment that is different from interior or undisturbed forest habitat. Logging and road construction most often creates edges between older forest and younger forest, but in some cases (i.e., clearcutting) creates edges between older forest and no forest. The creation of edges often leads to increased levels of light, increased air and soil temperatures, lower soil moisture, increased exposure to wind and other weather, and decreased diversity when compared to interior or undisturbed forest(Baker and Dillon 2000). Additionally, edges amplify or alter the effects of natural disturbances, such as fire (Baker and Dillon 2000). However, the impacts of “edge effect” often extend beyond the edge itself (Murcia 1995, Baker and Dillon 2000). The depth-of-edge influence, or the distance over which an edge environment differs from an undisturbed forest environment, may extend 60 meters (approximately 197 feet) or more from an edge into undisturbed forest (Baker and Dillon 2000). Thus, the detrimental impacts of logging and road construction (i.e., increased insolation, increased ground temperature, increased exposure, decreased moisture and humidity, and decreased diversity) may be experienced by Black Hills mountainsnail colonies and their habitat even though logging may be occurring 60 or more meters away. The FS must address this potentially significant impact.

BCA-2502

Additionally, logging and road construction may indirectly impact Black Hills mountainsnail colonies by negatively affecting suitable habitat and local hydrology. Frest and Johannes (2002) state, “...to effectively conserve the colony, consideration must be given to the surrounding plant community, the dynamic aspect of snail colonies, and, perhaps most importantly, the geology (physiography, geomorphology, and ground water hydrology, minimally) of the site” (p. 14). Logging and road construction may reduce vegetative diversity and degrade and/or destroy vegetation communities that support Black Hills mountainsnail, which in turn limits the ability of colonies to expand and/or disperse (Frest 2003, Frest and Johannes 2002). According to Frest (2003), most Black Hills mountainsnail colonies are ephemeral, or shift back and forth through time. Therefore, while the species may not exist in a suitable habitat at the present, it is very likely that the species may inhabit suitable habitat in the future (Frest 2003). Logging may also adversely affect local hydrology (Frest 1994, 2003). Surface water and ground water are closely related on the Black Hills (USFS 1996). Accordingly, logging may indirectly reduce the availability of water for absorption into the ground by increasing insolation, increasing ground temperature, increasing exposure, and decreasing moisture and humidity (USFS 1996a,

BCA-2503

## **USFS Response – Biodiversity Conservation Alliance p. 25**

### **BCA-2501**

Mitigation related to land snails (EA p. 33) has been modified.

### **BCA-2502**

No construction of new roads is proposed where land snail colonies are known to exist. Many of the snail colonies documented by Frest and Johannes (1993, 2000) are adjacent to roads, suggesting that these species may not be overly vulnerable to road-related edge effect. The cited study (60-meter buffer suggestion) was conducted in the southern Rocky Mountains and may or may not be applicable to the Black Hills. Phase 1 Amendment direction requires that snail colonies identified by Frest be “protected from adverse effects of livestock use and other management activities” (Revised Forest Plan standard 3103), and this is the direction that would be followed under this project.

### **BCA-2503**

The Cement EA presents a reasoned discussion of the direct, indirect, and cumulative effects on Cooper’s Rocky Mountain snail and Cockerell’s striate disc snail and makes a determination of effects based on information on these species. Only one site in the Cement area is known to contain Cooper’s Rocky Mountain snail; no Cockerell’s striate disc snails have been found in the project area.

Of the 13 documented snail colonies within the project area, three are in the vicinity of proposed prescribed burns. None of these colonies contains sensitive snail species. No actions would occur at colony sites or in a buffer to be placed around each colony. Buffer size would be determined on a case-by-case basis depending on the size of the colony, the potential for adjacent areas to provide snail habitat, and the potential for negative impacts to that specific colony. This mitigation measure has been clarified in the EA (p. 33).

Frest 1994, Frest 2003). In turn, this may reduce the availability of water for springs, seeps, or other moist areas that typically support Black Hills mountainsnail (USFS 1996, Frest and Johannes 2002, Frest 1994, 2003). The FS must address these potentially significant impacts.

Finally, while the FS proposes to “minimize” impacts to any newly discovered colony of land snails, we cannot understand how this measure has any relevance. Is the FS going to undertake new surveys of the area to try and discover new colonies or is the agency going to rely on loggers to do surveys? How will the FS ensure that new colonies can be found? If new colonies are found how will the FS “minimize” impacts?

BCA-2601

16. BROWN CREEPER,

The DEA’s analysis and assessment of impacts are very disconnected. For instance, the FS states that, “Alternatives 2 and 3 would decrease structural stage 4B to 3,940 acres (-11%) and 4C to 1,348 acres (-15%),” yet there is no assessment for these habitat declines or context provide that would suggest the brown creeper will be adequately protected in light of these declines.

Furthermore, recent studies have all found that brown creepers are only found in unmanaged stands of ponderosa pine and that logging has a negative impact on the bird (Thomas 1979, Crompton 1994, Dykstra 1996, Dykstra et al. 1999, Rumble et al. 2000, Anderson and Crompton 2002). Studies have also documented the importance of “interior” forest to the brown creeper, or large blocks of mature to late successional forest (Anderson and Crompton 2002). Anderson and Crompton (2002) recommend that:

Despite increasing demands for timber harvest, large tracts of unlogged, mature forest should be retained throughout the Black Hills. These areas contain the habitat characteristics associated with many timber-gleaning insectivores and ovenbirds. As the landscape becomes more fragmented, the value of large contiguous tracts of dense forest will become increasingly important to maintain populations of interior-dwelling birds. (p. 372)

While the DEA provides no analysis of how the Cement timber sale will affect fragmentation and patch size in the project area, it seems reasonable to conclude that the proposed logging and road construction will continue to reduce patch size, reduce the availability of interior forest, and overall degrade thousands of acres of brown creeper habitat. In light of these negative impacts, how is it possible that this species will not be significantly impacted? Furthermore, while the FS will retain all trees over 20” in diameter, it is difficult to understand how this measure will adequately protect the brown creeper, especially given its negative reactions to logging and its need for interior forest habitat. And, while the FS is obviously not going to cut the entire project area, it is still difficult to understand how the negative impacts of the Cement timber sale will be offset by the availability of “uncut” habitat. The DEA provides no information or analysis showing how much brown creeper habitat will remain, whether this habitat is well-distributed, and whether or not this “uncut” habitat will be treated in the near future (i.e., experience reasonably foreseeable impacts).

BCA-2602

Finally, no population trend data is presented to provide any context for the habitat declines that will occur as a result of the Cement timber sale. The FS has thus failed to provide the most minimal context for its assessment, that is the agency’s requirement that population trends of management indicator species be monitored and integrated into project-level analyses to ensure the viability of native species will be maintained. We request the FS present population trend data to ensure a valid and accurate assessment of impacts to the brown creeper and to other species dependent upon dense mature and late successional forest habitat.

## **USFS Response – Biodiversity Conservation Alliance p. 26**

### **BCA-2601**

See response to BCA-2501 (p. D-85).

### **BCA-2602**

As stated on EA p. 84, a literature review (Hejl et al. 1995) found that every study on the effects of timber harvesting in the Rocky Mountains suggested that brown creepers are less abundant in harvested than unharvested stands, not that they are “only found in unmanaged stands” as stated by the commentator. In the Black Hills, Panjabi (2003) has found the species to occur in greatest density in late-succession pine and white spruce. Late-succession pine stands in the Cement project area would not be affected under any alternative (EA p. 56). Approximately 15% of the other existing acreage of dense, mature pine would be affected, mainly by thinning from below. In these stands, basal area would decrease to 60-80 ft.<sup>2</sup> per acre, and crown closure would decrease to 40-70%. This treatment would moderately open the stands, but the large-tree component would remain (EA p. 14-15) and all existing snags would be left standing unless they posed a safety hazard. Because this treatment would take place on a relatively small percentage of the existing dense, mature stands, would not substantially change the overall character of the stands, and would have the benefit of increasing the likelihood that the stands could withstand fire or insect attack, the risk to brown creeper across the project area was considered to be minimal. Following thinning, density of treated stands would once again increase. Future activity in these stands is not known at this time; analysis of the project area is planned to occur, but the exact location of treatments and the standards and guidelines that may be in place at that time are not currently known.

17. AMERICAN MARTEN

We can find no reason why the American marten was excluded from analysis. While typically this species prefers mesic stands of spruce/fir forest, on the Black Hills it is believed that ponderosa pine stands may also be used as habitat for this sensitive species (Buskirk 2002). This is because so little spruce currently exists on the Black Hills and because in order for the species to disperse between spruce stands, the marten inevitably must use ponderosa pine as dispersal habitat. Buskirk (2002) states, "...it would be physically impossible for a marten to assemble a home range in the Black Hills without include some or a majority of ponderosa pine-dominated forest" (p. 17). Therefore, it is entirely likely that dense mature and late successional ponderosa pine stands in the Cement timber sale area provide suitable habitat for the marten and potentially support marten. Given that the species has a fairly large home range, the FS must also consider the possibility that martens outside of the project area may use the Cement timber sale area.

BCA-2701

18. SENSITIVE PLANTS AND OTHER PLANTS OF SPECIAL CONCERN

In terms of rare plant issues, the DEA is a great improvement over past projects, due to the inclusion of surveys for species of concern, and identification of high potential habitat. However, beyond this information gathering, there is no real implementation of management for species of concern.

Areas with species of concern and high potential habitat must be *excluded* from timber harvest. It is unrealistic to expect rare plants to take precedent over harvest activities when harvest is already underway, for several reasons.

1. The agency will be relying on staff to "consult this information" (locations of sensitive species) or the district botanist, prior to layout of units (e.g., section 15, p. 32). This defers decision-making to individuals who may or may not be sympathetic to rare plant concerns, and does not ensure protection of sensitive plants as required under the Phase I Amendment and existing policy and regulations.
2. The agency repeatedly relies on consultation with a staff botanist as a means of protecting sensitive species while timber activities are underway. This also does not ensure protection, as there is no guarantee that a qualified botanist will be on staff or be able to visit the site before timber activities are implemented. It is difficult to believe the District Office will be able to commit a botanist every time there may be a question over impacts to sensitive plants.
3. The agency does not have the resources to adequately monitor and enforce requirements once timber harvest is underway.

BCA-2702

In addition to this major weakness with the DEA, there are several more specific problems. For instance, the agency offers "sensitive species contingencies" as additional protection for species of concern (DEA, p. 33). However, it is clearly stated that this will only be implemented when it is "in the government's best interest" - making this meaningless as a protective measure. It should always be in the government's best interest to protect sensitive plants and it is discouraging to see that the FS is making such a judgment call.

BCA-2703

The DEA states that surveys were done, but there is no indication as to how much was done, nor how much high potential habitat remains unsurveyed. In the dense vegetation characteristic of rare plant habitat in the Black Hills, we have heard that pre-project surveys often are incapable of completing all

BCA-2704

## **USFS Response – Biodiversity Conservation Alliance p. 27**

### **BCA-2701**

Description of rationale for not analyzing effects on American marten has been expanded (EA p. 61). See also response to comment NECBB-0401 (p. D-141).

### **BCA-2702**

As stated on EA p. 33, known populations of sensitive plants and high-potential sensitive plant habitat would be protected from disturbance, i.e. no activities would take place in these areas.

Referenced mitigation has been changed to reflect the fact that no activities would take place in high-potential sensitive plant habitat (EA pp. 32-33).

### **BCA-2703**

The mitigation measure states “If...it is in the government’s best interest to leave unharvested a portion of the timber sale in order to protect the site or population...” The commentator has interpreted this as meaning that the site would only be protected if the government would benefit. This is not the intended meaning; protection of such sites is not discretionary. The statement means that leaving a portion of the timber sale unharvested may not be the only way to protect the site. This may be more applicable to heritage resources than biological (the mitigation measure refers to both). Heritage resource sites can sometimes be protected through means other than dropping the activity, such as protecting a road in which cultural artifacts have been found by plating it prior to use by heavy equipment. Discovery of a population of a sensitive plant species not known to be beneficially affected by disturbance would result in avoidance of the site, i.e. no timber harvest.

### **BCA-2704**

No activities are proposed in any high-potential sensitive plant habitat. Initially the project proposed activities in some of these areas, but these treatments were dropped (see EA p. 16). Possible high-potential habitat outside the areas originally proposed for treatment was not surveyed, and no treatments were added in the unsurveyed areas.

needed survey in the time allotted for NEPA analyses. All high potential habitat should be excluded from timber harvest activities to ensure adequate protection of sensitive plants and their habitats.

In discussing impacts to sensitive species, the agency redefines biology to suit its needs. For instance, the DEA states that the mesic hardwood stands characteristic of rare plant habitat are successional to pine (DEA, p. 89). There is no evidence for this. If the agency has found real documentation for this statement, it needs to be included. Similarly (same page, Cumulative Effects), it is stated that fire suppression has led to increased cover in these stands, in spite of the fact that these mesic stands burn much less frequently, often remaining unburned when fires do occur. These inconsistencies must be addressed

BCA-2801

Finally, in the agency's determination of impacts to sensitive plants, the agency states that although all alternatives may have indirect effects, it is unlikely that there will be loss of viability on the planning area. Given that there is no guarantee that any populations will be protected once harvest is underway for the reasons given above, this statement is not supported.

BCA-2802

19. BLACK HILLS MONTANE GRASSLANDS

We request the FS fully analyze and assess the potentially significant impacts to Black Hills montane grassland communities, which exist along Cement Ridge in the project area (Marriott et al. 1999). Black Hills montane grassland communities have been found to be globally imperiled, making it critical that the FS ensure these areas are not adversely impacted by logging, road construction, and other potentially damaging activities.

BCA-2803

20. SOILS AND WATERS

We cannot understand how the FS can appropriately rely upon BMPs as appropriate mitigation measures. The DEA presents no information or analysis showing that Wyoming State BMPs are effective in protecting water quality, aquatic ecosystems, and soils on the Black Hills. Although some monitoring has been done of BMP effectiveness in Wyoming (Wyoming Timber Industry Association 2001), we cannot see how these monitoring results provide any meaningful insights. Indeed, there are many flaws in the monitoring that render all results meaningless. For instance:

- The report presents no cumulative effects discussion. For instance, the report does not discuss historic impacts to watersheds and fails to disclose the existing conditions of the watersheds that were monitored.
- The report does not cite or present any water quality monitoring data to suggest any relationship exists between BMP effectiveness and the protection of water quality.
- The report provides no temporal context for its conclusions. There is no indication that five years down the road the BMPs will lead to increased problems. There is no information provided on the long-term effectiveness of BMPs.
- There is no attempt to distinguish existing conditions in any of the monitoring areas. The report does not disclose whether a stream is impaired, whether a Class I Watershed exists, etc.
- The report is entirely based on qualitative measurements, which are helpful, but without a quantitative context are meaningless and cannot provide accurate insights into the ability of mitigation measures to effectively protect water quality.
- The report doesn't distinguish between "met" or "exceeded" BMP effectiveness, thus lumping these two categories into one and biasing the overall results and data.

BCA-2804

## **USFS Response – Biodiversity Conservation Alliance p. 28**

### **BCA-2801**

Contrary to the commentator's assertion, the EA states that some hardwoods (particularly birch and mixed birch/aspen) in this area may generally not be seral to pine (EA pp. 16, 94). Originally proposed treatments were dropped for this reason.

The cited statement reads "Suppression of fire has resulted in more continuous forest cover, increasing the danger of large fires and possibly reducing water available to other species and systems" (EA p. 89). This statement refers to general forest cover, not sensitive plant habitat. It means that, because the Black Hills forest is more horizontally continuous as compared to historic conditions, wildfires may encounter few unforested areas and potentially grow large.

### **BCA-2802**

See responses to BCA-2702 through 2801.

### **BCA-2803**

Analysis of effects on botanical resources did not address rare communities, including montane grasslands. The analysis focused on sensitive plant species and habitat (which often, but not always, overlap with rare communities). The report referenced in this comment is "Survey of Black Hills Montane Grasslands" (February 25, 2000), prepared by Hollis Marriott for the South Dakota Department of Game, Fish and Parks. The montane grassland vegetation type is considered imperiled at the state and global level (Natural Heritage Network, The Nature Conservancy). The report concluded that seven of 93 potential sites in the Black Hills are of sufficient quality to qualify as conservation targets. Among the seven sites is an 80-acre area on Cement Ridge. This site would be excluded from any treatment.

### **BCA-2804**

The EA considers BMPs to be design criteria. The effectiveness of BMPs is well established through numerous studies in several different climates and forest types. Schuler and Briggs (Northern Journal of Applied Forestry, 2000) indicate a statistically significant relationship between BMP application and sediment movement. An audit team consisting of members from the USDA Forest Service, USDA NRCS, Wyoming Department of Environmental Quality, and the University of Wyoming conducted the fieldwork for the BMP monitoring report published by the Wyoming Timber Industry Association in 2000/2001. Therefore, the Black Hills National Forest has no reason to question the accuracy or validity of the findings of this report. The report finds that audited timber sales in Wyoming meet or exceed the effectiveness standards set forth by the BMP handbook on 93% of the sites monitored, and on all 114 of 114 sites monitored on federally managed land.

- The report was prepared by the Wyoming Timber Industry Association, making it very difficult to take the results of the monitoring seriously. We find it hard to believe that a group dedicated to promoting logging can effectively measure the impacts of logging. It is to their interest to bias the results of monitoring in favor of logging and thus, there is no credibility to the report.

Furthermore, although Best Management Practices (BMPs) and some types of road maintenance and improvement provide some nominal reduction in the some types of damage caused by roads, they do not come close to reducing road impacts to ecologically insignificant levels. Several types of environmental havoc caused by roads cannot be reduced an iota by BMPs. For instance, the loss of LWD recruitment from roads in riparian areas and the interception of subsurface flows at road cuts cannot be ameliorated by BMPs. Ziemer and Lisle (1993) indicated that there are no reliable data indicating that BMPs are cumulatively effective in protecting aquatic resources. Espinosa et al. (1997) provided evidence from case histories in granitic watersheds in Idaho that BMPs thoroughly failed to cumulatively protect salmonid habitats and streams from severe damage from roads and logging. In analyses of case histories of stereotypical resource degradation by stereotypical land management (logging, grazing, mining, roads) several researchers have concluded that BMPs actually increase watershed and stream damage because they encourage heavy levels of resource extraction under the false premise that resources can be protected by BMPs (Stanford and Ward, 1993, Rhodes et al., 1994 Espinosa et al., 1997). Stanford and Ward (1993) termed this phenomenon the "illusion of technique." Furthermore, the mere existence of roads causes erosion and sediment transport (Waters 1995), raising serious questions as to whether BMPs can effectively reduce this impact to insignificant levels.

BCA-2804

Therefore, we request the FS fully assess the effectiveness of BMPs to ensure waters and soils are fully protected in the Cement timber sale area. The FS must ensure that BMPs are effective. If the FS cannot assure the effectiveness of BMPs, then the agency must prepare an EIS to address the uncertainty associated with soils and water impacts and to address the potential violation of State and Federal environmental laws.

In both alternatives the Forest Service builds a brand new road up the south fork of Pole Cabin Gulch towards the ridge between the South Fork Pole Cabin and Surprise Gulch. This planned road would cross a stream, cross a wet meadow soggy area and go along the edge of a beautiful drainage that is full of yellow barks, aspen and birch and shrubs, marshes and wet meadows. In light of this impact, we cannot understand how the FS can possibly concluded that riparian areas and wetlands will not be adversely impacted.

BCA-2901

Additionally, we question the FS's assertion that roads will not cause any significant adverse impacts. Will roads cross streams? Will roads travel down drainages? Will roads disturb soil? If the answer to any of these questions is "yes," then there is a potential for significant adverse impacts. While the FS claims that mitigation measures will minimize impacts, by how much? How much will mitigation reduce impacts? Is this level of "minimization" adequate to render impacts insignificant? What thresholds does the FS use to assess the significance of impacts to waters and soils?

BCA-2902

#### 21. CUMULATIVE EFFECTS OF HUMAN-CAUSED FIRES

In the discussion of fire hazard and fuel loading, there does not seem to be any discussion of the direct, indirect, and cumulative impacts of the risk of human-caused fires. For instance, how do roads affect the possibility of a human-caused fire? What is the risk of a human-caused fire occurring in the area? Have human-caused fires occurred in the area in the past? Given that most fires that have burned recently on

BCA-2903

## **USFS Response – Biodiversity Conservation Alliance p. 29**

### **BCA-2901**

The crossing of Pole Cabin Gulch by the newly proposed road can be designed to comply with Forest Plan standard 1203. Effects to the stream would be sediment-related only, and would only be realized during construction and stabilization of the road fill. Revegetation of the fill would be completed within 6 months (standard 1110), and sediment input would occur following periods of log truck traffic and runoff events. The road itself would be located uphill from and out of the draw bottom. Proper design of the road would prevent erosion of the cut, fill, and road surface. These prevention efforts would keep sediment from reaching the draw bottom. The road would also be designed to allow proper flow of hillslope runoff and subsurface flow to travel from uphill to the draw bottom.

### **BCA-2902**

One new road/creek crossing would be created, and one old crossing would be eliminated. Neither of these crossings would generate watershed effects for Sand Creek, located several miles downstream. Other roads that would be built total about 3.8 miles. Roads to be put in storage total about 13 miles, and roads to be decommissioned total about 23 miles. These details and the benefits of road decommissioning are discussed on p. 20 of the draft EA. With an overall reduction of open road miles and actual road miles, watershed effects from roads are expected to be reduced. Additional rehabilitation efforts at individual road/stream crossings will further reduce effects.

### **BCA-2903**

The Revised Forest Plan associates fire risk with fire occurrence. Records of fire activity show that 55 fires occurred in the project area between 1970 and 2001. Seven fires were one acre or more in size. Two human-caused fires are included, with the largest fire being 6 acres.

Roads that allow suppression forces to move quickly also allow easy access by the public. Easier access increases the potential for human-caused fires (EA p. 101). The risk of human-caused fire in the Cement project area is difficult to quantify. Historic records suggest that risk is not high. The models used to analyze this project area assumed that a fire would spread from the southwest to the northeast, as most large fires on record in the northern Black Hills have done. In the project area, a large stand-replacing fire would likely spread from an area that has no permanent human habitation into an area with groups of dwellings or individual ranch homes and associated buildings.

The crown fire hazard analysis for the Cement project area indicates that some of the southeast, south, and southwest aspects with a crown closure of at least 45% and crown base heights of 14 feet or less have the potential to transition from the surface to the canopy, with a crowning index (wind speed) about 4 mph.

the Black Hills have been human-caused, it would behoove the FS to assess the risk associated with such a possibility. Such an assessment is necessary to fully assess fire hazard in the project area.

22. CUMULATIVE IMPACTS TO LYNX (*LYNX CANADENSIS*), A FEDERALLY THREATENED SPECIES, AND ITS HABITAT

In the final rule to list the lynx in the contiguous United States, the USFWS (2000) stated:

Lynx observations in Nevada, North Dakota, South Dakota, Iowa, Nebraska, Indiana, Ohio, and Virginia are considered individuals dispersing subsequent to periods of cyclic high lynx numbers in Canada. During the early 1960's, lynx moved into the Great Plains and Midwest Region of the U.S. associated with an unprecedented cyclic high in Canada. These records are outside of the southern boreal forests where most lynx occurrences are found. We conclude that these unsuitable habitats are unable to sustain lynx and that these records represent dispersing individuals that are lost from the metapopulation unless they return to boreal forest. We do not consider these states to be within the contiguous U.S. range of lynx.

65 Fed. Reg. 16059 (citations omitted). However, with regards to historical lynx observations in South Dakota, historical records and the best available science flatly contradicts the USFWS. Indeed historical records and the best available science strongly indicate the lynx historically inhabited the Black Hills of western South Dakota and possibly northeastern Wyoming as a permanent resident and the USFS must address this information.

Lynx in the Black Hills

Reports have indicated that the lynx historically inhabited the Black Hills. Turner (1974) states:

Lynx canadensis is typical of the heavily forested boreal regions of North America, but formerly occurred sparingly in suitable habitat in the Northern Great Plains region. Grinnell (1875:79) and Dodge (1876:323) both indicated that this species previously inhabited the Black Hills, and there have been several recent reports of lynx in the area. (p. 263)

Turner (1974) further reports that one lynx was taken from Meade County in the Black Hills in 1944 and that two specimens that had been shot in the northern and western Black Hills were examined between the years 1964 and 1974. Some of these reports may coincide with the increase in lynx populations in Canada during the 1960's (USFWS 2000). However, the reports of Grinnell (1875) and Dodge (1876) strongly indicate the lynx historically inhabited the Black Hills as a permanent resident – not as dispersing individuals.

Indeed, both Grinnell and Dodge were part of the first two European-American expeditions into the Black Hills and were the first European-Americans to report on the natural resources of the Black Hills. Grinnell accompanied the Custer expedition into the Black Hills in 1874 and Dodge led the next expedition in 1875 (Ludlow 1875, Dodge 1876).<sup>3</sup> This is significant in two regards. First, their reports were the first European-American accounts of the natural resources of the Black Hills. Thus, their reports most likely reflect an accurate baseline with which to assess historical conditions on the

<sup>3</sup> It is important to note that both expeditions entered the Black Hills illegally and are probably better characterized as invasions. The U.S. Government had previously entered into the Ft. Laramie Treaty of 1868 with the Sioux Nation of Indians. The Treaty explicitly prohibited white people from entering the Black Hills. In complete disregard to the Treaty and the Sioux Nation, both Custer and Dodge entered the Black Hills.

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### **BCA-3001**

The determination on lynx made by the U.S. Fish & Wildlife Service is outside the scope of this analysis. See also Revised Forest Plan FEIS Appendix H.

Black Hills. Second, both the Custer and Dodge expeditions entered the Black Hills with a mission to inventory natural resources. Both Ludlow (1875) and Dodge (1876) provide extensive accounts of various natural resources of the Black Hills, including flora and fauna. Finally, the fact that the first two European-American expeditions into the Black Hills both reported lynx is uncanny. These consistent findings lend a significant level of accuracy to the reports, strongly indicating that the lynx historically inhabited the Black Hills as a permanent resident.

Although there are few subsequent reports of lynx in the Black Hills, the lack of further reports is most likely attributable to the extensive exploitation of timber and wildlife that occurred after European-American settlement. Reports of gold in the Black Hills in 1874 marked the beginning of European-American settlement and the beginning of widespread and intensive exploitation of timber, wildlife, and other resources (Graves 1899, Shinneman 1996, USFS 1996). In his 1891-1897 forest inventory, Graves (1899) reported widespread logging and human-caused fires had already impacted much of the Black Hills. Additionally, from the years 1875 through 1898, over 1.5 billion board feet of timber was cut in the northern Black Hills alone (USFS 1948). As a result of hunting pressure, other mammals, like the grizzly bear (*Ursos arctos horribilis*), Audubon's bighorn sheep (*Ovis canadensis auduboni*), Manitoban elk (*Cervus eleaphus subsp.*), and gray wolf (*Canis lupus*), were either extinct or very near extinction on the Black Hills by the 1900's (Froiland 1990, Raventon 1994, USFS 1996). It is likely this early unchecked exploitation of timber and wildlife caused the decline and possible extirpation of the lynx on the Black Hills following the reports of Grinnel and Dodge. Indeed, such activity is believed to have caused declines of lynx elsewhere within its range (USFWS 2000).

Overall, historical reports of lynx inhabiting the Black Hills seem accurate and valid. These reports indicate that the lynx historically inhabited the Black Hills as a permanent resident (Grinnel 1975, Dodge 1876, Turner 1974), but that extensive habitat modification and unchecked hunting pressure has most likely caused the decline and possible extirpation of the species (Graves 1899, Shinneman 1996, USFS 1996), similar to what has occurred in other portions of the species' contiguous United States range (USFWS 2000). The Black Hills should therefore be considered as within the contiguous United States range of lynx.

#### Lynx Habitat in the Black Hills

While historical reports of lynx inhabiting the Black Hills strongly indicate that the Black Hills are within the contiguous United States range of the lynx, the historical and present-day existence of suitable habitat further supports these findings.

- Forest habitat

The USFWS (2000) reports that spruce forest is utilized extensively by the lynx, although other forest types may also be utilized, depending on the abundance of prey and down woody debris, as well as climate. The Black Hills support white spruce forest (Hoffman and Alexander 19897), which is utilized by the lynx elsewhere within its range (USFWS 2000). White spruce forest on the Black Hills is locally abundant in the higher elevations, canyons, and moist sites, and appears to exist primarily in the northern and central Black Hills (Graves 1899, Hoffman and Alexander 1987, USFS 1996). See, Figure 2. There is currently over 20,000 acres of white spruce in the Black Hills.

However, there is evidence that white spruce forest was once more prevalent in the Black Hills. Graves (1899) reported "considerable bodies of spruce" in the northern part of the Limestone Range and that

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many northern slopes supported “pure” stands of spruce (p. 76). Graves (1899) reported the distribution of white spruce to be generally “in the northeastern section of the hills, above an elevation of about 4,500 feet” (p. 76). However, as is evident today, the northeastern Black Hills support little to no spruce (Figure 2), an indication that the tree species’ distribution has been reduced and may be below historical levels.

Additionally, while Graves (1899) reported 15,000 acres of spruce to exist on the Black Hills, he also reported that much of the forest had been impacted by fires and logging. In particular, fires in 1881, 1891, and 1893 impacted much of the northern and central Black Hills and were reported to impact much of the Limestone Range (Graves 1899). Graves (1899) also reported heavy logging to have occurred throughout the northern and central Black Hills. And, although white spruce was not an economically important tree species, the tree was utilized for mine timbers, firewood, and sometimes for lumber (Graves 1899). These early reports strongly suggest that the historical extent of white spruce in the Black Hills may have been reduced by fires and logging.

Recent analysis of historical natural disturbance in the Black Hills also indicates white spruce may have been more prevalent in the Black Hills. Based on climatic and structural conditions, as well as historical reports, the central and northern Black Hills are believed to have been historically dominated by infrequent stand-replacing wildfires that impacted large areas (e.g., 19,000 hectares) of the forest (Shinneman 1996, Shinneman and Baker 1997). As a result of this disturbance regime, the northern and central Black Hills are believed to have historically supported large, contiguous, and dense patches of old, even-aged forest (Shinneman 1996, Shinneman and Baker 1997). As white spruce is very sensitive to the effects of fire (Graves 1899, USFS 1996), the infrequent occurrence of stand replacing fires most likely stimulated the development of large, dense stands of spruce in the central and northern Black Hills. Thus, Graves’ (1899) reports of “considerable bodies of spruce” in parts of the Black Hills seem consistent with the natural disturbance regime.

Unfortunately, the natural disturbance regime of the northern and central Black Hills has been greatly altered due to the effects of human activities (Shinneman 1996, Shinneman and Baker 1997). The occurrence of widespread historical and contemporary logging, road construction, and other activities (e.g., cultivation of land, largescale mine development) usually precludes the occurrence of largescale, stand replacing fires and the subsequent development of large, contiguous, dense, and old forest in the Black Hills (Mehl 1994, Shinneman 1996, USFS 1996, Shinneman and Baker 1997, Shinneman and Baker 2000). Furthermore, logging and associated activities (e.g., road construction, thinning) on the Black Hills directly inhibits the development of large, contiguous, dense, and old forest by reducing stand density over large areas, fragmenting the forest into smaller stands of varying ages, and by promoting the development of young stands over old stands (USFS 1996, Shinneman and Baker 1997, Shinneman and Baker 2000). Indeed, management of the forest in the Black Hills has typically emphasized reducing forest density across the landscape (USFS 1996). Additionally, as white spruce is a climax species (USFS 1996), it is highly likely that widespread logging precludes the establishment and persistence of spruce in potentially suitable habitats. Because of the impacts of historical and contemporary forest management on the natural disturbance regime and forest structure of the northern and central Black Hills, it is highly likely that white spruce was historically more abundant on the Black Hills.

The status of certain native species on the Black Hills also seems to attest to the historical abundance of white spruce. Currently, the three-toed woodpecker (*Picoides tridactylus*) population on the Black Hills is dangerously low (Mohren 2002, Panjabi 2003). Recent reports suggest the bird’s population is around 20 individuals (Mohren 2002). Observations and studies of the three-toed woodpecker in the Black Hills and elsewhere have shown the value of spruce forest to the health of the species’ population (Imbeau and Desrochers 2002, Mohren 2002, Panjabi 2003). In particular, three-toed woodpeckers seem to be closely

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associated with mature spruce stands where natural disturbance processes (e.g., fire, insect outbreaks) are allowed to take place (Id.). The low population of three-toed woodpecker in the Black Hills has been attributed to the control or elimination of natural disturbance processes and the lack of mature spruce forest (Mohren 2002). Mohren (2002) states, “Currently... white spruce is limited in the Black Hills area, and this may be an explanation for the low population size of the three-toed woodpecker” (p. 90). The status of the three-toed woodpecker and its habitat in the Black Hills also strongly suggests that white spruce forest was historically more abundant.

Finally, while the USFWS (2000) did not identify ponderosa pine (*Pinus ponderosa*) forest as potential lynx habitat, it is highly likely that ponderosa pine historically provided lynx habitat in the Black Hills. In the northern and central Black Hills, the ponderosa pine grows naturally dense throughout its lifetime (Shinneman 1996, Graves 1899). This phenomenon results in the development of large, dense stands of large-diameter ponderosa pine that continue to grow until fire, insect outbreak, or other disturbances occur (Shinneman 1996, Graves 1899). As Duthie (1930) stated:

The western yellow pine of the Black Hills has a peculiar habit, when the old forest has been killed or cleared away, of reproducing in dense thickets. I say this is a peculiar habit because it is unlike the behavior of the same pine in forests farther west where the seedlings will not stand crowding, and come up sparsely. But in the Black Hills the western yellow pine has acquired a characteristic of the lodgepole pine in that the seedlings come up in dense stands crowding each other, yet clinging tenaciously to life until growth practically reaches a stalemate....Some of these dense stands may be found where the trees are two hundred years old and the deadlock persists.

The resultant ponderosa pine forest also typically supports abundant down woody debris, an important component of lynx habitat (Mehl 1992, USFS 1996). While not reported as lynx habitat, it seems reasonable to conclude the dense ponderosa pine forest that is naturally typical of the northern and central Black Hills may have historically provided suitable lynx habitat in the Black Hills.

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Prepared by Biodiversity Conservation Alliance With USFS Data

**Figure 2. Current Distribution and Abundance of White Spruce on the Black Hills National Forest. White spruce covers less than 2% of the entire forest. This percentage does not distinguish between mature or young forest (USFS data).**

- Climate

The USFWS (2000) indicates climate may determine where suitable lynx habitat exists. The climate of the Black Hills also suggests that suitable lynx habitat historically occurred on the Black Hills and occurs today. Indeed, the northern and central Black Hills are normally cooler, receive heavier snowfalls, and receive more moisture than the southern Black Hills (Froiland 1990, USFS 1996). The USFS (1996b) states, "The Northern Hills is typically cooler, has heavier snowfalls and more thunderstorms with

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resultant higher annual precipitation (26 inches in the Deadwood-Lead area)” (p. III-7). The cooler and wetter climate of the northern and central Black Hills strongly indicates that suitable habitat for the lynx exists and historically existed in the Black Hills (USFWS 2000).

- Prey

Although the snowshoe hare (*Lepus americanus*) may not have historically inhabited the Black Hills (USFS 1996), the forest does support many other species that may be prey for the lynx (USFWS 2000). The white spruce and ponderosa pine forests of the northern and central Black Hills and their associated vegetation (e.g., aspen (*Populus tremuloides*), birch (*Betula* spp.), box elder (*Acer negundo*), willow (*Salix* spp.), dogwood (*Cornus* spp.)) support red squirrel (*Tamiasciurus hudsonicus dakotensis*), red-backed vole (*Clethrionomys gapperi brevicaudus*), northern flying squirrel (*Glaucomys sabrinus*), ruffed grouse (*Bonasa umbellus*) and other species of mammals and birds that the lynx may prey upon (Turner 1974, USFS 1996, Marriott et al. 1999, USFWS 2000, Panjabi 2003, Hall et al. 2002). As the lynx is at the southern periphery of its range in the Black Hills, the cat may not depend entirely on snowshoe hare as prey and it does not appear that the absence of the hare would preclude the existence of the species in the Black Hills (USFWS 2000). Historical reports suggest the lynx in the Black Hills may depend on prey other than snowshoe hare (Turner 1974).

Overall, the present-day and historical existence of suitable lynx habitat in the Black Hills strongly corroborates historical reports of lynx inhabiting the Black Hills. However, it is entirely likely that extensive habitat modification has most likely caused the decline and possible extirpation of the species (Graves 1899, Shinneman 1996, USFS 1996), similar to what has occurred in other portions of the species’ range in the contiguous United States (USFWS 2000). Because of the present-day and historical existence of suitable lynx habitat, the Black Hills should be considered as within the contiguous United States range of lynx.

In summary, historical reports of lynx and the present-day and historical occurrence of lynx habitat in the Black Hills strongly indicates the Black Hills are within the contiguous United States range of the lynx. Thus, the FS must ensure that the Cement timber sale does not impact any lynx that may be potentially inhabiting the BHNF at this time and must ensure that suitable lynx habitat is not further degraded by the Cement timber sale. Accordingly, an EIS must fully analyze and assess the potentially significant impacts to lynx and lynx habitat and ensure that habitat recovers to the point of being able to support a population of lynx as the species recovers under the Endangered Species Act. Furthermore, the FS must consult with the U.S. Fish and Wildlife Service regarding the potentially adverse impacts to lynx and lynx habitat in the Cement timber sale area and the BHNF as a whole.

### 23. AMERICAN DIPPER

While the discussion of the American dipper in the DEA is clearly canned language (i.e., no real analysis has been completed), there are also no historical records of dipper from streams in the Cement timber sale area or other downstream waterbodies. Therefore, while we concur with the FS’s conclusion that the American dipper will not be impacted, we do not believe it is because water quality will not experience adverse and potentially significant impacts.

### 24. IMPACTS TO OTHER SPECIES

- northern flying squirrel

BCA-3001

BCA-3501

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**BCA-3001**

See previous response page.

**BCA-3501**

(No response needed)

If the FS is not required to analyze and assess potentially significant impacts to species other than threatened, endangered, sensitive, or management indicator species, then why did the FS analyze and assess the potentially significant impacts to the American dipper? Obviously the FS is attempting to avoid its duties under NEPA (i.e., to analyze and assess the impacts to the human environment) and avoiding its duties to ensure the viability of native species is not jeopardized. We can see no other valid reason for ignoring the northern flying squirrel through the Cement DEA.

There also exists a wealth of research on northern flying squirrel, making it entirely feasible for the FS to analyze and assess the impacts of the Cement timber sale to the species. For instance, Reunanen et al. (2000) found that fragmentation of breeding habitat is a huge threat to the northern flying squirrel and that management of boreal forests must maintain a deciduous structure. The two recommended that forest managers recognize these habitat needs and strive to maintain and restore breeding habitat connectivity and maintain deciduous forest structure. Additionally, Bakker and Hastings (2002) recommended that forest managers retain small groups of large snags and live trees with “conks, heavy mistletoe infections, and top damage” (p. 1632). This is to ensure an adequate supply of northern flying squirrel den trees. Furthermore, numerous reports have emphasized the importance of ectomycorrhizal fungi and lichen in the diet of the northern flying squirrel (Hall 1991, Hayward and Rosentreter 1994, Rosentreter et al. 1997). Typically, late successional or old growth forest structure has been found to provide the most abundant forage for northern flying squirrel (Carey 1999).

We therefore request the FS ensure the Cement timber sale does not adversely impact the northern flying squirrel and its habitat. We request the FS develop measures to ensure connectivity between northern flying squirrel breeding habitat is maintained or restored, to maintain deciduous structure (even in pine stands), retain small groups of large snags and live trees exhibiting natural damage, and ensure that adequate foraging habitat is provided for. The FS must fully analyze and assess the potentially significant impacts of the Cement timber sale to the northern flying squirrel.

- ruffed grouse

There has been concern expressed over the ruffed grouse due to its preference for aspen, which is at a very low abundance throughout the BHNF. Additionally, aspen stands are highly fragmented in the Black Hills, inhibiting the ability of this grouse to disperse into new territories. We are concerned that several treatments in pine stands may also affect aspen stands in the Cement timber sale area, possibly destroying or degrading ruffed grouse habitat. We request the FS fully analyze and assess the potentially significant impacts of the Cement timber sale to the ruffed grouse and its habitat.

- American kestrel

Monitoring on the Black Hills has found the American kestrel to be less abundant than historically reported, raising concerns that its population may be in trouble (Panjabi 2001, 2003). Panjabi (2003) states, “This species has probably declined in the Black Hills, perhaps due to the encroachment of forests into open areas and a shortage of large snags for nesting” (p. 42). These findings strongly indicate the American kestrel may not be viable or that its viability is at risk. We request the FS fully analyze and assess the potentially significant impacts of the Cement timber sale to the American kestrel.

- western wood-pewee

Monitoring on the Black Hills has found the western wood-pewee to be less abundant than historically reported, raising concerns that its population may be in trouble (Panjabi 2001, 2003). Panjabi (2003)

BCA-3601

BCA-3602

BCA-3603

BCA-3604

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### **BCA-3601**

Since the dipper had been proposed for emergency listing under the ESA, the Forest Service deemed it prudent to evaluate the possible impacts of the project on that species. The northern flying squirrel is not in that same position. While this species' status may or may not change in the future, the current status doesn't necessarily warrant any special analysis.

### **BCA-3602**

There is no indication that any of the proposed treatments would degrade aspen stands (EA pp. 52, 56) or negatively affect species associated with aspen (EA pp. 87-88).

### **BCA-3603**

Panjabi (2003) states that American kestrel is associated with open country and is probably more abundant on the prairie surrounding the Black Hills. Johnson and Anderson (2002) found that no population trend can be discerned on the Black Hills National Forest based on available information. Forest-wide loss of suitable habitat is outside the scope of this project. The kestrel has not been identified as being at risk (threatened, endangered, sensitive, etc.) or a species of other interest for this project area.

### **BCA-3604**

Western wood-pewee has not been identified as being at risk (threatened, endangered, sensitive, etc.) or a species of other interest for this project area. Population viability across the Forest is outside the scope of this analysis.

states, "Although it is still locally common, the data presented here suggest that Western Wood-Pewee has declined significantly over the past decades" (p. 59). These findings strongly indicate this species may not be viable or that its viability is at risk. We request the FS fully analyze and assess the potentially significant impacts of the Cement timber sale to the western wood-pewee.

BCA-3604

- Sharp-shinned hawk, Cooper's hawk

Monitoring on the Black Hills has found these accipiter species to be in very low abundance on the BHNF, suggesting the species are either rare or experiencing declines (Panjabi 2001, 2003). Panjabi (2003) reports, "Although *Accipiter* hawks have low detectability, it appears that Sharp-shinned hawk presently occurs in very low density in the Black Hills, an it is probably less abundant now than in earlier times, given the intensity of survey effort and low number of observations" (p. 36). Additionally, only four Cooper's hawk were found on the BHNF in 2002 (Panjabi 2003). These findings strongly indicate the sharp-shinned hawk and Cooper's hawk may not be viable or that their viability is at risk. We therefore request the FS fully analyze and assess the potentially significant impacts to the sharp-shinned hawk and Cooper's hawk.

BCA-3701

- Atlantis fritillary

This endemic butterfly must receive attention from forest managers as there is concern over its viability on the Black Hills (Hall et al. 2002). This butterfly subspecies, *Speyeria atlantis pahasapa*, has been identified to prefer intact riparian habitats and is reported to be adversely impacted by grazing and other activities that degrade or impact riparian areas (Scott et al. 1998, Hall et al. 2002). If the FS refuses to analyze and assess impacts to this endemic butterfly subspecies, we will interpret this as further indication that the agency is refusing to recognize and protect the unique biodiversity of the Black Hills. Such attitude is no doubt pushing the Atlantis fritillary and other endemic species and subspecies toward extinction. We request the FS fully analyze and assess the potentially significant impacts of the Cement timber sale to the Atlantis fritillary.

BCA-3702

25. RECREATION

How would the proposed actions affect future off-road vehicle use, including off-road ATV use? Would there be increased off-road vehicle use as a result of the Cement timber sale? Would this be a significant impact? Given the amount of illegally-created (i.e., user-created) roads in the area, what is the potential for future impacts associated with illegal route creation? How would this potential affect wildlife and their habitat?

BCA-3703

We also request the FS not log or build roads along or near trails to preserve their recreational value. If the FS chooses to log or build roads along or near trails, we request the agency fully analyze and assess the impacts these activities pose to the recreational value associated with these trails and their aesthetics. Additionally, how would the project affect conflicts between motorized and non-motorized recreational users?

26. FLAWED ECONOMIC ANALYSIS

The DEA states that there is insufficient information to analyze and assess the impacts of the Cement timber sale to economic values associated with recreation and habitat for rare species. However, such information is necessary to understand the potential economic costs and benefits associated with the project. Indeed, Congress directed that all agencies of the Federal Government shall:

BCA-3704

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### **BCA-3701**

Viability of these species across the Forest is outside the scope of this analysis.

### **BCA-3702**

Livestock grazing is outside the scope of this analysis. Possible effects of the proposed activities on riparian areas are discussed on EA pp. 99 and 102.

### **BCA-3703**

Under Alternatives 2 and 3, off-road vehicle use would be prohibited in Management Area 4.1 (7.6% of the project area). Since Revised Forest Plan direction leaves Management Area 5.1 open to off-road motorized travel, users may well continue to create travelways where resources (soil, water, vegetation) could be damaged. Off-road vehicle use could increase in harvested timber sale units as vegetation is thinned. User-created travelways are often subject to soil loss as erosion occurs. Wildlife can be negatively affected by the presence of these travelways due to easier hunting access and disturbance during critical times.

If the motorized closure in Management Area 4.1 is implemented, conflicts between motorized and non-motorized users would decrease. The emphasis of the area would be for non-motorized activities. Conflicts between user groups would be likely to continue in Management Area 5.1 until Revised Forest Plan direction is changed.

### **BCA-3704**

See economic efficiency discussion in the Revised Forest Plan FEIS.

Identify and develop methods and procedures in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations[.] 42 USC 4332(2)(B)

Therefore, while the FS may have insufficient information regarding the quantified values associated with recreation and wildlife habitat, the agency still must ensure appropriate consideration of values associated with environmental amenities. Unfortunately, the economic analysis fails to do this.

For instance, the FS ultimately calculates a present net value that is based entirely on timber receipts, strongly indicating that environmental amenities were not given appropriate consideration. Additionally, the cumulative effects discussion is entirely relegated to economic effects associated with timber production. Yet, there is no mention of cumulative impacts to environmental amenities or economic benefits associated with non-timber production activities.

**OTHER CONCERNS AND COMMENTS**

Overall, the DEA is entirely inadequate in many regards and needs to be revised before a meaningful analysis can be completed. In accordance with 40 CFR § 1502.9(a), "If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion." Given the inadequacies identified above, including an inadequate range of alternatives, inadequate discussion of potentially significant impacts, failure to include key information, oversight of key impacts, and an overall inadequate assessment, either a revised Cement DEA must be prepared or the FS must initiate preparation of a Draft EIS. Indeed, given the potential for significant impacts, it seems highly likely that an EIS is the appropriate NEPA document to disclose the impacts of the Cement timber sale. As discussed in detail above however, if the FS chooses not to complete an EIS, then we request the agency fully explain its reasoning why not.

We also have concerns that the FS's priorities are entirely backward. While the agency is waving its arms about the need for foraging habitat and early successional stages, the FS is at the same time providing no information showing that there is no need for such actions. At the same time, existing research strongly indicates that the Black Hills lack adequate old growth forest and that old growth-dependent species are declining toward extirpation or extinction on the forest.

While there are reasonable alternatives to the proposed actions, we request the FS fully abandon the Cement timber sale. If any activity goes on in the project area, then we request only road decommissioning and closure activities occur.

Sincerely,



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BCA-3704

BCA-3801

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**BCA-3801**

See response to comment 2B (p. D-5).

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# **Black Hills Forest Resource Association**

2040 West Main Street, Suite 315, Rapid City, South Dakota 57702-2447, (605) 341-0875

Ms. Elizabeth Krueger  
Attn: Cement Draft EA  
Bearlodge Ranger District  
PO Box 680  
Sundance, WY 82729

June 6, 2003

Dear Ms. Krueger,

This letter is in response to the District's request for comments on the draft Cement EA and proposed action. The BHFRA and its members, as always, appreciate this opportunity to provide input on project development. As we indicated during project scoping, we are encouraged by the manner in which this project attempts to accomplish silvicultural, fuels reduction, and wildlife habitat goals. A closer review of the environmental assessment has generated additional comments and concerns among our Association.

Purpose and Need for Action

- Per our earlier discussions, we find the District's interpretation of Objective 211 and accompanying snag-related Forestwide Standards completely unacceptable.
- The District cites Forestwide Objective 217 in its justification of travel and vegetative management proposals, but fails to document the current population levels at which game species exist within the project area. We are left without a meaningful basis of comparison against the 1996 state agency objectives, and we must assume the IDT made its recommendations lacking this data as well. In the absence of this information we can only conclude that project's travel management proposals are somewhat arbitrary. The analysis goes on to disclose that Habitat Effectiveness values for deer and elk summer and winter range are exceeded under current conditions. Furthermore, HABCAP is known to over-estimate the importance of open road density and thermal/hiding cover. We certainly are not opposed to carrying higher population levels than the Black Hills LRMP stipulates, but we are left to wonder (because the EA does not disclose it) what other management objectives were foregone on behalf of already-met big game habitat standards.
- We concur with the District's assessment of need for action on the basis of Objectives 103, 104, 105, 209, 213, 224, 226, 227, 228, and 303. We suggest the District also consider how the proposed action will help accomplish Objectives 108, 205, 229, 230, 231, 601, and 901.
- The district cites Objective 309 in its statement of need, but fails to quantify whether a need actually exists under the tenets of this Objective. The analysis does not disclose the extent to which its road construction, reconstruction, and obliteration targets have already been accomplished through project decisions over the planning period.

BHFRA-0101

BHFRA-0102

BHFRA-0103

BHFRA-0104



A renewable resource

## USFS Response – Black Hills Forest Resource Association p. 1

### **BHFRA-0101**

As discussed earlier, interpretation of objective 211 is not at the discretion of the Bearlodge Ranger District.

### **BHFRA-0102**

Habitat effectiveness (HE) values for deer and elk are exceeded under current conditions only for Management Area 5.1 and are below Revised Forest Plan objectives for Management Area 4.1 (EA p. &&). The HE numbers generated by the HABCAP model should be interpreted as absolute values only with caution; the model's greatest utility is in comparison of alternatives via relative differences in values. The Wyoming Game and Fish Department (WGFD) is very concerned with the high mileage of open roads in the project area and the influence it has on security cover (Sandrini 2001). HABCAP is suggesting habitat can be improved for deer and elk under Alternatives 2 and 3.

WGFD population estimates exist for mule deer and white-tailed deer, but on a large area of which the Cement project area is only a small part. Mule deer are currently at the population objective (20,000 individuals) and white-tailed deer are below the objective (24,229 individuals with an objective of 40,000). There are no population estimates for elk and wild turkey, but these species are believed to be increasing.

### **BHFRA-0103**

While the suggested objectives were not identified as high-priority reasons for action in the project area, many of these issues would be addressed by the project.

Objective 108: "Manage for sustained or improved water flows."

As stated on EA p.&& (was 96), none of the alternatives would be expected to affect water flow volumes. The FEIS for the Revised Forest Plan indicates that in order to produce a measurable increase in water yield in small watersheds such as those comprising the Cement project area, basal area would need to be reduced by at least 25%. Furthermore, any increase in water yield is unlikely to be sustained due to pine regeneration and increased growth of other vegetation following timber harvest. Groundwater recharge, water yield, and streamflow regimes are discussed further in the FEIS, pp. III-37 through III-59.

Objective 205: "Restore grassland (meadow and prairie) communities across the forest by 10 percent over 1995 conditions. Determine the restoration potential on a site-specific basis based on landform and soils."

No opportunities for grassland restoration were identified in the project area.

Objective 229: "Using analyses of insect and disease populations, determine where suppression strategies are needed to meet management objectives and minimize value loss of tree vegetation affected by outbreaks of insect and disease pests."

The EA includes provisions to suppress mountain pine beetle infestations (p.&).  
(continued on p. D-121)

Discussion of 'Issues'

▪ In the discussion of effects on biodiversity (p. 11, 19), the analysis states that the proposed actions might have negative effects on the project area in this regard. We fail to see any factual basis upon which this statement can be made. No scientifically recognized metrics of biodiversity were offered in the project analysis, for either current conditions or under the action alternatives' proposals. The closest to such a metric is the existing structural stage distribution, which reveals that the project area is 81% fully stocked, mature pine. Biodiversity can only increase from where it is, and the action alternatives are the vehicle through which such an increase can be realized. Please see that the Final EA reflects these changes.

BHFRA-0201

Action Alternatives

▪ We support the District's determination that an EIS is not necessary to assess the potential impacts of this project.

▪ We concur with the District's assessment that arbitrarily changing all MA 5.1 acres to MA 4.1 is outside the scope of this decision. On similar grounds, we support the District's decision to respect, as RARE I and RARE II intended, the Sand Creek Roadless Area boundary determined during forest planning, rather than circumventing the public input process and offering a de facto extension of this boundary by excluding certain areas from treatment.

BHFRA-0202

▪ We support the District's decision to eliminate the 'no-commercial-timber' and 'prescribed-fire-only' alternatives from serious consideration. These proposals run contrary to the fundamental statutory mandates under which the National Forest System is managed; these are issues vetted at the national forest policy level and have no relevance in the setting of a project decision.

▪ We support the full implementation of state BMP's during harvest activities. However, the transportation and travel management systems Alternative 2 would implement seem inordinately sweeping. The District proposes to reconstruct almost half the roads in the project area, and without more information than what is presented in the analysis we find ourselves questioning the necessity and economic wisdom of such an expansive proposal. On the whole, we would suggest that, where reconstruction is proposed for roads that would subsequently be closed in some form, temporary road standards be considered as an alternative. Often, we find, the engineering proposals exceed that which is required to remove included timber and afford adequate resource protection. Also, if "storage" is a more economically viable alternative than full decommissioning, we suggest the District consider "storing" roads proposed for the latter activity. We understand the need to mitigate the resource damage that can arise from poorly constructed roads, but we would also point out that the vandalism the District has documented as occurring upon in-place closure mechanisms may indicate some frustration on the part of the public with the way travel management has been handled; closing, decommissioning, or "storing" more roads would seem to exacerbate this problem, rather than solve it.

BHFRA-0203

▪ As a general matter, we are encouraged with the size, relative continuity, and variation in silvicultural prescriptions for proposed treatment units in the action alternatives. Too often, units are small and widely dispersed, which lends itself neither to

BHFRA-0204

## **USFS Response – Black Hills Forest Resource Association p. 2**

### **BHFRA-0103, continued**

Objective 230: “Eradicate or limit spread (acres) of new introductions of non-native pests (insects, diseases, plants) to minimize ecosystem disruption.”

Objective 231: “Prevent new infestations and manage to reduce established infestations of noxious weeds. Treat 3,600 acres per year during the next ten years to limit noxious weed infestations.”

Mitigation and design criteria (EA p. 29) are included to minimize new infestations. The overall program of noxious weed control on the National Forest is outside the identified scope of this project.

Objective 601: “Strive to reduce net costs of both market and non-market programs.”

The proposals strive to implement the Revised Forest Plan in an economical manner. Commercial timber harvest can be an efficient way to meet Revised Forest Plan goals and provides funds (e.g., Knutsen-Vandenberg) to accomplish a variety of objectives. The District proposed actions in the project area as necessary given Forest Plan direction, existing conditions, and applicable laws and regulations.

Objective 901: “Provide customers the kind and quality of services they reasonably want.”

The intention of the public involvement process (EA pp. 10-11) is to make the project responsive to public desires and concerns.

### **BHFRA-0104**

The target figures for road construction, reconstruction, obliteration, and two-track obliteration have not yet been achieved during this planning period (Black Hills National Forest Fiscal Year 2001 Monitoring Report, Monitoring Item 32).

### **BHFRA-0201**

Structural stage reflects only one aspect of ecosystem composition. It is not logical to conclude that “biodiversity can only increase from where it is” based solely on structural stage data. This analysis measures biodiversity by the extent to which suitable habitat is present for a variety of sensitive and management indicator species, forest overstory species and structural diversity, and presence of unusual habitats, vegetation communities, and species of plants and animals. Effects of proposed actions on biodiversity are measured by the extent to which actions would change habitat for or pose a risk to individuals or populations of sensitive or management indicator species, increase or decrease forest species and structural diversity, and affect unusual habitats.

### **BHFRA-0203**

Engineering needs for the roads are determined in the field during the EA process. The Forest Service is required to plan, design and construct timber sale roads to standards and design criteria in accordance with the procedures and considerations in Forest

*(continued on p. D-123)*

effecting meaningful changes to the condition of the forest landscape, nor to economically viable harvest operations.

- Pertaining to the proposed fuel treatments and prescribed fire, we would ask the District to minimize damage to the residual forest stand per Forestwide Standard 4108.

BHFRA-0301

Mitigation Measures

- We support the project’s attempt to protect known heritage resources, and toward this end, we encourage the District to require that its archaeologists clearly delineate designated cultural or historic sites on the timber sale area maps. This greatly reduces the chance of accidental damage during the course of sale administration.

BHFRA-0302

- We concur with the District’s assessment of the importance of protecting winter snowmobile recreational improvements. In addition to cautionary signing, we would encourage the District to install interpretive signing, alerting and educating recreators as to the goings-on within the project area.

BHFRA-0303

- We understand and appreciate the need to operate on some sensitive soil types only during dry or frozen conditions. However, it has been a plague of the Black Hills National Forest that these restrictions are placed needlessly upon each and every acrea of each and every forest project. We encourage the District to limit these restrictions to the soil types upon which they are truly needed.

BHFRA-0304

We support the District’s set-asides for Sensitive Species contingencies, as well as the District’s stated intent to harvest the set-aside areas separately, should their use as substitutes prove unnecessary.

BHFRA-0305

Environmental Consequences

- While we acknowledge and applaud that the action alternatives make significant progress toward achieving Objective 228 by reducing the acres at risk from mountain pine beetle (by about 24 percent), we would still encourage the District to pursue a more aggressive strategy that would show greater decreases. Specifically, we direct the District’s attention to SS4B and 4C stands, which appear to have been largely excluded from treatment. These are not fixed elements of the landscape, and cannot be preserved in their current condition without some form of management.

BHFRA-0306

- Throughout the Cement draft EA document, there appear to be conflicting accounts of the current forest condition, and cumulative effects thereupon, resulting from past management activities. Specifically, the discussion on Pg. 48 moves - in a matter of one paragraph - from characterizing forest conditions as having “fewer areas of mature trees to cut now (as a result of past management)”, to “predominantly pine communities...of moderate density...mature stems”. First, the *product* (cumulative effect) of past management is the structural stage distribution on Pg. 51, which, we again note, contains 81-percent mature stands. The analysis’s assertion that more large-diameter trees existed with the project area in the past is false, and so is the apparent conclusion that management activities have cumulatively resulted in fewer such trees. If anything, there are more large trees on the Black Hills today than have ever existed in history. While we agree that the forest’s overall structure and condition would benefit from implementing the action alternatives, the District is erroneous in asserting that some kind of shortage in mature stands might occur; especially since only 25 percent of the 17,000+ acre project

BHFRA-0307

## **USFS Response – Black Hills Forest Resource Association p. 3**

### **BHFRA-0203, continued**

Service Handbook 7709.56, Chapter 4, Road Preconstruction Handbook. The roads are designed to selected standards for the intended use, giving consideration to the following:

1. Safety
2. Impacts on land and resources
3. Cost of transportation

Roads required for long-term transportation are “specified” roads. Roads needed for only one entry or use are considered “temporary” roads. Specified roads requiring reconstruction prior to use may be closed following the project to protect the road from damage and to minimize costs of future use. It is not wise economically or in the government’s best interest to use temporary roads when access will be needed again at some point in the future. The Roads Analysis Process (see Miscellaneous Report FS-643, USDA Forest Service 1999) was used to determine the road system for the Cement EA area. This process allows all members of the planning team to provide input on management of roads in the analysis area.

### **BHFRA-0301**

Prescribed burn plans would be prepared prior to any burn (EA p. 28) in part to assure compliance with guideline 4108.

### **BHFRA-0304**

See site-specific mitigation/ design criteria on pp. 34-35 of the EA.

### **BHFRA-0306**

As indicated on p. 52 of the EA, structural stage 4C stands would decrease by 264 acres (16%) under either action alternative, and structural stage 4B stands would decrease by 362 acres (8%). Stands not proposed for treatment have no silvicultural need for treatment at this time, are unsuitable for timber harvest or inaccessible, or would be retained as habitat for or to reduce disturbance of various species of unusual plants or wildlife.

### **BHFRA-0307**

See clarification on p. 48 of the EA.

area is proposed for treatment in this entry. Please see that the final EA document reflects these corrections.

Social Consequences

▪ Overall, we feel a slightly more effective presentation of the economic analysis of this project is in order. Specifically, we would like the District to break out the estimated costs and revenues (specifically, of the transportation system and hazardous fuels reduction proposals), by alternative, in some kind of meaningful tabular form; there is little to be gleaned from a single PNV or B/C number. Furthermore, we assume that the cost of fuels reduction and prescribed fire treatments were included in the economic analysis of PNV and B/C Ratio. Since the District will receive National Fire Plan funds for these activities, we request that these be assessed separately from the rest of the project's economic analysis (i.e., not included in the totals).

BHFRA-0401

Thank you once again for your request for input. Should you have any questions about the contents of this letter, or wish to discuss these matters further, feel free to contact me.

Sincerely,



Aaron Everett  
Forest Programs Manager

**USFS Response – Black Hills Forest Resource Association p. 4**

**BHFRA-0401**

Specific data used in the economic analysis has been provided to the commentator.

**Crook County Commissioners**

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**CROOK COUNTY BOARD OF COMMISSIONERS**  
P.O. BOX 37  
SUNDANCE, WYOMING 82729-0037  
(307) 283-1323

**JUN 5 2003**

June 4, 2003

Elizabeth Krueger  
USDA Forest Service  
P.O. Box 680  
Sundance, WY 82729

Dear Elizabeth:

We appreciate this opportunity to comment on the Cement Project Area EA.

Alternative 2 includes many acceptable aspects, but Alternative 3 seems to better represent the County's interests and concerns. We support the closure of fewer roads in Alternative 3. On those roads that are going to be closed, the use of gates instead of "storage" is also strongly supported, because gates allow faster and better access in emergency situations. Since much of the project area is in the medium to high fire risk range, such access is important to both the Forest and to its surrounding communities.

Alternative 3 also proposes the decommissioning of fewer roads in the project area and we favor maintaining adequate access for all uses. We are especially supportive of U763 and most of U725 being repaired and added to the Forest Service road system.

We strongly support the level of timber harvest proposed in both Alternatives 2 and 3. Active management through timbering and prescribed fire is a sound course of action in our view, and one that is necessary for the health of the project area, as wildfire and insect infestation risks need to be reduced.

Overall, we support Alternative 3. We appreciated your consideration of our comments during the scoping period for this project. Thank you for inviting us to offer our comments on the EA.

Sincerely,

  
Floyd Canfield, Chairman  
Board of Crook County Commissioners

  
Ralph W. Goodson, Chair  
CCLUP&ZC

## **USFS Response – Crook County Commissioners**

No response necessary.

**Don Duerr**



**DJ Duerr**  
<djjd@wyoming.com>  
06/09/2003 09:37 PM

To: ekrueger@fs.fed.us  
CC:  
Subject: re: Cement timber sale proposal

June 9, 2003

Liz Kruger  
USDA Forest Service  
Black Hills National Forest, Bearlodge Ranger District  
P.O. Box 680  
Sundance, Wyoming 82729

Dear Ms. Kruger:

These are my comments on the proposed Cement timber sale and draft EA.

To begin, the U.S. Forest Service should be ashamed for proposing any kind of commercial logging activity in this part of the Forest. Nearly every acre of the Black Hills has been logged at least once, and most areas have been logged repeatedly. As a result, there is very little old growth forest remaining, and there are almost no areas on the Forest where people can go to escape the sights and sounds of human activities. Even Black Elk Wilderness does not provide true wilderness or primitive recreation opportunities. It is my assessment that the USFS is in gross violation of the Multiple-Use Sustained-Yield Act for failing to provide a reasonable supply of areas for undeveloped recreation and undisturbed wildlife habitat. The Black Hills is not being managed for a coordinated and harmonious balance of the various uses, and the USFS has failed to leave sufficient latitude to allow for current backcountry demands, let alone the increasing demand and future needs.

Duerr-0101

In my assessment, the USFS has also failed to provide sufficient forest habitat -- in closed-canopy mature or old growth condition -- to support viable, well-distributed populations of numerous native species on the Black Hills, including goshawks, brown creepers, ovenbirds, red-breasted nuthatches, flying squirrels, and rare land snails.

For these reasons, I am strongly opposed to the proposed Cement project and any of the "action" alternatives involving logging, road construction, road reconstruction, vegetation management and other development or alteration activities in the project area specifically and on the forest generally. I am also adamantly opposed to any further loss of old growth, potential old growth, or semi-primitive character of the Black Hills, as any such loss would take the Forest further out of compliance with the law. If the USFS feels it must create any early successional habitat in the project area or elsewhere on the Forest, the agency must explain why more of this habitat is needed in light of the vast existing parks, meadows, poorly restocked stands, open canopy stands that currently exist throughout the Forest, along with the extensive prairie habitats surrounding the Black Hills. For any proposal to log mature or older stands to create young or early successional stands or openings, the agency must also explain why it is impracticable to create such young/open habitat by logging stands that are not mature or older.

Duerr-0102

Likewise, the agency is not permitted to log trees until they have generally reached CMAI age. If the USFS proposed to log any trees that have not reached CMAI, the agency must inform the public of the proposal, explain why such logging is necessary, why the agency cannot

Duerr-0103

## **USFS Response – Don Duerr p. 1**

### **Duerr-0101**

Population viability across the Forest is outside the scope of this analysis. The Forest is addressing this issue through monitoring (see annual Monitoring Reports).

### **Duerr-0102**

None of the alternatives proposes cutting of old growth forest or creation of large openings. The patch clearcuts proposed under Alternatives 2 and 3 would create small grass/forb openings in conifer stands (EA pp. 61-68), providing structural diversity and foraging habitat in goshawk post-fledging areas that currently have little of this type of habitat. These cuts would take place mainly in structural stages 4A and 4B (mature, low- to moderate-density forest).

In the northwest part of the project area, thinning would take place in parts of four blocks of 4C stands. Smaller-diameter trees would be cut to increase growth of remaining trees. 4C pine would decrease by about 18% under either action alternative. The biological evaluation/biological assessment prepared for this project concluded that, while the proposed activities could negatively affect individuals of various species, they were not likely to cause a loss of viability on the project area nor cause a trend to federal listing or a loss of species viability range-wide.

### **Duerr-0103**

See EA pp. 27, 46.

pursue any alternative which does not involve logging of pre-CMAI trees, and then present the proposal for 90-days of public review and comment, as required under NFMA. Although the USFS added a sweeping CMAI exception to the revised Forest Plan through a last-minute change to the record of decision, that ROD was not circulated for 90-days public review and comment as required by NFMA. No alternatives to that sweeping exception evaluated, and no compelling need to adopt the exception was shown by the agency. Therefore, that CMAI exception is unlawful and cannot be relied upon to justify any logging of pre-CMAI trees on the Forest.

Duerr-0103

The draft EA does not support a finding of no significant impact; instead the DEA omits numerous significant impacts from analysis and disclosure, ostensibly in an attempt to hide significant impacts from public view so the agency can proceed with the project under a cursory EA and FONSI. If the USFS insists on pursuing this ill-conceived, illegal, and public-harm proposal (or any other "action" alternative), a full EIS must be prepared to evaluate and document the significant impacts, direct, indirect, and cumulative. This includes the site-specific and cumulatively significant losses of interior forest habitat, dense mature forest habitat, relatively undeveloped areas, relatively undisturbed wildlife habitat, visual quality, natural character of the forest, soil loss and water quality degradation, forest fragmentation, edge effects, changes in populations of sensitive plants, animals, and fungi species, changes in understory composition, loss of recreational opportunities, and so on. These impacts are not adequately disclosed in the programmatic EIS prepared for the revised Forest Plan or the 1983 Forest Plan.

Duerr-0201

I have written extensively of my concerns about mismanagement of the Black Hills from excessive timber management of the type proposed in the Cement project. These include comments and appeals on the revised forest plan (including the ecosystem management alternative), the Beaver Park logging projects, the timber sales proposed for implementation in the Norbeck area, the Hollow timber sale, the Coyote and Crawford timber sales, and many others the USFS has on file. I hereby incorporate by reference all comments and appeals I have submitted to the USFS concerning proposals and decisions on the Black Hills National Forest. Since I have spend countless hours and many hundreds of pages previously articulating my concerns, it is not necessary to articulate them again here. If you have any questions about my concerns over how the Cement proposal may impact the environment, please review those earlier documents.

Duerr-0202

In closing, I must again say how disappointed I am in the U.S. Forest Service. Several years ago, on behalf of myself and Biodiversity Associates, I worked very hard to craft a forest-wide settlement agreement with the Forest Service and Timber Industry that would allow logging to proceed without provided modest wildlife protection measures were instituted. After signing that agreement and promising me and other members of the public that the wildlife protections would be offered, the USFS turned around and colluded with the timber industry and unethical members of the U.S. Congress to develop new legislation -- concocted without a full and fair debate of the Congress -- that invalidated the settlement agreement. The USFS is the most lawless and unprincipled agency I have ever dealt with (and I have dealt with over a dozen federal agencies). This is nowhere more apparent than on the Black Hills. Your conduct makes me ashamed to be an American. You are setting a horrible example of non-sustainable forest management and corporate nepotism that other countries are following.

Please start managing the Black Hills for the best interest of the

## **USFS Response – Don Duerr p. 2**

### **Duerr-0201**

EIS: See response to comment 2B (p. D-5).

Sufficiency of the Revised Forest Plan is outside the scope of this analysis.

### **Duerr-0202**

The legislation referred to (P.L. 107-206) does not apply to the project area and is outside the scope of this analysis.

## Don Duerr p. 3

general public (rather than a few large corporate timber mills), and please start prioritizing the conservation of the natural treasures on the Forest.

If you disagree with any of my comments or concerns listed above, please explain -- in the final NEPA document -- your detailed reasons and provide cites to the sources or authorities which support your position over mine. See, e.g., 40 CFR 1503.4.

Sincerely,

Donald J. Duerr  
P.O. Box 1668  
Pinedale, WY 82941

Duerr-0301

## **USFS Response – Don Duerr p. 3**

### **Duerr-0301**

40 CFR 1503.4 states, in part:

“(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to...

“(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.”

Pages D-129 and D-131 address Mr. Duerr's comments and, where no further response is warranted, explain why.

***Native Ecosystems Council***  
**Black Hills Regional Office**

P.O. Box 2003  
Rapid City, SD 57709-2003

June 9, 2003

Black Hills National Forest  
Bearlodge Ranger District  
Attn: Elizabeth Krueger  
PO Box 680  
Sundance, WY 82729

**Re: Cement and Welcome/Sand DEA Comments**

Dear Ms. Krueger:

Please include the following comments in your revision of the totally inadequate Draft Environmental Assessment (DEA) for the Cement Project Area. This NEPA analysis should be combined with the Welcome-Sand Area and evaluated under a comprehensive Environmental Impact Statement (EIS). Also, please incorporate by reference all of our scoping comments on the Welcome-Sand Project Area into these comments as well.

The Black Hills National Forest (BHNF) of South Dakota and Wyoming is sacred to the Sioux Nation and the center of the Great Sioux Reservation established in the 1851 and 1868 Fort Laramie Treaties. It is an incredibly diverse island ecosystem harboring species of wildlife and plant communities that exist nowhere else in the world. But to the Forest Service, it has been degraded into merely a tree farm. The past unlawful management of the BHNF must not be continued in the Cement-Welcome-Sand Project Area. Rather, the Forest Service must finally take the steps necessary to honor treaty commitments, protect wildlife and plant species, and provide for cultural and spiritual values and areas of solitude.

We offer the following suggestions for your consideration in developing the scope of the necessary Environmental Impact Statement analysis for the Cement-Welcome-Sand Project.

**1. Authorization for Activities on Great Sioux Reservation Lands**

The Forest Service must not once again fail to use the NEPA process to resolve conflicts over resources. Rather, the Cement-Welcome-Sand environmental analysis must be used to address the land claims of the signatory tribes to the 1851 and 1868 Fort Laramie Treaties. The 1997 Revised Forest Plan failed to address Native American concerns, and failed to explore alternatives of transferring management authority or Black Hills ownership back to the tribes of the Great Sioux Nation, and also failed to evaluate alternatives based on addressing Native American cultural and spiritual concerns.

According to information provided by the U.S. Census Bureau, American Indians are the largest minority population within counties of the Black Hills. Accordingly, this minority population may be

NECBB-0102

## USFS Response – Native Ecosystems Council p. 1

### NECBB-0101

There are no Indian Tribes that currently have hunting and fishing rights, gathering rights, water rights, or any other treaty rights on the Black Hills National Forest.

The Fort Laramie Treaty of 1851 recognized the territory of the Cheyenne and Arapahoe to include most of Colorado east of the foothills of the Rocky Mountains, the northwestern part of Kansas, the southwest corner of Nebraska, and the southeast corner of Wyoming. It also acknowledged the territory of the "Sioux or Dacotah Nation" to include all of South Dakota west of the Missouri River, including the Black Hills, and parts of southern North Dakota, northwestern Nebraska, eastern Wyoming, and southeastern Montana.

In 1970, the Indian Claims Commission interpreted the "Sioux or Dacotah Nation" to mean the Teton and Yankon only, since the Yanktonai and Santee Sioux were not signatories to the treaty. In many court decisions dealing with the treaty it has been held that it did not take any lands away from the Indians but merely "recognized the title of certain signatory tribes on the basis of the territory which they used and occupied."

In the Ft. Laramie Treaty of April 29, 1868 (15 Stat. 635), the United States promised the Sioux Nation that the Great Sioux Reservation, including the Black Hills, would be "set apart for the absolute and undisturbed use and occupation of the Indians named(.)" Within a decade, however, the Act of February 28, 1877 (19 Stat. 254), abrogated the Ft. Laramie Treaty and the Indians' claim to the Black Hills land. The Act ratified an agreement made between the Federal Government and some of the adult male Sioux population to cede the Black Hills to the United States in exchange for subsistence rations and other considerations.

After nearly 60 years of litigation, the Supreme Court in *United States v. Sioux Nation of Indians* (65 L.Ed. 2d844; 100 S.Ct. 2716 (1980)), held that the 1877 Act constituted a taking which implied a right to just compensation under the Fifth Amendment. The Court affirmed an Indian Claims Commission's award of \$17.1 million, plus interest at the annual rate of 5 percent dating from 1877.

On July 18, 1980, the Oglala Tribe filed a complaint in U.S. District Court for return of the Black Hills, additional damages, and a restraining order on payment of the previous award. The court dismissed this complaint for lack of jurisdiction, whereupon the Oglala Sioux Tribe appealed to the Eighth Circuit Court of Appeals. On June 1, 1981, the circuit court affirmed the District Court's dismissal because Congress had established the Indian Claims Commission as the exclusive remedy for the claim (see *Oglala Sioux Tribe v. United States*, No. 80-1878, slip op. at 2-3, note 4 (8th Cir. 1981)). Since the Indian Claims Commission has already disposed of the Indian claims to the Black Hills, the decision in *Oglala Sioux* means there is no legal Indian right to ownership or permanent occupation of the Black Hills under the 1868 Treaty.

The Black Hills National Forest has neither the authority nor the need to establish or re-establish a Presidential Commission to determine compensation to be paid Sioux Tribes

*continued on p. D-137*

disproportionately impacted by the Cement-Welcome-Sand timber sale. In accordance with Executive Order 12898 and Department of Agriculture Regulation DR5600-2, the Forest Service must therefore fully analyze and assess the effects of the Cement-Welcome-Sand timber sale to American Indian populations to ensure environmental justice. Such an analysis and assessment should be consistent with the 1997 Council on Environmental Quality report, "Environmental Justice Guidance Under the National Environmental Policy Act." In accordance with this report and direction provided by NEPA and CEQ NEPA implementing regulations, the Forest Service must fully analyze and assess the direct, indirect, and cumulative effects to American Indian populations in and around the Black Hills.

Such an analysis and assessment should consider the cumulative economic impacts of the taking of the Black Hills to the Sioux and Arapahoe Indian tribes (see, e.g., United States v. Sioux Nation of Indians, 448 U.S. 371 (1980)), the impacts to American Indian feelings regarding the taking of the Black Hills, the direct and indirect impacts to American Indian religious interests, the cumulative impacts to American Indian religious interests, the cumulative impacts of restricting American Indian subsistence hunting in the Black Hills, the cumulative impacts to American Indian cultural values that have been destroyed through past actions that have been inconsiderate to these values, and the direct and indirect impacts to American Indian cultural values. The Forest Service must fully mitigate any significant direct, indirect, and cumulative effects to American Indian values, interests, and claims in order to ensure environmental justice is achieved.

The Cement-Welcome-Sand EIS must also fully analyze and assess the potentially significant effects to American Indian sacred sites in accordance with Executive Order 13007. We request that all sacred sites be fully protected.

The Cement-Welcome-Sand environmental analysis is the proper vehicle to finally resolve these conflicts and to document needed protections to address tribal cultural and spiritual concerns in the sacred Black Hills. Therefore, the Cement-Welcome-Sand environmental analysis must:

- document the source of the Forest Service’s alleged jurisdiction to override Treaty provisions that have never been abrogated by Congress;
- demonstrate how the Forest Service intends to honor the terms of the 1851 and 1868 Fort Laramie Treaties as it proceeds with forest management activities; and
- base all alternatives on fulfilling the United States’ trust responsibility toward the Sioux Nation, including how the Forest Service intends to prohibit actions that would destroy cultural artifacts or desecrate burial or other sacred sites, recognizing that the entire Black Hills area is such a sacred site to the Fort Laramie signatory tribes.

The Forest Service must use this public review process, including an appropriate consultation process with the Sioux Tribes for the Cement-Welcome-Sand project (the listing on page 111 of the Cement DEA of 46 agencies and persons “consulted” might be sufficient outreach to the white segment of the Black Hills population, but is a sham consultation under the Government’s obligations under federal cultural laws), and to reach an agreement with the Sioux Nation as required by the Fort Laramie Treaties on continued activities (such as logging, grazing, mining, and motorized travel) that degrade the environmental, cultural, and spiritual values of the sacred Black Hills, prior to reauthorizing any commodity or activity program on the Black Hills National Forest.

**2. Viable Populations of Species**

The Black Hills Forest Plan employs a “proxy on proxy” approach to meet the requirement of maintaining viable wildlife populations. First, a number of “management indicator species” were selected to represent the needs of various types of wildlife throughout the Forest. For example, the pygmy

NECBB-0201  
NECBB-0202  
NECBB-0203

## USFS Response – Native Ecosystems Council p. 2

### NECBB-0101, continued

under the 1851 and 1868 treaties. All compensation claims under these treaties were addressed in 1980 by the Indian Claims Commission, and the Tribes have exhausted all Court remedies available for resolution of their claim. Only Congress has authority to transfer ownership of the Black Hills National Forest to the Sioux Tribes. Until Congress takes such action, the Forest Service must continue management in accordance with the direction of Congress. The Forest will continue to make payments to counties in accordance with statutory direction provided by the Congress of the United States.

### NECBB-0201

For a discussion of American Indian issues on the scale referenced in this comment, see pp. III-507 through III-509 and F-1 through F-5 of the Final Environmental Impact Statement for the Black Hills National Forest 1996 Revised Land and Resource Management Plan. There is no evidence that the Cement project would have disproportionate impacts on American Indian or any other minority populations.

### NECBB-0202

Executive Order 13007 states, in part:

*“Section 1. Accommodation of Sacred Sites. (a) In managing Federal lands, each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites...*

*“iii. "Sacred site" means any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.”*

The Forest Service is not aware of any such sacred sites in the Cement project area. Tribal governments and other tribal organizations were consulted during preparation of this project. Mitigation on p. 28 of the EA provides protection for any heritage resource sites discovered during implementation of the project.

### NECBB-0203

See response to comment NECBB-0101.

nuthatch, black-backed woodpecker and three-toed woodpecker were selected to represent a wide-range of species dependent on mature forest conditions in general, and snag habitat in particular. By monitoring the health of the bird populations, the health of a wide range of other species that use similar habitat would be monitored as well. In this way, these birds act as indicators, or proxies, for many other species. The indicator species approach is the first level of proxy.

Next, rather than actually monitoring the population of each indicator species to determine if viable populations are being maintained, the Forest Service designates certain types and quantities of habitat as sufficient to maintain viable populations of the selected indicator species. Then habitats used by MIS will be monitored to determine what population changes, if any, are induced by management activities. For example, the suitable pygmy nuthatch habitat occurs in mature ponderosa pine communities having 3-5 snags per acre in excess of 19 inches dbh.

The Forest Plan sets out detailed and exacting requirements for various categories of forest stands (stand density, snag density, big game hiding and thermal cover, etc.). In order to support the minimum viable population of pygmy nuthatches, the Forest Service must determine how many blocks of mature ponderosa pine forest containing 3-5 large snags per acre exist on the Forest. These blocks of habitat are the second level of proxy, each potential breeding block “counting” as the presence of a certain number of breeding pair of pygmy nuthatches, which in turn indicates (in theory) the presence of numerous other species that share similar habitat needs. This is the second level of proxy.

But the Black Hills National Forest doesn’t even monitor the second level of habitat conditions necessary for minimum populations. Instead, it further correlates stand conditions with habitat conditions through a completely unvalidated and scientifically indefensible computer matrix multiplication process known as HABCAP. Indeed, we find professions of near total ignorance of wildlife activity and utilization within the project area, such as the following in response to public concerns over the initial scoping proposal for this project:

- “There is no reliable, quantitative data on existing snags in the project area.” [DEA at B-6]
- “There is no data on goshawk productivity in the project area.” [DEA at B-6]
- “There is no data on nest productivity.” [DEA at B-6]
- “Because the sequence and scheduling of potential timber harvest are not known at this time, road density during harvest is not available.” [DEA at B-6]
- “There is no fish habitat in the project area.” [DEA at B-11]

This “proxy on proxy on HABCAP” process is totally inadequate to meet the viability requirements of the National Forest Management Act. That even the proxies are not monitored makes the entire species determination process on the Black Hills National Forest a total fraud, not even qualifying a “junk science”. This inadequate procedure must be abandoned, and actual monitoring of wildlife populations begun on the Forest. Until a new methodology for maintaining viable wildlife populations is demonstrated on the Black Hills National Forest, it would be unlawful to further weaken and Forest Plan wildlife standards, as is being proposed in the initial letter(s) describing this project. Rather, the Cement-Welcome-Sand environmental analysis should be seen as the wonderful opportunity it is to finally comply with wildlife laws and regulations on the Black Hills.

The Cement-Welcome-Sand environmental analysis must provide specific direction relating to maintaining viable populations of species. This direction must be scientifically supported within the Cement-Welcome-Sand EIS, must provide adequate information and analysis to support the effects determinations for sensitive species, and must not rely solely on habitat capability changes as a means to make effects determinations. Rather, the Cement-Welcome-Sand EIS must:

- ensure high to moderate capability habitat for sensitive species is well distributed on the Cement-Welcome-Sand Project Area;

NECBB-0301

## **USFS Response – Native Ecosystems Council p. 3**

### **NECBB-0301**

The Forest monitors populations of all species of birds of which sufficient numbers are observed, not just Management Indicator Species. Bird population monitoring results are discussed in “Monitoring the Birds of the Black Hills: Year 1” (Panjabi 2001) and “Monitoring the Birds of the Black Hills: Year 2” (Panjabi 2003) and summarized in the Black Hills Forest Plan Monitoring and Evaluation Report for fiscal year 2001.

The Cement EA addresses effects on pygmy nuthatch on p. 76. The analysis of effects is based on applicable published literature. While data on existing snags are not available, the EA (pp. 33-34) contains provisions for 1) retention of all existing snags that do not pose a threat to safety and 2) retention of large-diameter live trees in sufficient numbers to provide over time the density of large snags directed by the Revised Forest Plan (standard 2301).

“Weakening” of or deviation from Revised Forest Plan wildlife-related direction is not proposed under this project and was not proposed in the project scoping letter.

HABCAP is used only for assessing deer and elk habitat capability (p. Appendix 18, Decision Notice, Phase 1 Amendment, Black Hills National Forest 1996 Revised Land and Resource Management Plan).

No activities are proposed in existing old growth habitat (EA p. 56). Many stands that could develop into old growth habitat over time would remain after implementation of either action alternative.

Fragmentation is discussed in the EIS for the Revised Forest Plan, pages III-247 to 275. This project is within the scope of the Forest Plan analysis and contains no unusual or extraordinary features or circumstances. Fragmentation has been studied and raised as an issue in Europe, deciduous forests of eastern North America, and to some extent in the Pacific Northwest, but the Black Hills area is unlike these areas in that the historic landscape pattern contained patchy, mature forest separated by grassy areas or parks.

- provide species-specific discussion of snag standards and the effects of forest management to snags and snag dependent species of wildlife;
- make viability determinations supported by species-specific discussions of critical habitat features, actual populations, and habitat distributions in order to meet the requirements of the NFMA and its implementing regulations;
- provide habitat capable of supporting well-distributed populations of native vertebrate species across the planning area;
- present a fragmentation analyses for those species where fragmentation effects are suspected or known to affect the species;
- protect existing old growth habitat, and provide direction that allows more younger forest stands the chance to attain old-growth conditions;
- abandon any proposal to construct or reconstruct roads in the Cement-Welcome-Sand project area; and
- ensure compliance with the NFMA and its implementing regulations with regards to the diversity of plant and animal communities and species viability.

NECBB-0301

If a fragmentation model is used, the model must assess the effects of fragmentation in terms of more than one spatial scale and one set of criteria in order to adequately assess the effects of fragmentation. In addition, the Forest Service must reduce the road density by prohibiting new road construction and obliterating environmentally-damaging existing roads, and by allowing natural processes such as fires and insects to provide their full ecological benefits.

### 3. Management Indicator Species (MIS)

The Cement-Welcome-Sand EIS must evaluate the current viability of MIS on the BHNF, not merely conduct an effects analysis to existing MIS populations. Rather, the Forest Service must determine if viable populations currently exist for the purposes of establishing MIS population and habitat goals as required by the Chief's Forest Plan appeal decision.

The EIS must fully analyze and assess the potentially significant effects to all MIS and their habitat that may exist within the Cement-Welcome-Sand timber sale area. The EIS must include and present quantitative MIS population trend data in order to accurately analyze and assess all potentially significant effects to MIS populations. Special attention must be given to the brown creeper as this bird species is an indicator of dense mature and late successional forest, a habitat type that has declined precipitously on the BHNF and now exists in very isolated and sparse stands on the forest. To accomplish this evaluation of MIS viability, the Cement-Welcome-Sand EIS must:

NECBB-0401

- develop and implement a species-specific monitoring plan with quantified goals and objectives for MIS and sensitive species and their habitat;
- document in detail why no habitat exists within the Cement-Welcome-Sand project area for the pine marten, as baldly asserted [DEA at 79];
- document the cumulative effects of meadow dewatering and draining on eliminating beaver from the Cement-Welcome-Sand project area, and the associated aquatic habitat for native fish species that has been lost, as opposed to ignoring fish MIS altogether (DEA at 79)
- clearly articulate the role of MIS in project analysis;
- develop a hard list of MIS so as to ensure MIS are not excluded from analysis; MIS for which the project area is asserted to provide no suitable current habitat must be fully evaluated from the cumulative effects perspective on loss of historical habitat due to the exploitation of the natural resources of the Black Hills;

## **USFS Response – Native Ecosystems Council p. 4**

### **NECBB-0401**

Monitoring: See response to NECBB-0301.

Marten habitat: In the Black Hills, American marten are associated with spruce habitat (Black Hills National Forest 1996 Revised Land and Resource Management Plan, Phase 1 Amendment Environmental Assessment, p. 91). As indicated on EA p. 50, spruce is not found in the project area.

Surface water flow in the project area is discussed on EA p. 94. There are no known records of fish in the project area or perennial surface water flows in the project area being connected to perennial surface flows that exist outside the project area.

There is no evidence that habitat for MIS excluded from detailed analysis has been lost; rather, it appears never to have existed or not to have existed within recorded Black Hills history. This discussion has been added to the EA (pp. 83-84).

HABCAP model documentation is available from the Forest Supervisor's Office, Custer, South Dakota.

- establish a clear link between project-level MIS analysis and forest-wide population monitoring;
- develop quantitative MIS population goals and ensure project-level activities do not jeopardize these goals;
- provide information and analysis that supports the designation of MIS;
- must designate fish, wildlife, and plant MIS;
- must select and monitor MIS in accordance with NFMA regulations and FSM direction; and
- must provide documentation that describes how high, moderate, and low habitat capability is determined before using any HABCAP analysis.

If MIS from the original LRMP are not designated, the Cement-Welcome-Sand EIS must document why these MIS are not designated. For those MIS excluded from evaluation because of alleged lack of habitat (such as the pine marten and native fishes), the EIS must provide a comprehensive review of the cumulative effects on the Black Hills that produced this loss of habitat.

#### 4. Snag-Dependent Species

The Cement-Welcome-Sand environmental analysis must terminate the “bad mouthing” of natural processes such as insect outbreaks and storm damage that has led to the public hysteria surrounding fire danger on the Black Hills National Forest, which is primarily a function of weather conditions such as ongoing drought. Rather, the Cement-Welcome-Sand EIS must provide population trends for snag dependent species to provide a context for the impacts of forest management to snag densities taking into consideration the “current age and structure of the forest” and any other natural or human-caused impacts to snag densities.

Mountain pine beetle infestations, if left alone, lead to the creation of snags and consequently the existence of down woody debris. These habitat components are essential to the survival of many native species on the Black Hills. We therefore request the EIS fully analyze and assess how the Cement-Welcome-Sand timber sale will affect snag habitat and down-woody debris habitat, as well as snag recruitment and the creation of future down-woody debris. Such an analysis and assessment must consider the fact that certain native species depend upon large-diameter snags and large diameter down-woody debris.

The snag recruitment assumptions presented in the Cement DEA must be discarded as more of the “digital apologists” that have been proclaiming that logging will enhance long-term habitat characteristics on the Black Hills. This junk science began with the rosy projections in the 1983 Forest Plan that logging of “decadent” over-mature stands would lead to such increased vigor that ever-increasing timber harvest levels would ensue. This, of course, is without scientific merit. Similarly, while we appreciate the tree size project data being presented [DEA at 57-59], the use of these data must be severely criticized as (intentionally) misleading the public and the decisionmakers on the Black Hills.

Why, for example, does the DEA use projections of the current actions after a 20-year interval, implying that no further actions will occur within the project area during that time frame, when the DEA also reports that “timber harvest has been conducted” on a total of “72% of the National Forest land” within the cumulative effects area, which the map on page 49 shows to be identical to the Cement Project Area. These “timber harvest” activities since 1987 include the Grand, Plato, Pole, Samurai Salvage, Snowstorm Salvage, Surprise, and Wagon completed timber sales, and the ongoing Wish Timber Sale [DEA at 47]. Therefore, the DEA misleadingly presents the effects of removing about 1 of every 4 existing trees with no further action for 20 years (DEA at 47, 25% of area would be treated), while ignoring the recent history of ongoing, virtually continuous logging abuse within the project area on 72% within the last 15 years. This overestimates the likely number of surviving large trees within the project area by around 400%! This allows the DEA to cheerily project an increase in large green trees throughout

NECBB-0401

NECBB-0501

## **USFS Response – Native Ecosystems Council p. 5**

### **NECBB-0501**

The EA does not assert that stand-replacing fire is a result only of such natural processes as insect-caused tree mortality; these processes do, however, influence the intensity and potential for spread of fire.

Population trends of snag-associated species: See response to NECBB-0301. Snag habitat is addressed on EA pp. 33-34 and 56-59.

The EA does not assume that no additional timber harvest will take place in the project area in the next 20 years. More timber harvest may take place in the area before 2023, but no proposal exists at this time. Past harvest levels do not guarantee future events. Increasing the difficulty of predicting the nature of potential future timber harvest is the possibility that the management emphasis of the area and Forest Plan standards and guidelines may change. The location and level of any potential activities are speculative at this time; as the green tree retention calculations on EA pp. 57 and 59 are based on stand-specific data, there is no way to take into account potential activities for which site-specific data is not available. The EA has, however, been modified to acknowledge the possibility that potential future harvest could affect the modeled values in ways not foreseeable based on available information (EA p. 57).

the project area, when in fact a continual decline as has been witnessed across the Black Hills is the likely outcome of the unsustainable logging being proposed.

We can, from the numbers presented in Tables 7 and 8, determine some estimate of tree survivability projects being embedded in the Forest Service's "digital apologist" Forest Vegetation Simulator, by the following: compare the projected number of trees of 12" dbh or greater in each watershed/aspect category in year 2003 (Table 7), against those in Table 8 plus the excess in 10-12" trees in Table 7 over Table 8. [This method should be quite good for comparison of the FVS projections if the number of trees jumping from less than 10" to more than 12" in the 20 year projection is a small fraction of the total trees in the analyzed stands, as is implicitly assumed in the breakdown of 2" intervals.]

- Watershed 205N – 31.9 of 34.4 trees per acre (93%)
- Watershed 205S – 44.5 of 51.4 trees per acre (87%)
- Watershed 302N – 48.1 of 65.4 trees per acre (74%)
- Watershed 302S – 53.0 of 68.1 trees per acre (78%)
- Watershed 303N – 40.2 of 47.5 trees per acre (85%)
- Watershed 303S – 39.7 of 54.9 trees per acre (72%)

Thus, the proposal projects reducing existing large trees per acre by 7-28. Given that the commercial acres allegedly comprise only 31% of the project area (5,484 of 17,510 federal acres), the above figures suggest that virtually all large trees will be eliminated on the current cutting units. The DEA also cites no other area on the Black Hills that has been left alone for as many as twenty years (other than those roadless areas that have been tied up in legal cases); the average reentry time on the Black Hills is now between 7 and 10 years, indicating that the DEA has omitted one or two more timber entries in its projected green tree retention figures in Table 8. Inclusion of these additional actions would undoubtedly demonstrated the same marked decline in large trees in the Cement-Welcome-Sand project area that is occurring everywhere else on the mismanaged Black Hills National Forest.

We urge the Forest Service to carefully review our appeal of the 1997 LRMP and the Phase I Amendment for more realistic determinations of needed green tree recruitment levels. In addition, the Cement-Welcome-Sand environmental analysis must:

- present actual soft snag densities on the Cement-Welcome-Sand Project Area and explain how these densities were calculated;
- ensure an adequate density of soft snags is provided;
- ensure sufficient large diameter snags for snag-dependent species such as the northern flicker, black-backed woodpecker, three-toed woodpecker, Lewis' woodpecker, common flicker, and pygmy nuthatch are provided across the Cement-Welcome-Sand Project Area;
- provide snag diameter requirements for all snag dependent species to ensure the USFS is protecting snags of adequate diameter;
- present snag height requirements for all snag dependent species in order to adequately support any adopted snag height requirement;
- ensure sufficient snag densities for snag-dependent species such as the black-backed woodpecker and common flicker are provided across the Cement-Welcome-Sand Project Area;
- provide snag density requirements for all snag dependent species to ensure the USFS is providing an adequate density of snags;
- establish a sufficient snag density standard that meets the documented needs of snag-dependent species of wildlife on the Cement-Welcome-Sand Project Area in order to ensure snag dependent species viability on the BHNF;
- provide the required information and analysis to support any snag density standard that is developed for any proposed Forest Plan amendments; and

NECBB-0601

## USFS Response – Native Ecosystems Council p. 6

### NECBB-0601

The Forest Vegetation Simulator bases projections of future stand composition on factors calculated from stand-specific statistics derived from field inventory, including: probable rate of growth under existing conditions, expected rate of growth under proposed conditions, probable rate of mortality in various cohorts under both circumstances, probably regeneration and effects on the existing stand, etc. These factors have complex effects on stand dynamics. If projecting future stand composition were as simple as moving numbers from one column to the next, models such as FVS would not be necessary.

The commentator's comparison of Tables 7 and 8 is further flawed. Adding the numbers in the 12"+ columns in the watershed "...205", N, 2023 row for the no action alternative results in 33.4. Adding the same figures (plus 0.7 "excess" in the 10-12" column) for the action alternatives results in 31.9. Following the commentator's methodology, comparison of the two figures appears to show that the action alternatives would decrease the number of trees would decrease by less than 5% as compared to the no action alternative.

Most of the proposed treatment prescriptions would target retention of a certain basal area of trees. The number of trees per acre that would be removed is not known at this point, but the number and basal area of trees that would be left can be estimated; for example, leaving 80 ft.<sup>2</sup> per acre of basal area of trees that average 14" in diameter results in 93 trees per acre. The commentator's conclusion that "virtually all large trees will be eliminated on the current cutting units" is not justified.

Also see response to previous comment.

- establish soft snag retention standards for the Lewis’ woodpecker and other snag dependent species of wildlife in order to ensure viable populations of these species (these retention standards must take into consideration the needs of the Lewis’ woodpecker and other snag dependent species of wildlife).

NECBB-0601

This information must be presented in the Cement-Welcome-Sand environmental analysis. In addition, the Cement-Welcome-Sand environmental analysis must provide information and analysis to support the adequacy of any HABCAP or FVS analysis completed for snag dependent species of wildlife.

**5. Watershed, Riparian Area, and Grazing Impacts**

The Cement-Welcome-Sand environmental analysis must fully analyze the effects of livestock grazing to sensitive plant species, and must provide and/or cite information and analysis that supports any conclusions regarding the effects of livestock grazing to sensitive plant species. There is no need to develop water resources for cows. Proposals to steal water from fish and wildlife only underscores the need to reform grazing on public lands and underscores the fact that livestock grazing is not sustainable on public lands.

NECBB-0701

The EIS must fully analyze and assess the potentially significant effects to water quality both within the Cement-Welcome-Sand timber sale area and downstream from the timber sale area to ensure compliance with the Clean Water Act, State of Wyoming Water Quality laws, and Executive Orders 11988 and 11990. The EIS must fully analyze the effects of the Cement-Welcome-Sand timber sale on sedimentation, flow regimes, water temperature alterations, and streambeds and banks. When analyzing the effects of the Welcome-Sand timber sale to water resources, the Forest Service cannot simply rely on a list of best management practices ("BMP's") in place of analysis, disclosure, and assessment as required by the National Environmental Policy Act. For instance, if sedimentation will occur as a result of the timber sale, the agency must analyze and disclose how much sedimentation will occur in order to adequately assess the significance of any and all sedimentation. A mere listing of BMP's is a wholly inadequate assessment and does not provide the public or the agency with any kind of understanding of the potentially significant effects of the Cement-Welcome-Sand timber sale to water resources.

NECBB-0702

The EIS must fully disclose the existence, extent, and vegetative composition of all riparian areas within the Cement-Welcome-Sand timber sale and fully analyze and assess the potentially significant effects to these riparian areas. The revised EIS must disclose the existence of riparian areas on maps included with the Cement-Welcome-Sand timber sale analysis area and provide information documenting the vegetative composition of riparian areas in the timber sale area.

NECBB-0703

The EIS must fully disclose the location and extent of all historic meadows, including wet meadows supporting beaver colonies, in the Cement-Welcome-Sand timber sale area so that reviewers of any environmental analysis can fully understand the extent of pine encroachment. An EIS must also disclose the acres desired to be meadows in the project area to compare with the acreage of meadows that may be created by the Cement-Welcome-Sand timber sale. This disclosure is necessary so that reviewers of any environmental analysis can fully understand the extent of the potentially significant effects of the timber sale, including the historical loss of aquatic habitat due to past inappropriate activities in formerly wet meadow areas.

NECBB-0704

In addition, the Cement-Welcome-Sand environmental analysis must:

- analyze the impacts of livestock grazing on sensitive plants and their habitat;
- provide management objectives for weed management;
- provide standards and guidelines that specifically address the impacts of noxious weeds to sensitive plant species and their habitats;

NECBB-0705

## **USFS Response – Native Ecosystems Council p. 7**

### **NECBB-0701**

Possible effects of livestock grazing on sensitive plants are discussed on EA p. 95. As none of the Cement alternatives proposes activities in known sites of threatened, endangered, proposed, sensitive, or state-listed plant species, or in habitat with high potential of harboring these plants, additional effects on these plants due to livestock grazing are unlikely. The existing livestock grazing program is outside the scope of this analysis.

The Cement project includes no water development proposals.

### **NECBB-0702**

The Cement EA and associated Cement Hydrology and Soils Report discuss and disclose the possible effects to water and soil resources. These documents include discussion related to the Clean Water Act, State of Wyoming Water Quality Laws, and Executive Orders 11988 and 11990. Best Management Practices are not listed as a replacement for analysis. Effects regarding sedimentation are disclosed, and BMPs would be used to reduce the potential effects of activities related to proposed activities. Potential effects were determined to be insignificant due to the lack of surface water within the Cement project area and the four-mile distance from the edge of the project area to the surface waters of Sand Creek.

### **NECBB-0703**

Riparian areas in the Cement project area are discussed on EA pp. 99 and 102.

### **NECBB-0704**

Meadow creation or grassland restoration is not proposed under any alternative. Restoration of any historic grasslands was not identified as a need for this area and is not a management emphasis item for the management areas to which the project area is assigned.

### **NECBB-0705**

See response to NECBB-0701.

Management objectives for the noxious weed management program are out of the scope of this analysis. Noxious weeds are addressed on EA pp. 29 and 96-97. Creation of standards and guidelines is outside the scope of this analysis.

Bloodroot is addressed on EA p. 93.

- specifically present a consistent and well-supported analysis of the effects of livestock grazing to Bloodroot;
- utilize, cite, and reference available scientific literature describing the effects of livestock grazing to sensitive plant species;
- provide monitoring requirements that quantify the impacts to sensitive plant species in order to ensure livestock grazing does not conflict with the values for which Botanical Areas may be designated;
- utilize and cite available scientific literature in order to analyze the indirect and cumulative effects of livestock grazing to sensitive plants;
- consider the effects of livestock to the viability of sensitive plant populations on the BHNF utilizing available scientific literature; and
- adequately disclose the effects of livestock grazing to sensitive plant species in order to meet the standards of analysis required by 36 CFR § 219 and FSM 1920.

NECBB-0705

**6. Sensitive Plant Species**

The Cement-Welcome-Sand EIS must fully analyze and assess the potentially significant effects to the following plant species of concern and their habitats:

Autumn coral-root (Corallorrhiza odontorrhiza), Autumn willow (Salix serissima), Blunt-broom sedge (Carex tribuloides), Dwarf scouring rush (Equisetum scirpoides), Foxtail sedge (Carex alopecoidea), Giant Helleborine (Epipactis gigantean), Great-spurred violet (Viola selkirkii), Large roundleaf orchid (Platanthera orbiculata), Prairie dunewort (Botrychium campestre), Southern maidenhair-fern (Adiantum capillus-veneris), Spinulose shield fern (Dryopteris carthusiana), Trailing clubmoss (Lycopodium complanatum), Moschatel (Adoxa moschatellina), Maidenhair spleenwort (Asplenium trichomanes), Green spleenwort (Asplenium viride), Elegant sedge (Carex bella), Bristly-stalk sedge (Carex leptalea), Longstalk sedge (Carex pedunculata), Dog cryptantha (Cryptantha cana), American rock-brake (Cryptogramma acrostichoides), Large yellow ladies-slipper (Cypripedium calceolus var. pubescens), Beaked spikerush (Eleocharis rostellata), Woodland horsetail (Equisetum sylvaticum), Variegated horsetail (Equisetum variegatum), Showy prairie gentian (Eustoma russellianum), Secund Bladderpod (Lesquerella arenosa var. argillosa), Broad-leaved Twayblade (Listeria convallarioides), Stiff clubmoss (Lycopodium annotinum), Treelike clubmoss (Lycopodium dendroideum), Marsh muhly (Muhlenbergia glomerata), Gray's lousewort (Pedicularis procera), Arrow-leaved sweet-coltsfoot (Petasites sagittatus), Mountain holly-fern (Polystichum lonchitis), Hoary willow (Salix candida), Bloodroot (Sanguinaria canadensis), Woolrush (Scirpus atrocinctus), Thinleaved blueberry (Vaccinium membranaceum).

NECBB-0801

We also request the EIS present information and maps showing the occurrence of high quality and non high quality plant habitat, as well as documentation of the results of plant surveys conducted in these habitats. We also request the Forest Service fully analyze and assess the impacts to unique vegetation communities within the Cement-Welcome-Sand timber sale area. The Forest Service must also fully protect all unique vegetation communities and sensitive and/or rare plants in the Cement-Welcome-Sand timber sale area, and must utilize the following sources of scientific information to gain an adequate understanding of the Cement-Welcome-Sand timber sale and render an informed and environmentally considerate decision:

NECBB-0802

The Cement-Welcome-Sand environmental analysis must analyze the effects of forest management to sensitive plant species and cite and identify source documents to support the effects analysis. In addition, the Cement-Welcome-Sand environmental analysis must:

## USFS Response – Native Ecosystems Council p. 8

### NECBB-0801

All Rocky Mountain Region (Region 2) sensitive plant species were considered in the botany Biological Evaluation. Those sensitive plant species known to occur, potentially occurring, or with suitable habitat in the project area were analyzed in more detail. Forest Service Manual 2672.4 requires that Region 2 sensitive plant species be addressed in Biological Evaluations:

“WO 2672.4 - Biological Evaluations. Review all Forest Service planned, funded, executed, or permitted programs and activities for possible effects on endangered, threatened, proposed, or sensitive species. The biological evaluation is the means of conducting the review and of documenting the findings. Document the findings of the biological evaluation in the decision notice. Where decision notices are not prepared, document the findings in Forest Service files. The biological evaluation may be used or modified to satisfy consultation requirements for a biological assessment of construction projects requiring an environmental impact statement.”

“R2 2672.4 - Biological Evaluations. As part of the NEPA decision making process, review proposed Forest Service programs or activities in sufficient detail to determine how an action or proposed action will affect any species which is listed under the Endangered Species Act, proposed for such federal listing, or designated in Region 2 as sensitive.”

And the following objective states:

“WO 2672.41 - Objectives of the Biological Evaluation...

“...3. To provide a process and standard by which to ensure that threatened, endangered, proposed, and sensitive species receive full consideration in the decisionmaking process.”

This direction includes threatened, endangered, proposed, and sensitive species only. This direction does not include other species which appear on other lists (e.g. state lists).

Of the species mentioned in this comment, most are not Region 2 sensitive species, several do not occur in Wyoming at all (i.e., *Carex tribuloides*, *Dryopteris carthusiana*), many do not have habitat in the Cement project area, and most are not known to occur in the Cement project area or even the surrounding area.

The National Forest Management Act requires the Forest Service to maintain diversity of all species in the planning area (the National Forest). To meet this direction, all known sites of unique plant species were excluded from treatments proposed under any alternative.

### NECBB-0802

Survey data and maps of plant habitat are in the project record. Effects on sensitive and other unusual plants are discussed on EA pp. 91-96. No mechanical treatments are proposed under any alternative in any known high-potential sensitive plant habitat.

- provide specific standards and guidelines for sensitive plant species in all management areas on the BHNF;
- provide sufficient and specific standards and guidelines that assure the protection and viability of sensitive plant species;
- utilize sensitive plant monitoring data in the development of the Cement-Welcome-Sand EIS to support effects determinations made in the Cement-Welcome-Sand environmental analysis;
- develop specific goals and objectives for monitoring populations of sensitive plants;
- develop a sensitive plant monitoring plan that provides quantitative, consistent, unbiased, and defensible data in order to determine what effects management activities are having on populations of sensitive plants;
- provide standards for sensitive plants in their full range of habitats in order to protect sensitive plant species from all land management activities; and
- provide documentation and scientific evidence to support the effects determination for the Autumn coralroot.

NECBB-0901

## 7. Sensitive Animal Species

### A. Northern Goshawk

An EIS must be completed to fully analyze and assess the potentially significant effects to the northern goshawk using quantitative population information as a context for the assessment (i.e., how many individuals out of the population will be impacted). The declarations of absence of information are totally inadequate to meet the professional and scientific integrity mandates of NEPA:

- “There is no reliable, quantitative data on existing snags in the project area.” [DEA at B-6]
- “There is no data on goshawk productivity in the project area.” [DEA at B-6]
- “There is no data on nest productivity.” [DEA at B-6]
- “Because the sequence and scheduling of potential timber harvest are not known at this time, road density during harvest is not available.” [DEA at B-6]

Collection of such necessary data is mandatory under NEPA, and an EIS is the proper vehicle for finally disclosing the direct, indirect, and cumulative effects on this species to the public and Forest Service decisionmakers. The EIS must also fully analyze and assess the potentially significant effects to potential goshawk nesting habitat (i.e., ponderosa pine vegetation structural stages 5 and 6) regardless of whether the habitat exists within a known territory, the potentially significant effects to goshawk post fledging habitat, and the significant effects to goshawk foraging habitat. We request that all late successional habitat and stands of structural stage 4C and 4B be deferred from any treatments in order to ensure an adequate amount of goshawk nesting habitat is protected.

The Cement-Welcome-Sand environmental analysis must provide the necessary information and analysis that supports any measure designed to protect the northern goshawk and its habitat, and must ensure protective measures are enforceable and not contradictory. In particular, the Cement-Welcome-Sand EIS must:

- define the size of goshawk habitat as it relates to any measure designed to protect the northern goshawk and its habitat on the BHNF;
- present BHNF-specific information and analysis that supports any size determination for goshawk habitat;

NECBB-0902

## USFS Response – Native Ecosystems Council p. 9

### NECBB-0901

Creation of standards and guidelines is outside the scope of this analysis.

Sensitive plant monitoring: See Black Hills National Forest annual monitoring reports.

Autumn coralroot (*Corallorhiza odontorhiza*) is addressed on EA p. 95 and on p. 3 of the Cement Project Area Botany Biological Evaluation.

Autumn coralroot is a rare, eastern deciduous forest orchid with a disjunct distribution in the Black Hills of South Dakota. It is known from one confirmed occurrence on the Black Hills National Forest (BHNF) in Lawrence County, South Dakota, in 1971, when it was found in pine forest habitat southeast of Deadwood. An exact location was not recorded for the collection, and the species has never been located again despite repeated attempts. Specific habitat for the species in the Black Hills is not known (including the range of optimal and suitable habitat).

Intensive survey for autumn coralroot alone has not been implemented on the BHNF, but this species is on the Black Hills National Forest list of Rocky Mountain Region sensitive species (1994) for which to search and document locations during all general botanical surveys. No individuals or populations of this species have been found since 1971. Consequently, it is unknown if a viable population exists on the Forest.

Because this species has not been documented to exist on the Black Hills National Forest for over 30 years, it is not possible to evaluate the potential effects of management activities on its habitat(s), individuals, or populations.

The comprehensive lack of information on autumn coralroot has been acknowledged in the process for updating the Rocky Mountain Region's sensitive species list. The draft of the new list (to be approved by the Regional Forester in September 2003) includes autumn coralroot in the category of Insufficient Information. If the new list is approved as written, this species would no longer be designated "sensitive" and would remain in this status until adequate information is collected to determine its presence and habitat requirements on the Black Hills. The species would also become a Black Hills National Forest species of Insufficient Information. Surveys and monitoring for occurrence and quantifiable population information will continue on the Forest, and individuals will be documented and protected if found.

### NECBB-0902

The analysis of effects on northern goshawk presented on EA pp. 61-68 demonstrates compliance of proposed activities with Revised Forest Plan direction. Sufficiency of this direction is outside the scope of this analysis.

- provide measures that ensure goshawk nesting habitat is well represented and distributed on the BHNF and that respond to the habitat needs of the goshawk on the BHNF;
- analyze the specific effects to goshawk nesting habitat, as well as all other aspects of goshawk habitat and individual goshawks;
- provide standards and guidelines that maintain goshawk viability in accordance with the NFMA, its implementing regulations, and FSM direction; and
- provide the necessary information and analysis that supports any viability determination.

NECBB-0902

### B. Sensitive Woodpecker Species

We are very concerned over the impacts of the Cement-Welcome-Sand timber sale to sensitive woodpecker species. Various scientific sources have clearly established the relationship between healthy woodpecker populations and wood-boring beetles and late successional habitat, which makes it difficult to believe the Cement-Welcome-Sand timber sale will not further jeopardize the viability of sensitive woodpecker species and diversity on the Black Hills. The EIS must therefore fully analyze and assess the potentially significant effects of the Cement-Welcome-Sand timber sale to the three-toed woodpecker, black-backed woodpecker, and Lewis's woodpecker. The EIS must fully analyze and assess the impacts of reducing, eliminating, or otherwise attempting to control in any way, any and all mountain pine beetle or other insect within the project to sensitive woodpecker species populations in accordance with 36 CFR § 219.19(a)(5).

We request the Forest Service allow mountain pine beetle outbreaks to occur in a large part the Cement-Welcome-Sand timber sale area to provide sensitive woodpecker habitat. We also request the Forest Service analyze and assess the potentially significant effects to red-headed woodpecker, downy woodpecker, hairy woodpecker, and red-naped sapsucker.

The Cement-Welcome-Sand environmental analysis must provide standards and guidelines that ensure habitat capability for these woodpecker species does not decrease in order to provide for the viability of this species. In particular, the Cement-Welcome-Sand EIS must:

- provide standards and guidelines, supported with the necessary analysis and information, that maintains the viability of the three-toed, black-backed, and Lewis' woodpecker;
- allow natural fires to occur at some level on the BHNF in order to benefit the three-toed, black-backed, and Lewis' woodpecker;
- present information and analysis stating how many acres might be expected to burn in wildfires on the BHNF; and
- analyze the effects of Objectives 224 and 225, or any other similar objectives, standards, guidelines, or requirements, to the three-toed, black-backed, and Lewis' woodpecker.

NECBB-1001

### C. Northern Leopard Frog

The Cement-Welcome-Sand environmental analysis must describe population and habitat status, trends and objectives for the northern leopard frog. In particular, the Cement-Welcome-Sand EIS must:

- provide monitoring objectives specific to the northern leopard frog;
- provide an estimate of population and habitat status and trend for the northern leopard frog to provide a context for the effects of management actions in light of dramatic declines in some populations;
- provide information and analysis that supports the effectiveness of mitigation measures designed to protect the northern leopard frog and ensure this species viability; and
- ensure viable populations of northern leopard frog are maintained on the BHNF.

NECBB-1002

## **USFS Response – Native Ecosystems Council p. 10**

### **NECBB-1001**

Analysis of effects on Lewis's, three-toed, and black-backed woodpeckers is presented on EA pp. 68-70. Sufficiency of Revised Forest Plan direction is outside the scope of this analysis. Forest-wide and management area direction is clear on the objectives of controlling infestations of mountain pine beetles and other pathogens and minimizing acres burned by wildfires.

### **NECBB-1002**

Analysis of effects on northern leopard frog is presented on EA pp. 79-80. Viability of this species across the Forest is outside the scope of this analysis.

**D. Snail Species of Concern**

The EIS must fully analyze and assess potentially significant effects to all known snail colonies and all potential snail species of concern habitat. An EIS must also fully disclose the location of all snail species of concern colonies within the Cement-Welcome-Sand timber sale area to ensure protection measures adequately protect all known and potential colonies. The EIS must also fully disclose the cumulative impacts to snail species of concern due to past water developments and spring diversions within the project area, including draining of wet meadows and elimination of beaver colonies.

We request that the Forest Service implement at least a 1,000- foot buffer to adequately protect all known snail colonies. This buffer is to ensure that colonies, which are known to shift over time, are fully protected and to ensure their habitat is adequately protected. The Cement-Welcome-Sand environmental analysis must describe the current population and habitat status of snail species of concern. In particular, the Cement-Welcome-Sand EIS must:

- fully address the findings of the 1993 and 2002 Frest and Johannes reports;
- disclose the status of existing habitat for snail species of concern using the 1993 and 2002 Frest and Johannes reports; and
- develop clearly stated population and habitat objectives and develop a species specific monitoring plan with specific monitoring objectives for snail species of concern.

This analysis and information is necessary to ensure the Cement-Welcome-Sand EIS provides for viable populations of snail species of concern.

**E. Aquatic Species**

The EIS must fully analyze and assess the potentially significant effects to native fish species. Numerous concerns have been expressed over native fish viability on the BHNF (see e.g., Chief's 1999 Appeal Decision for Appeals of the 1997 BHNF Revised Forest Plan) and therefore, the agency is obligated to ensure the Cement-Welcome-Sand timber sale does not adversely affect these fish species. The bald assertion in the Cement DEA that "the project area does not include suitable habitat" for the finescale dace, lake chub, and mountain sucker is insufficient to satisfy the disclosure requirements of NEPA. The EIS must also fully disclose the cumulative impacts to aquatic and native fish species of concern due to past water developments and spring diversions within the project area, including draining of wet meadows and elimination of beaver colonies.

Of particular concern is the potential existence of finescale dace in Spotted Tail Creek, which flows into Sand Creek. This stream, as well as others in the Wyoming portion of the Black Hills, have not been surveyed since the 1960's. We therefore request that the Forest Service conduct surveys for finescale dace to determine whether or not the fish still exists. Survey data will also enable the Forest Service to better analyze and assess the impacts of the Cement-Welcome-Sand timber sale to native fish species. We request that all native fish species be fully protected.

The Cement-Welcome-Sand environmental analysis must clarify which species of fish on the project area are native and exactly where these native fish species currently exist on the BHNF, and must present historic and current distribution, habitat condition and trend, population status and trend, and the effects of proposed actions to native fish species on the BHNF. In particular, the Cement-Welcome-Sand environmental analysis must:

- fully disclose the affected environment and analyze the effects of proposed actions to fisheries resources on the project area;

NECBB-1101

NECBB-1102

## **USFS Response – Native Ecosystems Council p. 11**

### **NECBB-1101**

The EA addresses land snails on pp. 81-82. Colonies identified by Frest and Johannes would be protected, as required under Revised Forest Plan standard 3103. Mitigation has been clarified (EA p. 33).

### **NECBB-1102**

See responses to NECBB-0401 (p. D-141), NECBB-0702 (p. D-147), and WWA-0201 (p. D-257).

- provide analysis and information that supports the effectiveness of best management practices (“BMP’s”);
- utilize habitat and population monitoring information and inventory information;
- provide analysis and information that supports any determination that the impacts of current management to native fisheries are not significant;
- analyze the impacts of non-native fish species to native fish species;
- provide scientifically supported measures that protect native fisheries and ensure native fish species viability;
- ensure viable populations of existing fish species are maintained on the BHNF; and
- provide analysis and information that supports any measures that protect existing fish populations on the BHNF.

NECBB-1102

This analysis must also include aquatic MIS population trend monitoring data.

**8. Culmination of Annual Increment (CMAI)**

The Cement DEA bluntly asserts that “Culmination of mean annual increment (CMAI) has been calculated for all pine stands within the project area. All stands proposed for regeneration harvest for timber production objectives have achieved CMAI.” [DEA at 46, emphasis added]. The DEA then goes on to assert that patch clearcuts are among the exemption requirements recognized by NFMA and its implementing regulations. Unfortunately for the Forest Service, the Black Hills LRMP contains no exemptions for CMAI that have been vetted through public participation processes (see again our LRMP Appeal). In addition, recent case law on the Black Hills National Forest (see Hollow litigation ruling) has declared that all stands must meet CMAI requirements, not just even-aged or timber production stands.

NECBB-1201

The revised Cement-Welcome-Stand EIS must fully disclose the CMAI attainment for all stands included for manipulation in any proposed action alternatives, regardless of the objectives of those treatments, in order to comply with case law governing the Black Hills National Forest.

**9. Late Successional Habitat (Old Growth)**

The EIS must fully analyze and assess the potentially significant effects to late successional forest habitat, including the effects upon all potential late successional habitat (i.e., the effects of the Cement-Welcome-Sand timber sale to existing old growth stands and to late successional recruitment). This analysis must also differentiate between tree species. Empty assertions such as “There is no defined old growth management strategy for the project area” [DEA at B-6] are woefully insufficient to meet the professional and scientific integrity mandates of NEPA and the viable populations directives of NFMA.

NECBB-1202

To complete this analysis and assessment, the Forest Service must first analyze whether or not the amount of late successional forest in the project area is sufficient to meet the needs of populations of wildlife species dependent on late successional forest. The Forest Service must then analyze the effects of the Cement-Welcome-Sand timber sale to late successional habitat (including future late successional habitat) in terms of the needs of those species of wild life dependent on this specialized habitat (e.g., northern goshawk, marten, sensitive woodpecker species, pygmy nuthatch, northern flying squirrel, golden-crowned kinglet, and brown creeper). The bald assertion that no habitat exists for the marten (DEA at 79) must be fully explored as to whether this has resulted from cumulative effects of past management activities. We request that all late successional habitat and all potential late successional habitat be protected.

## **USFS Response – Native Ecosystems Council p. 12**

### **NECBB-1201**

See EA p. 27.

### **NECBB-1202**

See responses to NECBB-0301 (p. D-139) and NECBB-0401 (p. D-141).

**10. Sand Creek Roadless Area**

Under Paragraph 4(a) of the Settlement Agreement, the Phase II Amendment must designate RNAs on the BHNF. Therefore, the Cement-Welcome-Sand environmental analysis must ensure that the 10,000 acres Sand Creek Roadless Area is not degraded by the actions proposed for the Cement-Welcome-Sand Project Area. The project area north of Pole Cabin draw is part of the Sand Creek Wilderness Area proposed in 1991, and raised as an appeal issue in our appeal of the 1997 LRMP. We again call to your attention, and include in these comments by reference, our LRMP Appeal regarding protections of the Sand Creek Proposed Wilderness Area.

An EIS must fully analyze and assess the potentially significant impacts to the roadless values associated with the Sand Creek Roadless Area. We request the Forest Service fully protect the Sand Creek Roadless Area by deferring all treatments in the citizens' proposed roadless area.

This should include a total prohibition on all roadwork activities, whether labeled as new construction or reconstruction. In particular, the proposed new road construction up the south fork of Plato Gulch towards the ridge between Plato Gulch and Surprise Gulch must be dropped from further consideration. This unnecessary and destructive road is incompatible with protection of the Sand Creek Roadless Area, and with protection of the late successional and aquatic species within the Surprise Gulch drainage. This proposed road would cross a stream, cross a wet meadow soggy area and go along the edge of a beautiful drainage that is full of yellowbarks, aspen and birch and shrubs, marshes and wet meadows. This exceptionally beautiful spot should be (re)designated as Aspen/Birch Management area.

Since the Cement-Welcome-Sand timber sale will impact the Sand Creek Roadless Area, an EIS is needed. Because the Cement-Welcome-Sand timber sale threatens to impact undeveloped land and potentially render portions of the existing Sand Creek Roadless Area ineligible for wilderness protection, the Forest Service is undertaking a significant irreversible and irretrievable commitment of resources. Once portions of the Sand Creek Roadless Area are logged or roaded, the Forest Service cannot undo these impacts -- there is no way to mitigate the loss of undisturbed land. Therefore, the impacts to the Sand Creek Roadless Area will be significant because there is no possible way for the Forest Service to mitigate the impacts in such a way that renders them insignificant.

NECBB-1301

**11. Cumulative Effects**

The DEA is totally inadequate regarding disclosure of cumulative effects. We are baldly told, for example, that "no suitable habitat exists" within the project area for the marten, regal fritillary butterfly, finescale dace, lake chub, and mountain sucker. Yet surely, if this is true, this would be an obvious indicator of significant adverse impacts from the past century of management manipulations and activities. After all, much of the project area was old-growth stands or beaver-occupied wet meadows that would have certainly provided suitable habitat for these species. Similarly, the past century has seen the extirpation of the grizzly and timber wolf, as well as the marten. Surely these demises represent cumulative impacts, yet the DEA is silent.

The DEA also pretends that the proposed logging actions will not reduce the number of large trees in a manner similar to everywhere else on the Black Hills National Forest, by omitting one or two likely reentries in the next twenty years of the projects of their Forest Vegetation Simulator "digital apologist". Such fraudulent presentations must be corrected with accurate disclosures of the cumulative impacts of the unsustainable logging that has occurred, and continues to occur, across the Black Hills National Forest, including on the Cement-Welcome-Sand project area.

The Forest Service also fails to disclose the continual increase in forest-wide fire risk levels with the ongoing shelterwood timber program. Each year, the trees in the forest become younger, and therefore

NECBB-1302

## **USFS Response – Native Ecosystems Council p. 13**

### **NECBB-1301**

See responses to comments A1 (p. D-2) and WWA-0201 (p. D-257).

### **NECBB-1302**

See responses to comments NECBB-0401 (p. D-141) and NECBB-0501 (p. D-143).

closer to the ground, of finer fuels, and therefore more flammable. The Forest Service must fully disclose the critical role played by unsustainable logging and grazing levels on promoting ever-younger pine stands and ever-more-fire-prone landscapes. The revised draft Cement-Welcome-Sand EIS must develop a range of alternatives that enhances the fire-retardant effects on forest landscapes of increased levels of old growth habitat, as well as increased wet meadows and beaver colonies. Road levels on the Black Hills are also so excessive that any existing road must be regarded as more of a fire threat than an aid to fire fighting (take note of the increasing incidence of arson in the last few years of fires on the Black Hills).

The Forest Service also fails to perform the continuous monitoring of species and habitats that are required under NFMA. Instead, we get only promises that some reviews will be conducted “before timber harvest” [DEA at C-1], but not prior to issuance of the Final environmental analysis and decision. This completely violates both the spirit and letter of NEPA and NFMA, and must be corrected by presentation of all required monitoring data in the revised draft Cement-Welcome-Sand EIS.

NECBB-1401  
NECBB-1402

**12. Range of Alternatives**

Table 2 [DEA at 38] presents an alleged “comparison of alternatives” from which it can be seen that the “action” Alternatives 2 and 3 do not differ in any meaningful way, at least not as considered a reasonable range by NEPA. Both Alternative 2 and Alternative 3 include “vegetation management treatments” of 196 acres of commercial thin to 60 BA, 491 acres of commercial thin to 80 BA, 52 acres of commercial thin with overstory removal, 958 acres of commercial thin with POL treatment, 17 acres of aspen enhancement, 236 acres of overstory removal, 92 acres of patch clearcuts, 78 acres of POL thin, 145 acres of storm salvage, 529 acres of shelterwood seedcut, 1322 acres of seed cut with overstory removal, 18 acres of seed tree cut, 179 acres of seed tree cut with overstory removal, 1171 acres of precommercial thin, 660 acres of lop fuels, 38 acres of handpile fuels, 123 acres of machine pile fuels, 935 acres of low complexity burn, 3.8 miles of road new construction, 63.4 miles of road reconstruction, and 2.9 miles of road pre-use maintenance.

Only minor differences in mitigation activities “differentiate” these “alternatives”, which fail to provide the reasonable range of alternatives mandated by NEPA. A full spectrum of alternatives, including those “eliminated from further consideration” must be developed for assessment and evaluation in the Cement-Welcome-Sand EIS.

NECBB-1403

Sincerely,



Brian Brademeyer  
Native Ecosystems Council  
Black Hills Regional Office  
PO Box 2003  
Rapid City, SD 57709-2003  
(605) 348-8625  
<brademey@rapidnet.com>

## **USFS Response – Native Ecosystems Council p. 14**

### **NECBB-1401**

Both action alternatives described in the Cement EA propose fuel treatments that would remove some of the ladder fuels from the stand structure (POL removal). The average crown base heights would be raised, leaving a greater distance from the surface fuels to the crown. The likelihood of a surface fire transitioning to a crown fire would be reduced (Pollet and Omi 2000). Fire use in the form of management-ignited prescribed fire applied in specific locations in a specified manner would also remove fuels at the lower levels and harden the residual stand. These treatments, combined with the retention of trees greater than 20" in diameter (EA p. 33-34), would be likely to increase the average age of individual stands somewhat as compared to pre-treatment conditions.

In addressing the road levels of the Cement project area, it is assumed the commentator is referring to road density. As discussed during the Roads Analysis Process and on EA p. 106, the higher road density does tend to increase the potential of human-caused wildfire. No known database exists that expresses a correlation between the miles of open road and human-caused fire risk.

No arson fires are known to have occurred in the Cement project area.

### **NECBB-1402**

See EA pp. 33-34.

### **NECBB-1403**

See EA pp. 36-37 and Appendix B (Scoping Comments). No alternative was suggested during scoping that varied in level or type of timber harvest except an alternative with no commercial harvest, which is represented by the no action alternative.

June 9, 2003

Elizabeth Krueger  
USDA Forest Service  
Sundance, WY 82729

**RE: Comments on the draft environmental assessment for the Cement Timber Sale**

Hello,

Native Ecosystems Council (Montana Office) would like to provide the following comments on the proposed Cement Timber Sale environmental assessment.

1. It has come to our attention that a significant portion of the Sand Creek Roadless Area will be impacted by a combination of two proposed timber sales within and adjacent to this IRA. We believe that an environmental impact statement is required to address the significant impacts that may occur as a result of such a severe impact to a very limited resource (roadless lands) on the Black Hills National Forest. NECSJ-0101
  
2. In our scoping comments on this proposal, NEC requested information on the productivity of the goshawk on this landscape. Since you have no information on this, or how past and ongoing logging on this landscape is affecting productivity of this species, you have no basis for altering any habitat with logging. You are violating both the National Environmental Policy Act (NEPA) and the National Forest Management Act (NFMA) by failing to understand management impacts on wildlife through monitoring. NECSJ-0102
  
3. The Forest is using goshawk management direction that is arbitrary, in violation of the NEPA and the Administrative Procedures Act (APA). You have no management direction for foraging habitat, or the majority of a goshawk territory. NECSJ-0103

## **USFS Response – Native Ecosystems Council p. 1**

### **NECSJ-0101**

See response to comment 2B on p. D-5.

### **NECSJ-0102**

See response to comment BCA-1403 on p. D-63.

### **NECSJ-0103**

Sufficiency of Revised Forest Plan goshawk-related direction is outside the scope of this analysis.

**Native Ecosystems Council (Sara Johnson) p. 2**

- |   |            |
|---|------------|
| 4. You failed to identify the structural stages within each of the goshawk postfledging areas that are being managed on this landscape. We would like to know existing and planned conditions for these areas.  | NECSJ-0201 |
| 5. The draft EA failed to address how viability of the goshawk is being impacted by a habitat deficiency in the postfledging areas. How is the lack of older, denser structural stages affecting productivity of these postfledging areas?  | NECSJ-0202 |
| 6. The panel of goshawk experts recommended that structural stages, including old growth, be managed across the landscape, and not just within goshawk postfledging areas. Why hasn't this recommendation been followed?  | NECSJ-0203 |
| 7. If there is no old growth management in this project area, how can you manage for the goshawk, an old growth-associated species?   | NECSJ-0204 |
| 8. How will the lack of management of old growth affect other old growth species across this landscape?   | NECSJ-0205 |
| 9. The Revised Forest Plan (RFP) does not contain an analysis of how the proposed distribution of old growth areas will sustain viability of associated wildlife. You have not provided any such analysis in this site-specific project as well. Where is this analysis being done to ensure landscape viability of old growth wildlife and plants?   | NECSJ-0206 |
| 10. Your analysis of project impacts on management indicator species and sensitive species is arbitrary because you have no habitat standards against which to estimate current or future viability. If you are not measuring habitat, how can you measure viability? Where are your conservation strategies for these species?   | NECSJ-0207 |
| 11. Once again the Forest has refused to address NEC's concern about how snag habitat varies within the various structural stages. You are essentially ignoring snag management by failing to manage the distribution of successional stages across a landscape to ensure that enough snags are maintained for viability. We would like to know the average snag densities and sizes within each structural stage and how the composition of structural stages is designed to ensure that enough snags are present. | NECSJ-0208 |

## **USFS Response – Native Ecosystems Council p. 2**

### **NECSJ-0201**

This data is now presented on EA pp. &&\_\_-\_\_.

### **NECSJ-0202**

Species viability is outside the scope of this analysis. The Forest Service is unaware of any data suggesting a correlation between level of older, denser structural stages within the PFA and goshawk productivity. It is not possible to make inferences on how a lack of older, denser structural stages would affect productivity.

As demonstrated on EA pp. &&\_\_-\_\_, the proposed actions would improve the balance of vegetation structural stages in project area PFAs as directed by the Revised Forest Plan.

### **NECSJ-0203**

Sufficiency of Revised Forest Plan direction is outside the scope of this analysis. See also Phase 1 Amendment Environmental Assessment and Decision Notice.

### **NECSJ-0204**

Old growth habitat exists in the Cement project area (EA p. 56) and would not be affected under any alternative. Northern goshawk is associated with a variety of forest structures (EA pp. 61-68).

### **NECSJ-0205**

It is assumed that the commentator means “lack of management to create old growth”. While there is no management planned specifically to assist in development of old growth, the proposed thinning from below and retention of large-diameter trees would provide options for old growth management. Old growth forest is usually presumed to include large-diameter trees, among other attributes, and thinning is one way to ensure that stands avoid stagnation and remaining trees continue to increase in size. In addition, many stands within the project area would not be treated under any alternative. Some of these have been treated in the recent past, but others continue to develop as potential old growth. Effects on species associated with large-diameter trees, large-diameter snags, and/or dense forest are presented on EA pp. 61-73, 75-78, and 84.

### **NECSJ-0206**

The EA discusses effects on threatened, endangered, and sensitive species as well as species associated with various habitat conditions. The District is not aware of old growth associated species whose viability is in question that are not included in one of these groups.

### **NECSJ-0207**

Forest-wide species viability is outside the scope of this analysis.

*continued on p. D-167*

- 12. How can you manage for snags if you have no snag inventories? NECSJ-0301
- 13. You do not have any monitoring data for snag-associated wildlife in this landscape, in violation of the NFMA and the NEPA. You don't know how cavity-associated populations are doing, and you don't know how proposed logging will affect their viability. NECSJ-0302
- 14. The management of roads in this landscape is a massive undertaking, one that we believe requires an EIS to address wildlife impacts. You have completely ignored the effect of road management on plants and wildlife. It is not clear how you have made management decisions on all these roads, including new road construction in roadless lands, without looking at impacts on wildlife. Your analysis is highly deficient in this area. NECSJ-0303
- 15. You are impacting a roadless area without either acknowledging this or addressing the impacts. The edge effects of your management next to roadless lands, as well as the construction of new roads in roadless lands, will have highly significant impacts on the remaining roadless areas. This requires an EIS to address, as per the Roadless Rule currently in effect. NECSJ-0304
- 16. You failed to address NEC's concern about big game security. Please define where security currently exists on this landscape, and how your proposal will affect future security as well as big game vulnerability. We noted that the Wyoming Game and Fish Department is concerned about the impacts of your proposal on elk vulnerability. NECSJ-0305
- 17. We believe that before you implement any more logging on the Black Hills Forest you need to provide a complete analysis of how past and ongoing logging has impacted the viability of the goshawk. This is a "forest health" issues that we are highly concerned about, and as was noted in your expert interview summaries, is also a concern of goshawk experts. NECSJ-0306
- 18. You have inferred that logging will improve goshawk habitat. However, you failed to provide any monitoring data to show how this conclusion was derived. You need to substantiate this in your final analysis if logging is planned in postfledging area to "improve" it, as is required in the RFP. NECSJ-0307

## **USFS Response – Native Ecosystems Council p. 3**

### **NECSJ-0208**

Analysis of effects on snag habitat presented on EA pp. 56-59 demonstrates that all alternatives would comply with Revised Forest Plan direction. Sufficiency of this direction is outside the scope of this analysis.

### **NECSJ-0301**

In the absence of snag inventories, the Forest Service has assumed that the project area currently does not meet Revised Forest Plan standards for snag density and would apply mitigation (EA p. 33-34) and Revised Forest Plan direction regarding green tree retention (EA p. 56-59).

### **NECSJ-0302**

See response to comment NECBB-0301, p. D-139.

### **NECSJ-0303**

Proposed management of roads is based on recommendations in the Cement Project Area Roads Analysis Report, which addresses the effects of the road system on wildlife. See also EA pp. 59 and 86-89.

### **NECSJ-0304**

See response to comment 1A, p. D-2.

### **NECSJ-0305**

The Wyoming Game and Fish Department commented that the project area contains high-quality habitat for elk, and requested that the EA disclose project effects on elk habitat (Appendix B, p. B-11). The EA demonstrates that proposed actions would improve elk habitat (EA p. 88).

### **NECSJ-0306**

Forest-wide species viability is outside the scope of this analysis.

### **NECSJ-0307**

The EA concludes that the proposed actions would improve the balance of vegetation structural stages in project area goshawk PFAs (EA pp. 62-66) in compliance with Revised Forest Plan direction.

**Native Ecosystems Council (Sara Johnson) p. 4**

- |   |                   |
|---|-------------------|
| <p>19. We object to a new road being constructed up Pole Cabin Gulch Fork. All the remaining roadless lands on this landscape should be maintained and added to the Sand Creek Roadless area. At a minimum, an analysis is required if roadless lands adjacent to IRAs are roaded.</p>  | <p>NECSJ-0401</p> |
| <p>20. You failed to address our concern about the size of large treatment units on the goshawk, a concern that was raised by your panel of goshawk experts concerning the RFP.</p>   | <p>NECSJ-0402</p> |
| <p>21. You refer to forest health as trees. If you have a bug-free forest, or healthy by the Forest Service standards, how are the woodpeckers and cavity-nesters going to be healthy. This is a severe management conflict, one also identified by a panel of woodpecker experts, that has not been addressed in your analysis.</p>                  | <p>NECSJ-0403</p> |
| <p>22. You failed to provide information on the condition of structural stages across the various goshawk territories, information that was requested by NEC in our scoping comments. We would like to know how the current and planned conditions, in relation to the Southwest Goshawk Guidelines, reflect on goshawk viability and management.</p> | <p>NECSJ-0404</p> |
| <p>23. There is no indication that any surveys were done for most management indicator and sensitive species in this landscape. How can you manage for wildlife if key, possibly critical areas are not identified and protected?</p>   | <p>NECSJ-0405</p> |
| <p>24. Please include a review of habitat effectiveness, or impacts of open roads during logging, as developed by Region 1 of the Forest Service by Lyon and others. This methodology has been validated and provides valuable information to the public on the impacts of roads, something that is lacking in the draft Cement EA.</p>               | <p>NECSJ-0406</p> |
| <p>25. You have no analysis of forest interior wildlife. Please evaluate how the logging of the Cement project area, including portions of the Sand Creek Roadless Area, will affect interior habitat for wildlife. This is a unique, limited habitat on the Black Hills Forest.</p>  | <p>NECSJ-0407</p> |
| <p>26. You have failed to address an issue that many publics have raised with you, which is the question of the true roadless area boundary. You need to have at least one alternative that includes a roadless area boundary that</p>  | <p>NECSJ-0408</p> |

## **USFS Response – Native Ecosystems Council p. 4**

### **NECSJ-0401**

Designation of part or all of the project area as roadless is outside the scope of this analysis. The area in question does not have a roadless character (traces of old roads exist), and the Sand Creek Roadless Area is separated by roads from the areas where any activities would take place.

### **NECSJ-0402**

As demonstrated on EA pp. 61-68, the proposed actions would comply with Revised Forest Plan direction. Sufficiency of Revised Forest Plan goshawk-related direction is outside the scope of this analysis.

### **NECSJ-0403**

The EA does not refer to “forest health” as being represented only by trees. The EA does refer to healthy trees (p. 14, 15, 35) and “healthy stands” (p. 16).

### **NECSJ-0404**

Display of PFA structural stage data in the EA has been modified (p. 62-66). Forest-wide species viability is outside the scope of this analysis.

### **NECSJ-0405**

Surveys were conducted for goshawk; incidental sightings of other species were recorded in conjunction with goshawk surveys. Further information comes from past goshawk surveys, project area reconnaissance, District wildlife observation databases, Rocky Mountain Bird Observatory surveys, Wyoming Game and Fish Department, Frest and Johannes (1993, 2000), and Wyoming Natural Heritage Database records. Analysis indicates that the project area provides ample habitat for most species that may occur there, and mitigation is included in case of later discovery of sensitive species.

### **NECSJ-0406**

Analysis indicates that travel management proposed under Alternatives 2 and 3 would substantially increase habitat effectiveness as compared to the existing condition. No more roads would be open during logging than are currently.

### **NECSJ-0407**

The Revised Forest Plan contains no specific direction on or definitions of interior habitat. Analysis indicates that no threatened, endangered, sensitive, or management indicator species would be substantially affected by this project.

### **NECSJ-0408**

See response to comment 1A (p. D-2).

many publics identified in the early 1990s. These includes Section 31 of T51N, R60W, and section 25 of T51N, R61W.

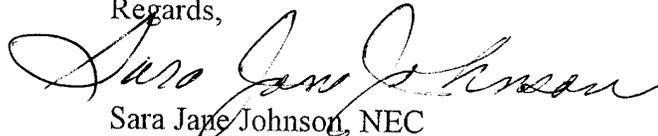
27. Please include an analysis in the final document as to why old growth does not need to be provided within this landscape. How can connectivity of old growth across the Forest be maintained without such management within site-specific areas? For cumulative effects, please demonstrate how old growth connections are being maintained in spite of a lack of old growth habitat within this project area.

NECSJ-0501

28. Since you are planning to convert many miles of unclassified roads to system roads, you need to do a roads analysis as per the Roads Rule. We did not see that this has been done or provided to the public. The public has not been provided with any information or rationale as to why these roads are going to be converted instead of declassified.

NECSJ-0502

Regards,



Sara Jane Johnson, NEC  
PO Box 125  
Willow Creek, MT  
59762

## **USFS Response – Native Ecosystems Council p. 5**

### **NECSJ-0501**

Project area old growth stands are discussed on EA p. 56. Forest-wide old growth management direction is outside the scope of this analysis.

### **NECSJ-0502**

Alternative 2 proposes conversion of 12.78 miles of unclassified road to classified. Alternative 3 proposes conversion of 21.81 miles. The roads analysis completed for the project area (Roads Analysis Report, Cement Analysis Area, v. 1.0) showed that these roads provide the only access to the areas they reach and that this access would most likely be needed again at some point in the future. Additional roads were proposed for conversion under Alternative 3 in keeping with the focus of that alternative. Decommissioning of these roads would have limited future management options or resulted in a need to construct expensive new roads at some future point.

**Whitney Nichols/Shannon Notice**

106

Whitney Nichols and Shannon Notice  
PO Box 2137  
Laramie, WY 82073

**JUN 10 2003**

May 31, 2003

Dear Ms. Krueger:

We're writing in regards to the Cement timber sale recently proposed by the Black Hills National Forest. We have been to the Black Hills on numerous occasions and are fully aware of the natural values supported by this one of a kind forest. Unfortunately, we're also aware of how much this forest has been and continues to be under siege by the Forest Service's timber sale program. We have driven many miles of the over 8,000 miles of roads that cover the forest and we have seen huge expanses of forest cut. Most telling though, is what we have not seen. We have not seen very many big trees (like yellowbarks), we have not seen very much of the forest that has been undisturbed from logging, and we have not seen very many wild areas.

Given this situation., it seems more important than ever to stem the tide of unfettered exploitation on the Black Hills. While the Forest Service always talks of "selective cutting" or "regulated harvest," we have yet to see the agency refrain from logging throughout the Black Hills. So, it seems like now's a good opportunity for the Forest Service to really show the public that it genuinely cares about the natural values of the Black Hills and the last remaining wildlands within the forest.

And, it seems like now's a good opportunity for the Forest Service to give something back to future generations. Given that the Forest Service has taken so much away in the past, this is definitely not an unreasonable request. It is more than reasonable for the Forest Service to prevent extinction, to preserve roadless areas, and protect habitat given that the agency has not once given adequate attention to these values. And, as we are aware of, these same values are considered "multiple-uses" under Federal law. To this end, we agree with the timber industry that multiple-uses are under attack on the Black Hills. Our wildlife and wilderness are greatly threatened and the Forest Service needs to protect these values.

So, in order to protect wildlife, wildlands, and other natural values on the Black Hills, we hope the Forest Service cancels the Cement timber sale. And, to protect some of the Black Hills for future generations, we hope the Forest Service cancels the timber sale.

Our specific concerns and comments over the Cement timber sale are as follows:

1. We request that the boundaries of the Sand Creek Roadless Area on the Black Hills National Forest be based on the 1991 citizens' surveys and wilderness proposal and we request that the Roadless Area within these boundaries be fully protected. We do not want to see the Cement timber sale log, thin, build roads, or otherwise degrade the wilderness character within the Sand Creek Roadless Area as defined by these boundaries. The Sand Creek Roadless Area is not only a gem in the Black Hills, but is a biological treasure. The Roadless Area supports rare and imperiled wildlife and plants, and is one of the few areas of the Black Hills that actually contains a fair amount of old growth. If the Forest Service is serious about protecting the natural values of the Black Hills for today's and future generations, then the Cement timber sale will not log in this area.

2. If the Forest Service doesn't cancel the Cement timber sale, then we request the Forest Service prepare an Environmental Impact Statement for the logging. This is the only way to ensure a credible and accurate analysis of environmental impacts and to ensure the wilderness values of the Sand Creek Roadless Area are not significantly impacted.

NN-0101

NN-0102

NN-0103

## **USFS Response – Nichols/Noice p. 1**

### **NN-0101**

(No response needed)

### **NN-0102 through NN-0205**

See responses to Form Letter 2.

3. We request the Forest Service protect all rare and imperiled plants and animals, especially those designated as "sensitive" species. Of greatest concern to us are the northern goshawk, flying squirrel, black-backed woodpecker, pine marten, and all rare plants. NN-0201

4. We request the Forest Service protect old growth forest habitat by not logging existing old growth, but by protecting all dense, mature forest to ensure the creation of future old growth. This is a crucial measure that is desperately needed to protect many rare and imperiled species. NN-0202

5. We request the Forest Service protect "interior" forest habitat. We have seen road maps of the Black Hills and are appalled at the amount of roads and the level of fragmentation that exists on this forest. It seems like one can't get more than a 1/2 a mile from a road without running into another one. We request the Forest Service protect and restore large blocks of dense mature and old growth forest to benefit many rare and imperiled species. NN-0203

6. We request the Forest Service protect water quality and soils. To achieve this, the Forest Service must not construct any new roads, must reclaim all user-created roads, and must reclaim all other unnecessary roads. NN-0204

7. We also request the Forest Service not log near any trails or any other biologically unique areas. NN-0205

Also, we have the following questions:

- How much does the Forest Service log a year on the Black Hills National Forest?
  - What is the Forest Service doing to protect rare land snail species?
  - How many northern goshawk currently inhabit the Black Hills?
  - How many flying squirrels currently inhabit the Black Hills?
  - What is the Forest Service doing to protect the ruffed grouse?
  - Now that the flammulated owl has been confirmed to exist on the Black Hills, what is the Forest Service doing to protect this species?
  - What is the Forest Service doing to restore riparian habitat?
- NN-0206

Thank you for the opportunity to comment, we hope the Forest Service chooses to respect the right of future generations to enjoy the natural values of the Black Hills and cancels the Cement timber sale.

Sincerely,



Whitney Nichols and Shannon Noice

## **USFS Response – Nichols/Noice p. 2**

### **NN-0206**

These questions are outside the scope of the Cement project area and have been forwarded to the appropriate Black Hills National Forest Supervisor's Office specialists.





Nancy Hilding  
 <nihilshat@rapidnet.com>

To: ekrueger@fs.fed.us  
 cc:  
 Subject: cement comments PHAS

06/09/2003 11:18 PM

Nancy to Liz,

Below are our comments on Cement Timber sale, After e-mailing them, I will attempt to fax them. I am attaching the original as an attached document called "Cement comments" it is in Quark for a MacIntosh and you probably can't open it.

---

Nancy Hilding  
 President  
 Prairie Hills Audubon Society  
 P.O. Box 792  
 Rapid City, South Dakota 57709  
 June 9th, 2003

Liz Krueger  
 Cement Project  
 USDA Forest Service  
 Black Hills National Forest  
 Bearlodge Ranger District  
 P.O. Box 680  
 Sundance, Wyoming 82729  
 307-283-1361  
 307-283-3727  
 ekrueger@fs.fed.us

Comments on Cement EA.

Dear Ms Krueger

Basic comments:

~An Environmental Assessment on the Cement Project will not provide adequate analysis or opportunity for public review. Please combine the Cement and Welcome/Sand Projects and do an Environmental Impact Statement instead.

PHAS-0101

~Please use the boundaries of the Sand Creek Roadless Area as proposed by conservation groups in 1991, not the boundaries as developed by the Forest Service during the Plan revision.

PHAS-0102

~ Please do not log or build roads in the Roadless Area and please effectively close the Roadless Area to off road vehicle use.

PHAS-0103

~ Please maintain an area on the southern side of the roadless area as a "primitive buffer", which will receive only light management, retaining the mature yellow bark pine overstory and late successional landscape.

PHAS-0104

~ Please protect the wild and pristine values within the entire area of the Cement Project

PHAS-0104

~ Please do not construct new roads nor upgrade old roads in the entire timber sale area. Especially don't construct the new road

PHAS-0105

## **USFS Response – Prairie Hills Audubon Society p. 1**

### **PHAS-0101**

See response to comment 2B (p. D-5).

### **PHAS-0102**

See response to comment 1A (p. D-2).

### **PHAS-0103**

See response to comment 1C (p. D-2).

### **PHAS-0104**

See response to comment 1D (p. D-2).

### **PHAS-0105**

See response to comments 1E and 1F (p. D-2).



planned along the south fork of Pole Cabin Gulch.  
Please don't upgrade and classify - U725 and U763 but close them to vehicles and maintain them as trails.

~ Please plan for long term trail system that allows for development of hiking trails in the area which will traverse both the Roadless and "primitive buffer" area and especially protect primitive values along this future trail system.

~ Please protect scenic values, especially along all travel corridors leading to the Roadless Area and Cement Ridge Lookout.

~ Please protect at risk plant and animal species

~ Please keep logging out of Section 31 of T51N, R60W and section 25 of T51N, R61W. This area is within the roadless area, as inventoried in the conservation community's wilderness proposal. Section 31 hosts a major trail-head, providing access to trails in the roadless area leading to the north, west and east and should have been included as part of the roadless area inventoried by the Forest Service.

#### EIS Warranted

The draft EA does not support a FONSI.

1. The timber sale is controversial due to its intent to log both within the boundaries of the conservationist's 1991 Black Hills Wilderness proposal and around the Forest Services boundaries of the official inventoried roadless area. It is controversial in that it wants to create new roads and upgrade old roads, especially the new road up Pole Cabin Gulch and the possible upgrade of old two tracks in upper Surprise Gulch/Guidinger Springs area.

2. Sand Creek RA has unique geographical characteristics as it the Black Hill's only full sized inventoried roadless area not currently threatened by beetles or fear of fire/beetles driven logging. It is the only full sized, inventoried roadless area, in a remote area of the Forest away from towns, tourist centers and developed highways and large areas of residential/commercial development. Suburban/urban/forest interface issues are less significant in this area.

3. This region of the Forest is unique due to its remote, scenic, recreational and biodiversity. values. It has a mix of pine, aspen and birch, lush understory bushes, rare snails, rare plants and rare plant communities and perennial water sources. It has lots of large, old yellow bark pine. Very few places in the forest still have so many large yellow bark pines remaining. This NW area of the forest does not have the same look and feel of an industrial tree farm that dominates most of the Forest .

4. Recent beetle activity, fires, storms and logging to prevent beetles/fire has damaged dense pine stands, interior forest and SPNM class ROS areas elsewhere in the forest. This timber sale plans to log dense stands within and next to roadless area. It plans a new road right on off the edge of the roadless area, within an unroaded drainage. Dense stands, old growth, large old yellow barks, Primitive and SPNM ROS class values, drainage bottoms without roads are rare on this forest. When this sale is combined with other impacts the cumulative impacts on dense stands, old growth, scenic values and Primitive and SPNM ROS class values are significant.

5. The Welcome/Sand Project Proposal is being proposed almost at the same time and geographically next to Cement Project. Together they surround the SCRA. They will have cumulative effects on the roadless area and on this unique region of the Forest. They are similar actions:

PHAS-0105

PHAS-0201

PHAS-0202

PHAS-0203

PHAS-0204

PHAS-0205

## **USFS Response – Prairie Hills Audubon Society p. 2**

### **PHAS-0201**

See response to comment 1F (p. D-2).

### **PHAS-0202**

See response to comment 1G (p. D-2).

### **PHAS-0203**

See response to comment 1H (p. D-2).

### **PHAS-0204**

See response to comment 1I (p. D-2).

### **PHAS-0205**

No FONSI has been prepared. See also response to comments 1A and 2B (pp. D-2, 5).

## Prairie Hills Audubon Society p. 3

"Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these action in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement." (40 CFR 1508.25 (3))

Depending on what is proposed in Welcome/Sand, they may also be connected actions; for example they may depend on the same road improvements for logging truck traffic or goshawk territories may overlap.

### CHANGED CIRCUMSTANCES SINCE THE FOREST PLAN - NEED FOR FOREST PLAN AMENDMENTS

The Forest Planning regulations There are at least 3 major changes to the Forest since the Forest Plan.

#### THE CHANGE:

1. ATV use has increased. The Forest's road closures didn't always work for conventional ORVs but now ATV use has increased dramatically, and the FS road closures are now a joke. The existing road densities are excessive and that helps makes ORV impacts excessive.. The travel management plans developed in the Forest Plan Revision are obsolete and the Plans allocations for wildlife habitat security and ROS values not dependable.

2. Fire/beetles scare threatens unmanaged areas near towns. The Forest Service Plan Revision chose to put very little of the Forest in semi-primitive non-motorized (SPNM) and primitive (P) ROS classes. Only 2.3% of the Forest was so designated, and most of those areas have setting inconsistencies: they are too developed to actually meet the ROS class requirements to which they are assigned. Many SPNM areas are not even 2,500 acres in size. Areas that better met the wilder ROS classes were passed over. Sand Creek would have met most of the P ROS class requirements but most of it was not given a high ROS class; within the Sand Creek Roadless Area (SCRA) only the Special Botanical area was given SPNM ROS class. Ironically most of the areas assigned SPNM ROS class and most Backcountry Recreation Areas (3.32 areas) occur near towns. Mountain pine beetle activity has increased and recent fires have created fear of fire in the public. Storms felled lots of trees in various areas. Extensive beetle and fire preventative logging has been underway in areas near towns. SPNM areas are being logged and roaded or are threatened with logging and roading, during what is promoted by some as an emergency action. Thus their value to SPNM or P ROS Class users is denigrated and they do not or will not match their ROS classes objectives in the Forest Plan. We will have very few places to go which are really wild and protected as wild.

Beetle activity threatens old growth, dense 4C stands, thermal and hiding cover and many other un-managed pine area. When such areas occur next to towns, the fire/beetle fear also threatens them.

All of this increases the value of dense and/or unmanaged stands in any remote area away from houses and towns or such stands

PHAS-0205

PHAS-0301

## **USFS Response – Prairie Hills Audubon Society p. 3**

### **PHAS-0301**

Forest Plan amendments relating to forest-wide events or conditions are outside the scope of the Cement project.

The property owned by Mr. Green is outside the Cement project area. Hikers in Spotted Tail Gulch can avoid this property by making an approximately 0.17-mile detour.

Sand Creek Roadless Area boundary as depicted in Revised Forest Plan: See response to comment BCA-0702 (p. D-49).

## Prairie Hills Audubon Society p. 4

in areas where beetles are not very active. As aspen is more resistant to some types of fire, an area with mixed aspen may be better places in which to retain dense pine stands. If areas near towns and areas without aspen must be logged and roaded to protect people/private property from beetles/fire, then the Forest Service needs to reevaluate remote areas as havens for dense forests and SPNM and P ROS class. Specifically the forest may need to save more than 5% of the area in old growth in remote areas to offset the logging of dense stands near towns.

3. John Green has fenced in his private property on Sand Creek and posted it for no-trespassing. This removes a travel corridor previously used by hikers to access the Sand Creek Roadless Area.

### THE OPPORTUNITY:

1. The Road Area Conservation rule was signed by Clinton and upheld by the Courts, thus changing how the Forest Service can manage the SCRA. In essence the Rule rewrote the Forest Plan direction. As such it acknowledges a recreation use and has created a reliable recreation opportunity for a set of stake holders, that was not reliable or adequately protected, or promoted by the Forest Plan. Irregardless of what it says in the Forest Plan, the Rule has created defacto Primitive ROS class for Sand Creek.. People will rely on that protection and rely that this area will remain wild. The Cement and Welcome/Sand provide an opportunity for the BHNF to play catch up with the Roadless Rule and engage in planning to maximize the public benefit from the changes created by the Roadless Rule..

Sand Creek RA and the Cement Timber sale are relatively remote from urban/suburban areas, when compared with the back-country areas (3.32 MA) identified by the Forest Service in the Plan, They don't have a beetle epidemic.

The road down the upper Surprise Gulch is a two track and the area should be evaluated to see if 2,500 acres of land in the area meets SPNM class ROS requirements. If it is not managed for 2,500 acres of SPNM ROS class, it can be managed as a smaller SPNM area contiguous to a Primitive ROS class area - the Sand Creek Roadless Area. It is an area of exceptional biological diversity and of great beauty. It is separated from the Citizens boundaries of the SCRA by Pole Cabin Gulch Road, a native surface, local system road. It is below Cement Ridge, which is a good place for a trail head, as it lookout is accessible to 2 wheel drive cars and provides an excellent view..

### THE AMBIGUITY:

The Forest Plan published a map of the Sand Creek Roadless area. However the acreage it lists for roadless areas on it charts are; Sand Creek, Wyoming at 9,948 acres; Inyan Kara, Wyoming at 1,397 acres; and Beaver Park at 5,109 acres. These are the acres given on page C-4 appendix of the Black Hills Plan Revision. Biodiversity Conservation Alliance has estimated that the acre size listed in the plan FEIS for Sand Creek, matches the size of the citizens 1991 Black Hills Wilderness proposal for Sand Creek not the size of the Area as inventoried by Forest Services on its Forest Plan map. 9,948 appears to be 2,000 acres larger than the Forest Service's mapped version. The acreage used in various charts and graphs for comparing alternatives, was larger than what the FS mapped. Which do we rely on -- the FS map or the FS declared size?

### SIGNIFICANT ISSUES

See Page 11 of Draft Cement Project Proposal-

PHAS-0301

**USFS Response – Prairie Hills Audubon Society p. 4**

See previous response page.

**Prairie Hills Audubon Society p. 5**

Significant Issues Identification and Forest Service discrimination.

We find it astounding that the Forest Service could propose to log within the boundaries of the 1991 Black Hills Wilderness proposal and not realize that such roadless area logging plans would be controversial and be a significant issue. Despite concerns expressed by Prairie Hills Audubon, Biodiversity Associates, Sierra Club and Nancy Hilding in scoping about potential effects to the roadless area and the area around the roadless area, the only "Travel management" issue identified on page 11 by the Forest Service (FS) are objections to road closures - such concerns were expressed by County Board of Commissioners about road closures (see page B-4).

From reading the response to comments, the Forest Service apparently didn't bother to investigate the boundary dispute and discounted the issue because it didn't know where the disputed areas were.

The Forest Service did not listen to the environmental communities' scoping comments and thus did not figure out that a dispute over the roadless area inventory and the management for primitive or semi-primitive ROS values existed and would be significant issues.

The District ranger has the authority via the Forest Plan to close roads and close areas to off road travel in the 5.1 and 4.1 areas, the Transportation and travel rules are guidelines; the only standard is that 4.1 can't have off road vehicle use. He can also decide not to log areas during this timber sale. He has the power to change SIOs and ROS class of an area during project planning, as they are guidelines, not standards. So restricting motorized access, changing logging management and scenery to maximize non-motorized recreation values are within his power.

The Forest Service appears to be biased during planning, in whose issues it listens to and rates as significant. This bias means that some of the environmental/non-motorized recreation communities issues will initially be ignored, only to be reviewed pursuant to organized protest, later in the process when change is more difficult.. This sort of behavior occurs regularly and results in poor planning and disenfranchisement of a class of stake holders.

Other questions/issues are:

RECREATION:

1. What are negative effects of the proposal on current primitive and semi-primitive recreation values and the people who engage in such recreation?
2. What are negative effects pf proposal on scenic integrity of this area, especially in and surrounding one of the few roadless areas left in the Black Hills?.
3. What are opportunities to protect or improve SPNM and P ROS class recreation and scenic values in the area during the project?
4. The FS should develop, promote and sign a trail system in and around the Sand Creek Roadless Area, while securing the area from ORV use.

WATER

1. What are effects on water quality, especially as the watershed eventually feeds into Sand Creek a class one stream. The Forest Service should identify all drainages where muddy storm water drains down the two tracks in the native surface road. We have had a report that studies are currently being done in lower Sand Creek about excessive siltation.
2. What are effects on small mammals, birds, mollusks, reptiles and amphibians of water developments designed to benefit cows and large game animals? Do small animals have access to and/or drown in stock tanks? Effects of existing water developments on

PHAS-0501

PHAS-0502

PHAS-0503

## USFS Response – Prairie Hills Audubon Society p. 5

### PHAS-0501

The commentator claims that “the Forest Service did not listen to the environmental communities’ scoping comments and thus did not figure out that a dispute over the roadless area inventory and the management for primitive or semi-primitive ROS values existed and would be significant issues.” Scoping comments on the Cement proposals that referenced roadless area management or ROS are as follows:

- “Sand Creek Roadless Area – An EIS must fully analyze and assess the potentially significant effects to the Sand Creek roadless area, which is to the north of the Cement project area.” (*Biodiversity Associates/Sierra Club*)
- “Don’t log in the roadless area; consider developing a foot trail from Cement Ridge down to Sand Creek.” (*paraphrased from telephone call, Nancy Hilding/Prairie Hills Audubon Society*)
- “We are opposed to any timber treatments within the Sand Creek Roadless Area – with that Area defined by boundaries as proposed by the conservationist community, not the boundaries proposed by the Forest Service. The area which surrounds the Sand Creek Roadless Area is one of the most wild and pristine in the Forest and it currently doesn’t have much mountain pine beetle activity...In an area outside but surrounding the current Sand Creek Roadless Area and at least including areas which were once part of the original Sand Creek Roadless RARE II boundaryies, a buffer should be maintained as a-- buffer pristine and primitive area around a future wilderness core. In this surrounding buffer area roads should be reduced and no timber harvest that removes large old yellow barks pines or makes significant changes in the wild appearance of the surrounding area should be allowed.” (*Nancy Hilding/Prairie Hills Audubon Society*) **This comment letter was received more than two months after the scoping period closed.**

The Forest Service was responsive to relevant comments received in time to be considered in project development (see Appendix B). As stated elsewhere, the boundary of the roadless area is a Forest Plan issue and is outside the scope of this analysis.

### PHAS-0502

1. Effects on recreation are discussed on EA p. 107.
2. Effects on scenery are discussed on EA pp. 109-110.
3. The project area is composed of Management Areas 4.1 and 5.1. The ROS in 4.1 is “Roaded Natural Non-motorized”. In 5.1, the ROS is “Roaded Natural”. The District chose not to consider changing ROS in the project area to “Primitive” or “Semi-Primitive Non-motorized” because of the area’s character and other management goals.
4. See response to comment 1F.

### PHAS-0503

It is likely that surface water and sediment from the Cement project area would only reach Sand Creek as a result of an exceptional precipitation event (>50 year return interval). If a substantial portion of the Cement project area were to burn in a wildfire similar to the Jasper Fire of 2000, a subsequent rainstorm may transport water, ash, and

*continued on p. D-189*

**Prairie Hills Audubon Society p. 6**

surrounding vegetation associated with saturated soils; both trampling and dehydration effects should be evaluated.

**BIODIVERSITY:**

1. Does the Forest Plan adequately address biodiversity issues in areas that also have lots of hardwood and mixed pine/hardwood stands? Specifically do interim Goshawk foraging requirements adequately consider the forage provided by the mix of pine, aspen and birch and wet meadows in this area? The chart on page 62 seems to be about managing distribution of pine structural stages to maximize goshawk habitat.. If 2/3 of a goshawk's territory has aspen/birch or mixed hardwood/pine in it, how should you manage the 1/3 of it that is pine in order to maximize the post fledgling habitat? The rules are based on pine forest in SW. Are areas in the NW corner of the Forest unique due to deciduous component? What are the rules for managing for goshawks in eastern deciduous forests devoid of pine?

PHAS-0601

2. Upper perennial streams are isolated from downstream waters by sections of intermittent stream. Has this created any unique aquatic communities in the upper perennial stretches? Do amphibians and reptiles prosper in absence of competition or predation by fish?

PHAS-0602

**TIMBER HARVEST**

1. The timber industry benefits when mixed pine/aspen stands are classed as pine (not as aspen); as this increases the ASQ. Has the FS properly inventoried stands to determine if they are pine, hardwood or mixed pine/hardwood stands? From driving around the area, standing at ridge tops or viewing arial photos it appears to me that the Forest Service is designating some mixed stands with more aspen in them than pine, as pine stands.

PHAS-0603

Also when comparing the cover type map on page 53 and with pine structural stage map on 54 , it seems crazy -- areas assigned to aspen/birch cover type on page 53 are also assigned to a pine structural stage 4 or 5 on page 54. This is especially true in upper Surprise Gulch. How can an area be dominated by hardwoods and still be a dense pine stand? Also the Forest Plan cover type maps (circa 1997) show more aspen cover type zones in these areas than the new Cement map does. Areas also appear as both aspen/birch and pine 4C or 5 on different maps along Williams Gulch. Areas along Pole Cabin gulch that were listed as shrubs in the Forest Plan maps (circa 1997) and now show as 4C on the Cement map and in reality these slopes can have a lot of aspen/birch on north slopes. Copies of the Forest Plan Structural stage map and cover type map are included in the appendix mailed to Liz Krueger. Photos of Pole Cabin's north slope next to the livestock enclosure are enclosed in appendix.

PHAS-0604

The EA says 10 percent is in hardwoods, 86% in Pine and 4% is in meadows. 81% is mature pine. We question if this is accurate.

2. Has the FS properly inventoried the area to record all forest openings and meadows? From looking at the arial photos, it appears that many small openings don't show up on the cover type map provided in the EA as structural stage 1. If they don't show up on the map, are they still factored in to acreage totals? How big does an opening have to be to be counted as an opening rather than understory of a 4A or 3A stand? Do many of the 4A or 3A areas have defacto small patch clearcuts within them? As the Forest Plan objective is 5% in meadows, perhaps that is already reached?

PHAS-0605

4A pine structural stages cover the largest area (see bar chart on page 52). Could 4A areas be converted to patch clearcuts by cutting large trees simultaneous with removal of pine seedlings re-growth by burns or other means?

PHAS-0606

## USFS Response – Prairie Hills Audubon Society p. 6

### **PHAS-0503, continued**

silt to Sand Creek. Storm water may drain down ruts in roads in the Cement analysis area. However, most roads have cross-drains that divert such water off the road surface and into vegetated buffers. Road reconstruction proposed under this project would include repair or replacement of these structures on roads where they are lacking or damaged.

Installation of stock tanks is not proposed under any alternative. However, ramps are usually provided for animal escape when they are built. The District wildlife biologist has been notified of the lack of a ramp at the wildlife water development pointed out by the commentator in the field.

### **PHAS-0601**

Adequacy of Revised Forest Plan direction is outside the scope of this analysis. Forest Plan direction, background, and literature references on goshawk habitat management can be found in the Phase 1 Forest Plan Amendment Environmental Assessment. Management of goshawks in eastern North America is outside the scope of this analysis.

### **PHAS-0602**

Suitable aquatic habitat for amphibians (i.e. ponds and slow-moving streams) is limited within the Cement project area. Perennial flow is found only in two small drainages. There are also scattered, mostly ephemeral ponds. Springs also release water within the project area, but the water temperature may be too cold to facilitate larval amphibian development.

Survival of amphibian species within the Cement project area undoubtedly is higher than in many other areas of the Black Hills due to the absence of predacious trout. Baxter and Stone (1980) suggest tiger salamanders are especially abundant where game fish are absent, although to what extent amphibians benefit has not been documented. Amphibian species documented to exist in the area include tiger salamanders, leopard frogs, and boreal chorus frogs. There also may be some benefit to these species from lack of competition with trout species, but competition cannot be inferred simply by dietary overlap.

There are no records of turtles within the Cement project area. With the possible exception of turtles, there is most likely no interaction, competitive or otherwise, between reptiles and trout.

### **PHAS-0603**

Cover type is determined based on the dominant overstory tree species. Stands typed as pine may have an understory of hardwoods. This understory is taken into account in other measurements. The effect of cover typing on Revised Forest Plan ASQ determination is outside the scope of this project.

### **PHAS-0604**

Structural stage applies to all cover types. The stands referenced by the commentator  
*continued on p. D-191*

**Prairie Hills Audubon Society p. 7**

**TRAVEL MANAGEMENT**

1. Please address the failure of the Forest Service to put open or closed roads on forest map and failure to put signs on the open/closed roads. Also address the FS's failure to build turn around places at seasonal road closure gates and failure to put "dead end/road closure warnings" or turn around at road closures when such closures are not at road intersections. Other forests mark primitive roads as primitive at the intersection.

Inadequate signage selects for ORV/ATV users as they have the vehicles that can afford to get lost on primitive and disappearing roads. FS fails to disclose the cumulative safety risk to public of getting lost and vehicles damaged in snow, mud, cold or dark within the unmarked, confusing and ever changing road system (maze). It fails to disclose the FS ongoing neglect of public safety.

PHAS-0701

**FUELS AND PRESCRIBED FIRE**

1. This section should also include a discussion on wild fire and the pros and cons of various roading/not roading and logging/not logging strategies to prevent/contain wild fires.

2. The FS should properly disclose the long term fire and beetle promoting effects of its logging/roading program. The FS should evaluate conversion of pine stands to grass or aspen as a fire prevention/containment option. People start many forest fires; conversely roads may help fight fire; the FS should disclose the pros and cons of road access on fire risk./containment.

PHAS-0702

**RISK OF INSECT INFESTATION**

1. The FS should properly disclose the fire promoting effects of logging actions designed to prevent beetles. For example the FS opens up stands to make them inhospitable to beetles. Ironically such actions create slash, desiccate the stands and make them hotter and more windy, and thus more vulnerable to fire.

2. FS should disclose the effect of hardwood matrix on beetle spreading risk. If a pine stand is surrounded in a matrix of hardwoods and meadows, isn't the risk of beetles/fire spreading less?

PHAS-0703

**INADEQUATE RANGE OF ALTERNATIVES**

The only difference between action alternative 2 and action alternative 3 is whether control burns happen and the travel management. As the FS never recognized all the environmental and dispersed back-country recreation significant issues, it could not sculpt an alternative to address those concerns. It needs to re-evaluate the SCRA boundaries and re-evaluate all contiguous areas for roadless qualities. As this is should be an EIS, amendments to the Forest Plan can be proposed to address any needed changes to the Forest Plan..

The new alternative needs to be created at least include these following features:

1. No new roads built anywhere in the project area and with maximum road obliteration/closure/storage proposed.

2. No timber cutting within the boundaries of the 1991 Black Hills Wilderness Proposal and re-designate management prescriptions in the SCRA so as to be consistent with direction of Roadless Area Conservation Rule.

3. No commercial sized sawtimber treatments in the neighboring 4.1 Management area.

4. Designate all the the SCRA as P or SPNM ROS class and plan for effective road closures. Establish a SPNM class ROS area .in headwaters of Surprise Gulch and surrounding ridges, adjacent to the southern boundary of the SCRA. Manage timber resource to maintain SPNM and old growth values.

PHAS-0704

## **USFS Response – Prairie Hills Audubon Society p. 7**

### **PHAS-0604, continued**

are not called hardwood on p. 53 and pine on p. 54. Figure 11 on p. 53 shows the cover type (dominant tree species) of each stand. Figure 12 on p. 54 shows the structural stage of each stand. For example, an aspen stand may be in structural stage 1, 2, 3A, 3B, 3C, 4A, 4B, 4C, or 5. A pine stand may also fall into any of these categories.

Revised Forest Plan maps are on a much smaller scale than project area maps and were generated based on information available at the time. Data used in preparation of the Cement project is more current and site-specific than Forest Plan data.

### **PHAS-0605**

In order to capture small changes in vegetation, stand polygons may be delineated down to one acre in size, though ten acres is the recommended minimum size. For the Cement project, meadows and openings were delineated as separate polygons only if this one-acre size minimum was reached. Within the context of identifiable polygons with distinctive cover types, species, and crown closure, the 3A and 4A stands would not by definition have small “de facto” patch cuts within their perimeters.

### **PHAS-0606**

Patch clearcuts are proposed in some 4A or 4B stands. Removal of pine seedlings may not be appropriate if the stand was previously harvested to obtain regeneration (there are legal requirements for regenerating a stand within a certain time – see Revised Forest Plan standard 2416).

### **PHAS-0701**

Travel management across the Forest is outside the scope of this project. Not every road in the Cement project area is shown on the National Forest recreation map because the map, at 1:126,720 scale (1/2”=1 mile), would become illegibly crowded. Larger-scale maps that show all known roads are available commercially. Roads are signed when resources are available, but the commentator should be aware that signs are frequently stolen or vandalized. The National Forest is a relatively undeveloped area, not a city park; users should understand the risks of getting lost and prepare themselves accordingly.

### **PHAS-0702**

See EA pp. 105-107 and the Revised Forest Plan FEIS.

### **PHAS-0703**

The Cement project area has much operable ground that lends itself to whole-tree yarding methods, which bring nearly all slash created from “logging actions” to designated landing sites. The slash would be dealt with during brush disposal activities and addressed in a comprehensive Brush Disposal Plan. If whole-tree yarding is not used, the interim treatment as described in the Revised Forest Plan guideline 4110 would be followed.

*continued on p. D-193*

## Prairie Hills Audubon Society p. 8

5. Convert the westmost road from Pole Cabin Gulch leading down to Spotted Tail Gulch to a narrow width trail.

6. Recognize high concern levels for visuals by forest users visiting SCRA. Maintain high Scenic Integrity Objectives along corridors of all roads leading to the SCRA, namely along lower Surprise and Pole Cabin Gulch. Retain the yellow barks along travel corridors. Recognize high concern level for visuals for visitors to Cement Ridge Lookout.

7. Evaluate the area for a trail system leading south out of the roadless area and connecting at least to Cement Ridge Lookout. Look at ways to re-route the hikers who used to walk from Cement Ridge Lookout down Sand Creek and across John Green's private property. John Green has posted his property with no-trespassing signs and fenced it. Plan for future trail system by identifying it and protecting the SIO and ROS class of such trail corridors. Specifically don't road and log so as to damage foreground, middle ground and distance vistas of trail(s) nor damage the view from Cement Ridge lookout. Identify conflicts between recreators and livestock. Evaluate area for potential developed camping site to serve hikers in 2 wheel drive vehicles who would use SCRA hikes.

8. Close much of the Cement Project Area to off road vehicle use

9. Re-designate the management area prescription of areas where hardwood stands and mixed pine/hardwood stands dominate. 5.1 stands are supposed to be predominately pine. Parts of the 5.1 area is predominately hardwood and or pine/hardwood mix and these do not belong in 5.1 Management Area.

10. If patch clear cuts are planned, put them in 4A of which you have lots, not in 4C or 3C of which you have little acreage. Retain integrity of 4C and 3C stands and retain integrity of any blocks of interior dense forest.

11. Do not engage in aspen enhancement by removing towering yellow bark pine from aspen stands. Duane Weber's studies along Iron Creek showed the highest richness of bird species in mixed height stands; stands which included towering pines, hardwoods, and shrubs standing near water. Besides having birding value, they are beautiful. In this area aspen or birch may be climax vegetation.

### SCENERY MANAGEMENT

I incorporate by reference the visual quality and recreation sections of the 1997 Biodiversity et. al Appeal of the Black Hills Land and Resource Management Plan Revision.

One of the steps in the forest planning scenery inventory is to map concern levels. Concern levels means whether the users care if the forest is pretty. The important factor is not the amount of use or whether users were local or national, it was whether users cared about scenery.

The Black Hills National forest deviates from the National direction by not allowing secondary areas to have high concern level scores when the use levels are moderate or low. There for if any area in the Black Hills that is known only to locals and gets moderate use, it doesn't get a high concern level. The choice to disenfranchise the local users, has a very significant factor in the out come of the inventory. Given how they did a later step in the inventory -- how they translated scenic classes into scenic integrity objectives, it fairly well guarantees that only the areas, that the forest thinks are seen from primary areas (regional or national importance), will be recommended to have high/preservation or very high/retention Scenic Integrity Objectives by the scenery inventory. Or to re-express this in a negative way, the Forest has

PHAS-0704

PHAS-0801

**PHAS-0704, continued**

A wildfire in a thinned stand is more likely to stay on the ground as a surface fire than reach into the treetops and become a stand-replacing crown fire. If dense stands were to become widespread across the project area and a mountain pine beetle epidemic occurred, the resulting fuel load from the bug kill would, for a period of up to 5 years, be in a more volatile condition than what results from typical logging methods. This is due to the lack of compactness of the fuel that typically results from beetle kill. The increased surface area available for ignition of the downed fuel lends to faster consumption and a higher energy release.

The concept that hardwood stands can ameliorate or reduce insect/fire risk is valid if stand aspect, spatial arrangement, and size are favorable. Over most of the Cement project area (with the possible exception of the eastern quarter near Cement Ridge), the size of hardwood stands and their juxtaposition with neighboring pine stands do not materially affect either beetle risk or fire spread. The hardwood stands are not large enough or extensive enough to prevent beetles from flying beyond them into the next pine stand. Also, in many cases the hardwood component is found in the suppressed or intermediate crown positions, i.e. below the flight height of the beetles.

Hardwood stands in the Cement project area tend to be found in small clumps or in a long, narrow stringer configuration. The progress of an active, stand-replacing crown fire would not be significantly affected by hardwood stands configured in this way. Less intense surface fires would tend to slow down when they reached the hardwood stands, especially on north slopes.

**PHAS-0704**

These comments are addressed on previous pages or are out of the scope of this analysis.

**PHAS-0801**

A Scenery Analysis was conducted for the Cement area by the Forest Landscape Architect following the procedures established in *Landscape Aesthetics, A Handbook for Scenery Management, Agriculture Handbook 701*. Trips to the field were conducted to assess the existing scenic condition of the landscape. The analysis compared the existing conditions with the LRMP standards, guidelines, and mapping that derived the Scenic Integrity Objectives. This process provides an opportunity to verify and correct the inventory and Scenic Integrity Objectives in the LRMP.

With regard to Concern Levels, the forest plan direction is re-enforced in *Agriculture Handbook 701* as follows:

“Landscapes are viewed to varying degrees from different locations and subsequently differ in their importance. To assist scenic inventory and analysis, this importance can be ranked by concern levels. Concerns levels are a measure of the degree of public importance placed on landscapes viewed from travelways and use areas..... Base Concern levels on past experience and existing planning

*continued on p. D-195*

## Prairie Hills Audubon Society p. 9

attempted to identify special distinctive places on the forest, but unless some tourist will see it, these inventoried special places will not really be protected.

Besides assigning concern levels the scenic inventory documented scenic attractiveness. As described on page 1-16 of "Landscape Aesthetics A Handbook for Scenery Management" "Scenic attractiveness classifications are:

- Class A Distinctive.
- Class B Typical.
- Class C Indistinctive.

### Class A Distinctive

Areas where landform, vegetation patterns, water characteristics, and cultural features combine to provide unusual, unique, or outstanding scenic quality. These landscapes have strong positive attributes of variety, unity, vividness, mystery, intactness, order, harmony, uniqueness, pattern, and balance.

### Class B Typical

Areas where landform, vegetation patterns, water characteristics, and cultural features use combine to provide ordinary or common scenic quality. These landscapes have generally positive, yet common, attributes of variety, unity, vividness, mystery, intactness, order, harmony, uniqueness, pattern, and balance. Normally they would form the basic matrix within the ecological unit.

### Class C Indistinctive

Areas where landform, vegetation patterns, water characteristics, and cultural land use have low scenic quality. Often water and rockform of any consequence are missing in class C, landscapes. These landscapes have weak or missing attributes of variety, unity, vividness, mystery, intactness, order, harmony, uniqueness, pattern, and balance."

There is no evidence in the Plan Revision's planning record, the Specialist report or the Plan Revision's FEIS that they did any field work to go out and find pretty areas, or that they asked the public or the districts where the pretty areas are.. Based on documents in the administrative record, it is possible that the entire scenery analysis was created in 5 days on a computer, thereby limiting follow up field work to verify values. The mapping of scenery values by computer without field work and field verification is not adequate data and violated NEPA.

Based on the description in the Scenery Management Specialist Report it would seem they sat around the office and took a lot of data that already existed in the computer --to inventory other resources such as timber stands or surface geology ie (madison formation present under soil - that kind of geology)-- and converted it into a scoring system for prettiness. As a result the Forest Service has a lot of gaudy colored maps that probably don't mean necessarily mean much of anything about visuals.

The end result of this computer map shuffle may be that inventoried old growth (Structural Stage 5) and edges of perennial streams may be protected somewhat due to visuals SIO - But what does this gain? -- they were going to be protected somewhat anyway, because they were already identified by the other resource specialists. Ie. is anything new added by this process or did the Forest Service just find out that it is going to protect the stuff it was already going to protect anyways?

As scenic integrity objectives are always guidelines, the District Ranger can ground truth the SIOs while planning a project.

PHAS-0801

## USFS Response – Prairie Hills Audubon Society p. 9

### PHAS-0801, continued

data. Supplement this data as new constituent information becomes available.”

*Landscape Aesthetics, chapter 4, page 8.*

During the scoping and comment phase, only one comment was received on this issue, and there was no widespread response by the public that their perception and concern was different than that identified in the Black Hills LRMP document. As a result, the concern levels used in the scenery analysis for this project area were those derived during the LRMP planning process.

With regard to Scenic Attractiveness, the Landscape Architect’s report addressed pointed out:

“Scenic attractiveness is obtained by classifying the landscape into different degrees of variety. This determines those landscapes which are most important and those which are of lesser value from the standpoint of scenic quality. The classification is based on the premise that all landscapes have some value, but those with the most variety or diversity have the greatest potential for high scenic value. The combination of valued landscape elements such as landform, water characteristics, vegetation, and cultural features are used in determining the measure of scenic attractiveness..... Class A refers to those areas where landform, vegetative patterns, water characteristics and cultural features combine to provide unusual, unique or outstanding scenic quality. These landscapes have strong positive attributes of variety, unity, order, harmony, uniqueness, pattern and balance. Class B refers to those landscapes where landform, vegetation patterns, water characteristics and cultural land use combine to provide ordinary or common scenic quality. Class C refers to those landscapes where landform, vegetation patterns, water characteristics and cultural land use have low scenic quality. Often water and rockform of any consequence are missing in class C landscapes. ”

The specialist’s findings verified the Scenic Attractiveness that the majority of the planning area is in: “Class B – Typical” classification, followed by “Class C – Indistinctive”, and the least in the “Class A – Distinctive”. The finding that the majority of the area was judged to be in a “Class B – Typical” classification does not diminish the positive natural beauty that is present in an area, but means that the attributes that make up the majority of the attractiveness of this area can commonly be found throughout the northwestern portion of the forest. No additional areas of unusual, unique, or outstanding landforms, vegetative patterns, or water characteristics were identified.

The scenery analysis process is accomplished concurrently with other resource analyses during the project. Goals, objectives, standards, and guidelines are established for each resource and management area. Depending on the location and the resource, the management may be similar. An example of two resources in conflict is: clear away pole- and sapling-sized trees so the large-diameter trees are visible along roads to improve the viewing opportunity vs. the need to maintain poles and saplings to provide hiding cover along roads for deer.

The District Ranger and other members of the ID team have spent considerable time in the project area and have not identified any potential for significant effects on scenery to occur or a need for mitigation or design criteria beyond that which is proposed in the EA.

**Prairie Hills Audubon Society p. 10**

If you leave it up to the Forest Plan SIO's , the only visuals protected will be the long distance view from the interstate, Hwy 585 and County Road 141. Mitigations prescribed will merely be about the shape of timbersale boundaries as seen from a distant highways. SIO are mostly low to moderate. Given the exceptional beauty of the foreground and middle grounds of this area and the fact that it has a Roadless Area and the Cement Ridge Look out tower are in it, this is obscene and a tragedy.

We ask the district ranger and district planners to use their common sense. Do you think the users of this area care about the scenery? Do you think the visual values are distinctive? Then look at how the SIO's are mapped. Ground truth the SIOs.

SLASH PILES

Under the old Forest Plan slash piles were supposed to be removed within 1 to 5 years depending on the VQO for the area. While I did not note the year they were removed the gigantic slash piles in Pole Cabin Gulch seemed to be there longer than 5 years. Users of Pole Cabin has suffered for years with a slash pile problem. Don't repeat history. The slash piles should not be piled in meadows, along drainage bottoms or riparian zones nor in the Aspen/Birch/ or shrub edges of drainages. Wherever they are placed they should be removed/burned/chipped promptly. The Forest Service should require a bond or some other device to make sure this happens.

Slash piles, and scattered slash are temporary, but they are unsightly and while there they hurt semi-primitive ROS values. By studying the DEIS on the Forest Plan we determined that in the decade prior to the DEIS the forest harvested 26.7% of the forest's acres and DEIS anticipated harvesting 27.6 percent of the forest during the next decade. This EA indicates that 25% of the area will be harvested by this sale and that cumulatively 61% of the area was harvested since 1987 and that 71% will be harvested after this sale. This would indicate a higher than average rate of timbering in the area. Is this area doomed to get another slash pile relatively soon as the last set was burned or chipped?

Please indicate how many years the area will be free of slash negative impacts before the next slash pile is created?

ROS MANAGEMENT

Regarding "size", the ROS Guide indicates that areas on the Forest with a ROS class of Primitive should be at least 5,000 acres (unless contiguous with Semi-Primitive Non-Motorized), Semi-Primitive Non-Motorized should be 2,500 acres (unless contiguous with Primitive), and Semi-Primitive Motorized should be 2,500 acres. ROS Guide at 20. The Forest has ignored these guidelines when designating ROS class on this Forest. The Forest Service should designate Sand Creek Roadless Area as Primitive ROS, as it is be the most primitive place on the Forest . As ROS class is a guideline, it can always be changed at a project level if need be.

We request that the Forest re-examine the area for ROS values. The 4.1 areas are given roaded natural - non motorized ROS and allowed to be logged. What is the difference between a 4.1 area and a 5.1 area with a road closure and off road vehicle restrictions? Why bother to have 4.1 areas if they are managed just like 5.1? The Forest Service must somehow manage the logging/ranching in 4.1 areas so that they are somehow special and so that the logging/ranching impacts are light and don't destroy the dispersed non-motorized hiking experience.

We request the FS evaluate Cement and Welcome/Sand Projects for potential developed campsite to serve SCRA users. Please include

PHAS-0801

PHAS-1001

PHAS-1002

## **USFS Response – Prairie Hills Audubon Society p. 10**

### **PHAS-1001**

Proposed whole-tree yarding would result in slash piles located in openings that are used for log landings. This yarding method is proposed in some areas along Pole Cabin Road (NFSR 802); therefore, slash piles may be located along the road. Restrictions in standard timber sale contracts prevent placement of log landings in drainages or riparian areas listed as protected on the timber sale area map. The length of time a slash pile exists varies depending on location of pile, amount of wood in a pile, and the burning parameters. For example, if the pile has sufficient amount of wood and is easily accessible by the public, it could remain as a firewood source until all the firewood has been extracted. On the other hand, if the pile were located in an area that cannot be accessed by the public, it would be left in place only until it dries out and would then be burned when weather conditions allow. Depending on the size of the pile and location (e.g., north aspects tend to have wetter conditions), it could take three to four years to sufficiently dry for burning. If piles are burned before they are sufficiently dry, the fire tends not to consume the larger pieces and the resulting half-burned pile has to be moved, buried, scattered, or chipped at additional cost.

Slash piles do not necessarily cause negative impacts in a project area. Birds, small mammals, snakes, etc. use these piles as cover and food storage areas. Slash piles also provide a benefit to firewood gatherers, as cutting of standing snags is prohibited across the Forest.

An alternative to slash piles is leaving the slash scattered throughout the woods (i.e., no whole-tree harvest). This practice requires the slash to be lopped and scattered so that it extends no more than 24" above the ground surface. This method can, however, leave a large amount of dead wood that could contribute to higher fire intensity with increased tree mortality.

See also response to comment NECBB-0501 (p. D-143).

### **PHAS-1002**

Campground development is outside the scope of this project.

See response to comment PHAS-0501 (p. D-189). The District Ranger and other members of the ID team have spent considerable time in the project area and have not identified any compelling reasons to change Forest Plan-assigned ROS.

**Prairie Hills Audubon Society p. 11**

birding or wildlife watching and photography and nature study as recreational uses of the area and discuss effects on these uses.

**MAPS**

The Forest Service should always include a topographical map of the project area. On the maps of pine structural stages, I can't differentiate between 4C and 5. More information is needed on the Roads maps.

Some values on the vegetation maps don't make sense and may be errors. For example south of Rattlesnake Gulch an overstory removal cut will turn a structural stage 1 stand into a structural stage 2 stand. That is nonsense.

The maps should show where the aspen liberation cut is to be.

**ROAD IMPACTS**

The EA should clearly discuss which unclassified roads would be converted to classified roads with 6.9 miles of reconstruction. It should differentiate between which roads would have reconstruction and which minor maintenance. The EA should disclose more information about the 6 geographic area impacted by 6 new roads planned and the geographic areas impacted by existing road upgrading. How can we evaluate the impacts if we don't know about the territory passed through?

It should discuss the type of habitat impacted and the topography. It should discuss the scenic and recreation values. It should discuss the hydrology of the area. It should discuss if it is possible for the new or upgraded roads to be closed to ATVs.

We need to know which roads are getting upgraded by elevated road beds with new culverts to dry up muddy patches. Muddy patches/rivulets which drain into streams pose threats to water quality; conversely muddy patches create barriers to year round travel that inhibit development of inholdings with houses and resultant fragmentation of forest. Muddy roads increase habitat security for wildlife and reduce vehicle impacts to non-motorized recreation. Dips in roads that follow natural contours retain the existing character of the landscape. Elevated road beds with imported rip-rap may create discordant visual values and increase impacts from motorized use. Which roads threaten water quality and which just limit access during muddy times?

We object to any new road construction or upgrading of existing roads, except possibly road construction to reroute old roads out of special places and road work to bring road system into compliance with laws about water quality and storm water run off. We favor the maximum closure, decommissioning and obliteration of existing roads. We favor conversion of road system to trails. We favor only a few developed roads for limited 2 wheel access and the most roads to remain in primitive and native surface condition.

Prior to building or upgrading any new/old road, the Forest Service should have a long term plan for effectively closing new roads to ATV use. If rip-rap is used, it should match in color with local rocks. The Forest Service should evaluate the use of vegetation thickets to keep ATVs out of closed roads.

**SPECIFIC ROADS & TRAILS**

We want recognition of the trail system within the Sand Creek Roadless Area and immediately south of the Sand Creek Roadless Area. This trail system would begin with a trailhead in T51N, R60W Section 31. It leads north to a trail up to Bull Hill (the highest point in the SCRA) and along the spine of the ridge north towards Sand Creek Crossing. This trail has a branch to east leading down

PHAS-1101

PHAS-1102

PHAS-1103

## **USFS Response – Prairie Hills Audubon Society p. 11**

### **PHAS-1101**

Topographic maps are not included in the EA because of the cost of mass-duplicating large-scale maps. Very few members of the public have asked for large-scale topographic maps in Bearlodge Ranger District EAs, but these maps are always available on request for those who wish to see them. Road numbering and identification of topographical landmarks on the maps included in the EA provide reasonable orientation.

The hatch pattern of the structural stage 5 stands has been modified in the final EA.

The commentator does not specify the additional information she wants to see on road maps.

Existing structural stage of the referenced stand is in error on the EA map. It should be 4A rather than 1.

### **PHAS-1102**

Unclassified roads to be converted are identified on EA p. 17. See response to comment BHFRA-0203 (p. D-121) regarding road reconstruction. Specific road inventory notes are in the project file and available on request.

### **PHAS-1103**

See response to comment 1F (p. D-2) regarding trails. Management of the Sand Creek Roadless Area and Revised Forest Plan goshawk management direction are outside the scope of this project. Goshawk management in the project area is discussed on EA pp. 61-68. See also responses to Prairie Hills Audubon Society on previous pages.

## Prairie Hills Audubon Society p. 12

into Spotted tail Gulch which will be in the Welcome Sand timber sale. This trail also has a branch to the west leading towards Bear Lake and it forks before reaching Bear Lake. There may be a trails off the Bull Ridge trail that lead down Idol Gulch and/or Cranberry Gulch.

About 1/3 of a mile east of this trailhead, along the Pole Cabin road another trail system heads south east via the south fork of Pole Cabin Gulch. It leads up to the ridge between Surprise/Pole , which hosts a montane grassland with 360 degree view. What you see is a broad vista of wide valleys and ridges and mixed pine , birch, aspen and both high montane grassland and low drainage bottom meadows with a riparian area.

It then leads down a deer trail into upper reaches of Surprise Gulch and then trails go up again, towards Cement Ridge and this trail system would include the two unclassified "two tracks" (U725 and U763)) These "two tracks" connect, to the top of Guidinger Springs drainage and Cement Ridge. We want the FS to maintain these old trails/deer tracks that lead between these ridge tops and these drainages bottoms for non-motorized use. WE DO NOT WANT FS TO DEVELOP NEW ROADS AND UPGRADE TWO TRACK UNCLASSIFIED ROADS. WE WANT THE AREA CLOSED TO VEHICLES and MANAGED FOR NON MOTORIZED RECREATION. We don't want it logged in any way that would damage the old growth values, or the SPMN ROS class values of the hiking trail area and vistas.

In both alternatives the Forest Service builds a brand new road up the south fork of Pole Cabin Gulch towards the ridge between Pole Cabin and Surprise. This planned road would cross a stream, cross a wet meadow soggy area and go along the edge of a beautiful drainage that is full of yellow barks, snags, aspen and birch and shrubs, marshes and wet meadows. It also includes birch -hazelnut habitat. It is an exceptionally beautiful spot.

It creates this road in order to log a stand of pine that is in an isolated island of pine in a matrix of aspen/birch/low meadow/high grasslands. In fact in the previous plan the whole area was designated as Aspen/Birch Management area (no pine recorded - it was a 4D area). They want to log the isolated pine stand and put a patch clearcut in the middle. When I asked why, I was told it was for goshawks forage. There is so much diversity up there in the mix of aspen/birch/hazelnut/shrubs/meadows/springs/riparian/marshes, I don't see why you need to create patches for goshawk forage, won't the goshawks have plenty to eat with all the little birds/mammals in the hardwoods, shrubs, marshes and natural meadows? Won't a road and ATV use disturb them and some of their prey? Will the road disturb ruffed grouse in the area?

This road in places crosses remnants of an old two track trail (when it isn't a deer trail and over grown with shrubs or aspen), it leads from Pole cabin up to the ridge between the drainages and down into Surprise drainage. In the Cement Project area the Forest Service is trying to decommission some roads, especially roads where storm water runs down the road prism. The two track in Upper Surprise Gulch is a muddy rivulet in the rain --- storm water ran off down the road prism and deflects muddy water in to what looks like a perennial stream- soggy area.

The Crook County Board of Commissioners object to one such specific closure of an unclassified forest road - U725 and U763.- in upper surprise gulch/guidinger springs drainages. These are two pieces of unclassified two track, native surface, high suspension vehicle "road": that leads out of upper Surprise gulch and up to south end of Cement Ridge at the high end of Guidinger Springs drainage. In alternative 2 the FS plans to a decommission them. The Crook County Board of Commissioners objected to this planned road

PHAS-1103

**USFS Response – Prairie Hills Audubon Society p. 12**

See previous response page.

**Prairie Hills Audubon Society p. 13**

destruction and in alternative 3, pursuant to the request of the County Board, the Forest Service has upgraded the road and made it to a classified road.

Above the drainage on the valley sides/ridges are aspen, birch, old growth stands and montane grasslands. The Black Hills montane grasslands at cement ridge are rare plant communities, unique to the Black Hills.. It is an exceptionally beautiful spot and rich in biodiversity and given the areas hazelnut/birch in Pole Cabin Gulch there may be a possibility for rare boreal plants. .

2 wheel drive and low suspension cars are usually not appropriate along Pole Cabin Gulch. 2 wheel drive access to the SCRA is limited to the north at the Bridge at Forest Road 863, to the east at the gravel pit at 865 or the top of Rowena Gulch Road and to the west at the Cranberry Springs junction with Idol Gulch Road. For southern access cars used to park at Cement ridge and hike down Sand Creek upper beaver ponds. . John Green is now fencing the Sand Creek drainage bottom at Welcome and posting it with no trespassing signs near Mineral Hill. Thus past hiking trails access have been removed from public by private land owner asserting his property rights along the trail/old road/stream bottom. The Cement Ridge/Surprise/Pole Cabin trail can help to replace the lost Sand Creek Stream/Welcome trail.

We did not have time to explore all the potential trails leading south from the SCRA trailheads. There is another trail-head by Bear Lake and other trails/forest service closed roads take off south from Pole Cabin Gulch. There may be wonderful hiking trails of which we are not aware and the FS is planning to decommission roads. We hope to continue to keep evaluating Cement and Welcome Sand areas for prime trails connecting to SCRA..

We want no roads newly constructed or upgraded - we want the old two tracks and deer trails converted to a trail that connects Cement Ridge with Bull Hill in the Sand Creek. Pole Cabin Gulch can continue to remain open, but only as a primitive road. Roadless areas are limited and a result of a lot of political organizing work by pro-conservation community ORV user associations tend to oppose Roadless areas and have vast areas of the Black Hills National Forest to drive around in away from the Roadless area . .  
DIPPERS

The proposal indicates that there are no records of Dippers. We know a resident of the Country Club who has reported seeing a dipper a couple of years ago in that Country Club area. I think i have a vague recollection of a Country club dipper sighting being mentioned there during meetings in the mid nineties.

COSTS

The cost benefit analysis should include long term pre commercial thinning costs to clean up overstocked regrowth of pine in the future.

**EXTENSION**

We regret that muddy road conditions kept us from being able to view the entire large timber sale area and we especially wanted to view the locations where new roads are planned during comment period and were dense stands were to be logged. We request an extension due to rain fall and soft road conditions.

**APPENDIX**

An appendix was sent by "snail mail" earlier today. This package had map of hiking trails SCRA, maps from the Forest Plan Revision, the Prairie Hills Audubon Society Sand Creek alert, and copies of photos taken in Pole Cabin Gulch, the South Fork of Pole Cabin Gulch, the

PHAS-1103

PHAS-1301

PHAS-1302

PHAS-1303

PHAS-1304

## **USFS Response – Prairie Hills Audubon Society p. 13**

### **PHAS-1301**

There is no American dipper habitat in the Cement project area. The Sand Creek Country Club is well outside the boundary of this project area. The Forest Service has no information on dippers occurring in Sand Creek, which is probably not capable of supporting a breeding population.

### **PHAS-1302**

The economic analysis conducted for this project does not take into account every action that could take place over the life of each stand. See the Revised Forest Plan FEIS for long-term cumulative effects analysis.

### **PHAS-1303**

NEPA implementing regulations at 36 CFR 215.6 do not allow extension of draft EA comment periods. A draft EA can be reissued for a second comment period, but the District has identified no compelling reasons to do this. The draft EA comment period extended from April 9 to May 9, 2003; the field trip took place May 6, which was the date requested by Biodiversity Conservation Alliance. Ample time was available for field review earlier in the comment period and during project development.

## Prairie Hills Audubon Society p. 14

Ridge between Pole Cabin and Surprise and Surprise. (7 color sheets and 2 black and white). We have sent the photos so you can see how beautiful the area is.

Sincerely,

Nancy Hilding

President  
Prairie Hills Audubon Society

--

Nancy Hilding  
6300 West Elm  
Black Hawk, SD 57718

605-787-6466 phone and fax  
(call before faxing)



nhilshat@rapidnet.com Cement\_comment



KL FL

June 9,2003

Liz Kruger  
USDA Forest Service  
Bearlodge Ranger District  
PO Box 680  
Sundance, WY 82729

Re: DEIS- Cement Project

Dear Ms Kruger:

Please consider the following comments on behalf of the 800+ members of the South Dakota & the 1000+ members of the Wyoming Chapters, Sierra Club, on the above project. These comments are submitted as Chapter positions and should not necessarily be construed as an exclusion of any statements of our various "groups", individual members or field staff. Please keep in mind that the official "grass-roots generated" position of the national Sierra Club is to call for an end to all commercial logging on public lands in the United States and we subscribe to that position.

SC-0101

That being said; Sam Clauson has been a leader in the South Dakota environmental community since 1962 & has led several campaigns to protect the high quality ecosystem and beauty of the Sand Creek area of the Black Hills National Forest (BHNF). Todd Herreid has been a leader in the Dakotas and Wyoming for over 25 years. We strongly supported the area's inclusion into RARE II by the USFS in the late 1970's. Both Chapters and several other conservation organizations proposed the Sand Creek Roadless Area for Wilderness in 1991. Although this designation has not yet been accomplished, we still strongly believe the greater Sand Creek area should be made Wilderness and the surrounding area further studied for some type of alternate management, possibly as a Research Natural Area.

Since they are similar actions, we are, therefore, urging the USFS to combine the Cement Project and the Welcome/Sand project into one plan, and complete a full Environmental Impact Statement instead of two piecemeal Environmental Assessments to cover this very fragile, yet complex management area. This study should be done also with the proposed boundaries for the 1991 wilderness proposal as submitted by the conservation community and not the reduced roadless boundary as developed by the Forest Service in the Plan revision

SC-0102

Alternately, as to specifics in the Cement Project area, we urge you to build no new roads in the whole proposal, and especially not into the "roadless" area, and we urge you to more strongly enforce the roadless rule inside the original boundaries. Outside, we are especially concerned about the new proposal to build a new road along the south fork of Pole Cabin Gulch, part of which appears to be through a wetland, or is at least a wet meadow area. We urge you to preserve the old "yellow-barks", and concentrate more on removal of small "dog-hair" pine where it exists, preferably by individual thinning contracts rather than by typical commercial timber sale methods. The small amount of

SC-0103

## **USFS Response – Sierra Club p. 1**

### **SC-0102**

See response to comments A1 (p. D-2) and B2 (p. D-5).

### **SC-0103**

Most of these suggestions were not made during project development (scoping phase). The Pole Cabin road is addressed in the response to comment BCA-2901 (p. D-93). Small-diameter material is addressed on p. B-12.



merchantable timber that would be generated at the expense of lost meadows by a new road up the south fork of Pole Cabin Gulch is unacceptable, and though part of the reason for pursuing this is to increase goshawk habitat, we believe it is not worth the effort. Though increasing goshawk habitat is worthy of special management emphasis, we believe this particular area already is diverse and that there may be other reasons for your planned efforts.

SC-0103

While we applaud FS attempts to decommission and/or rehabilitate old roads and “two tracks”, we would urge more effort to be continued forest-wide, & it seems counter-productive to construct any more roads in this fragile area. We would, instead urge you to consider adding more of these old roads into an enlarged Sand Creek primitive trail system. We urge you continue the alternative calling for decommissioning of unclassified roads, U725 and U763.

SC-0201

During several Sierra Club and family/individual outings from Cement Ridge down Spotted Tail or Sand Creek (to the Crossing or FS863 bridge) or , or vice versa, we are awed by what affects human intrusion (like mining , livestock grazing, logging, road-building, and uncontrolled development)has caused to the natural conditions of this pristine area. This area is unique in eastern Wyoming as well as in the BHNF. Many species of flora & fauna exist here only as the eastern-most extent of their range.

SC-0202

Although domestic livestock grazing is a permitted use in the greater Sand Creek area, and you may already have corrected some of the overuse/abuse areas therein. If not already done, we urge you to consider closing the narrow corridors along and either side of Spotted Tail and Sand Creeks, especially at their headwaters to Sand Creek Crossing where the creek becomes dry most of the summer. Other headwaters, wet meadows, and high montane grasslands should also be protected from livestock overuse.

In conclusion, members of the Wyoming and South Dakota Chapters of Sierra Club again urge you to consider combining the two projects into one well developed EIS on the greater Sand Creek area, to give this fragile area the kind of study it deserves, possibly with the involvement of the NSF or other scientists strongly interested in studying its unique value before it becomes further eroded.

Sincerely,

Sam N Clauson, Chair- [snbclaus@rushmore.com](mailto:snbclaus@rushmore.com)  
SD Chapter, Sierra Club P.O. Box 1314  
9860 Sheridan Lake Rd  
Rapid City, SD 57702

Todd Herreid, Chair  
Wyoming Chapter, Sierra Club  
530 Sundance Dr,  
Green River, WY 82935

## **USFS Response – Sierra Club p. 2**

### **SC-0201**

Trail system: See response to comment PHAS-1103 (p. D-199).

### **SC-0202**

Livestock grazing is outside the scope of this analysis; these comments have been forwarded to District range staff.

## Donald Pay

Donald Pay  
26 Mesa Court #4  
Madison, Wisconsin 53719

As a resident of South Dakota from 1980-2001, I hiked in and adjacent to the Cement Project area on numerous occasions. When I vacation in the Black Hills, I fully expect to include hiking trips to this area. I participated in the development of the proposal for a wilderness area in the Sand Creek area, which touches and slightly overlaps the Cement Project.

I find the EA to be a very incomplete and inadequate assessment of the potential impacts of the proposed action. The EA contains no predictive analyses regarding the impacts of the proposed action and alternatives. The EA simply lists potential impacts and dismisses them, without the required scientific analysis that allows a valid comparison. A complete assessment of impacts would show the proposed action to be significant, and that an Environmental Impact Statement is warranted.

I have several concerns with the proposed timber treatments as described in your EA.

1) The proposed timber treatment would negatively affect the Sand Creek Roadless Area, due to a mistaken boundary.

The boundaries of the Sand Creek Roadless Area that should be used are those identified in submissions by the conservation groups proposing the Sand Creek area for wilderness status. The boundaries you use in proposing this action have been inappropriately identified in the Forest Plan revision. Given recent legal disputes, resulting in a successful appeal of relevant parts of the Forest Plan revision, I request that you delay any decision on treatments proposed for lands within the disputed area until Phase II of the Amendment process is complete.

2) The proposed timber treatment would increase risk of catastrophic fire.

I disagree with your assessment, made without any scientifically valid evidence, that timber treatments proposed for the Cement Project will decrease risk of fire. Parts of the Cement Project and adjacent areas demonstrate extreme productivity of the understory upon cutting of dominant Ponderosa pine. The proposed timber treatment will cut out most of the dominant (fire resistant) trees, while releasing the fire-prone, volatile understory. This would vastly increase over time, not decrease, both the "ladder effect" and the amount of fuel available to burn. At minimum you must complete a risk assessment, incorporating realistic growth models and models of fire susceptibility and behavior, to show relative risks of proposed alternatives.

3) The proposed timber treatment would increase erosion of soils and sedimentation in areas streams.

The EA simply dismisses effects of timber treatments on erosion and sedimentation. A proper assessment would document, through results of verified modeling, what the expected erosion and sedimentation rates might be so that a valid comparison of alternatives can be made.

4) The proposed timber treatment would increase risk of noxious weed and insect infestation.

## **USFS Response – Donald Pay**

- 1) See response to comment 1A (p. D-2).
- 2) Analysis of effects on fire and fuels due to the proposed activities is based on published research and commonly used models. See also Revised Forest Plan FEIS pp. III-203 through III-222.
- 3) See EA pp. 98-103.
- 4) These subjects are discussed at length in the Revised Forest Plan FEIS and Black Hills National Forest Noxious Weed Management Plan Environmental Assessment (2003).

## Donald Pay p. 2

The EA lacks a thorough consideration of timber treatment impacts on noxious weed and insect infestation. The analysis should incorporate a modeling approach to allow a quantitative description of how treatments could result in increased or decreased infestations.

5) The alternatives should be expanded to include a “primitive buffer” around the southern boundary of the 1991 Roadless Area.

The area surrounding the Sand Creek Roadless Area must receive appropriate management to protect the values of the roadless area. A buffer area would be managed to retain mature yellowbark Ponderosa pine overstory and a late successional landscape.

## **USFS Response – Donald Pay**

5) See response to comment 1C (p. D-2).

# BOND ENERGY

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June 9, 2003

Elizabeth Kruger  
Black Hills National Forest  
Bear Lodge Ranger District  
P.O. Box 680  
Sundance, WY 82729

re: Proposed Cement Timber Sale  
by fax to: (307) 283-3727

Dear Ms. Kruger:

We find the above-cited proposed sale, and any consequent decision to proceed with logging of the above sale, to be deficient, erroneous, done without the required scientific and other analyses, and contrary to both federal legislation and practice regarding forest and resource management.

As a consultant for the USFS and other federal and state agencies, I have spent years analyzing the impacts of logging and road-building on forest lands. I am astonished that the Forest Service would consider a sale with so many obvious and well-documented significant negative impacts, and with such a body of scientific and legal evidence to challenge it.

The Forest Service has ignored the actual size of the Sand Creek roadless area, and has planned the sale to impact several rare or endangered species. It ignores many years of study and analysis by wildlife biologists, soil scientists, engineers, geologists, hydrologists, and foresters on the negative impacts of past logging activities in the Black Hills National Forest. Literally thousands of studies by the Forest Service and other federal and state land management agencies, universities, and other groups has repeatedly indicated that repeated or poorly planned logging will substantially accelerate erosion of soil materials, in some cases scouring down to bedrock. It threatens the survival of sensitive species like the northern flying squirrel, as well as more well-known species.

Precipitation runoff on newly logged areas will be increased, with less organic matter and soil to hold water. This runoff will result in gullying, surface erosion, and accelerated cutting of stream beds and destruction of riparian habitat.

Bond-0101

*Power Project Development      Energy M&A      Refining & Crude Operations*

## **USFS Response – Michael Bond p. 1**

### **Bond-0101**

Roadless Area: See response to comment 1A on p. D-2.

Rare or endangered species: None of the alternatives is expected to affect threatened or endangered species or populations of sensitive species (EA pp. 60-82).

Effects of proposed activities on soil and water are discussed on pp. 98-103 of this analysis. None of the alternatives would cause “substantially accelerated” soil erosion.

BOND ENERGY - page 2

Summer soil surface temperatures on unprotected south-facing slopes of logged areas in the Black Hills can reach 140°F and higher, effectively killing any young seedlings planted there. As a frequent user to the area, I can testify that in many nearby USFS logged lands, there has been little or no revegetation even though they were logged many years ago.

As a professional who has worked on USFS EIS analyses in the past, I find it incredible that the Forest Service is proposing to log over 10,000,000 BF without an EIS. There is no way such a project should proceed without the requisite scientific analysis of its inevitable and serious consequences. Similarly, the economics of this sale seem unjustified, and need far more detailed and diligent analysis.

And without an EIS to propose constructing or reconstructing 70 miles of logging roads, many across steep and unstable slopes, and logging over 5,000 acres, with the additional and irreparable damage resulting from felling, log-skidding, log-landing, and other construction activities - is completely indefensible under standard USFS procedure and regulations.

Furthermore, to intrude into the actual Sand Creek roadless area, which must include all the lands of the 1991 surveys and wilderness proposal, is irresponsible. It interferes with many of the roadless area's resources, including its visual resources. There is so little old growth left in the Black Hills National Forest that all vestiges of it must be fully protected. And all sensitive, rare, or endangered plant or animal species all must demand full protection under USFS management. This means also that off-road or any other form of motorized use must be prohibited in the Sand Creek and adjoining areas.

It is sad to see the Forest Service remains committed to below-market payouts to the logging industry rather than to the recreation, wildlife, visual resources, fisheries, and other resources which are so important to the vast majority of Americans. I urge you to reconsider the Cement Timber Sale, to stay out of Sand Creek, and to refocus the Forest Service on its more basic responsibilities to the American public.

Sincerely,

Michael Bond  
President

MB:sm

Bond-0201

## **USFS Response – Michael Bond p. 2**

### **Bond-0201**

This project does not propose tree planting. Regeneration of ponderosa pine occurs naturally in the Black Hills and planting is rarely required (Black Hills National Forest 1996 Revised Land and Resource Management Plan, Final Environmental Impact Statement, p. III-135). Timber harvest is generally required to take place in such a way that regeneration will take place within five years of the final harvest (Revised Land and Resource Management Plan, Standard 2416). There are no large areas of National Forest land in or near the project area that have failed to regenerate following timber harvest.

EIS: See response to comment 2B, p. D-5.

Roadless Area: See response to comment 1A on p. D-2.

JUN 10 2003

## *Defenders of the Black Hills*

June 9, 2003

USDA Forest Service  
Bear Lodge Ranger District  
Attn: Elizabeth Krueger  
PO Box 680  
Sundance, WY 82729

### **Re: Cement Project Area DEA Comments**

Dear Ms. Krueger:

Please include the following comments in your development of the environmental impact statement (EIS) for the Cement Project. The current Draft Environmental Assessment must be abandoned, and a full EIS initiated to determine the significant adverse impacts to the lands of the Great Sioux Reservation being proposed in this project. This EIS process must include the full and comprehensive "government to government" consultation required by federal laws, as well as establishment of the Presidential compensation committee required by the Fort Laramie Treaty of 1868 for agreement of the Great Sioux Nation with appropriate compensation for the proposed actions. In addition, the EIS must fully evaluate and disclose the negative impacts to the lands, waters, wildlife, plants, and air quality of the lands of the Great Sioux Reservation, and the cumulative effects of the past century of unlawful activities by white trespassers onto the Great Sioux Reservation.

The Black Hills for millennia have been considered sacred to more than thirty Native American nations from the United States and Canada. This unique geographic area contains the oldest mountains in the world, the highest peaks east of the Rocky Mountains and west of the Swiss Alps. Indigenous people used hot mineral springs for healing purposes for thousands of years. Grizzly bears, black bears, wolves and buffalo roamed and lived in these sacred mountains. However, all these species disappeared in the late 1800s following the unlawful trespassing into this area by Euro-Americans. Although the area was, and still is, protected by treaty for the exclusive use of the people of the Great Sioux Nation, the United States has allowed the complete destruction of the natural Black Hills through unconstrained mining, logging, roadbuilding, and housing development.

The logging and roadbuilding activities proposed under the Cement Project would continue this unlawful encroachment onto sacred Treaty lands. The Forest Service is simply wrong in concluding that the laws of the United States authorize such facilitation of the unlawful exploitation of the sacred Black Hills by the descendants of the original white trespassers. In fact, the Fort Laramie Treaties remain the supreme law of the land, and as such enforcement of these Treaties should form the basis for all stewardship decisions made by the Forest Service in its stewardship role on the lands of the Great Sioux Reservation in general, and the sacred Black Hills in particular.

These Treaties should be used to deny any and all further requests for facilitation of developments proposed by Euro-American trespassers onto the sacred Black Hills, including road easements, land transfers, logging permits, mining permits, and grazing permits. In particular, the Cement Project DEA should be withdrawn as inadequate for protection of the lands, waters, wildlife and plant species that belong to the Great Sioux Nation, and for violations of the Fort Laramie Treaties of 1851 and 1868. The sixth element of Article 11 of the 1868 Treaty explicitly delineates the obligations of all parties with respect to new roads within the Great Sioux Reservation:

DBH-0101

**USFS Response – Defenders of the Black Hills p. 1**

**DBH-0101**

See response to NECBB-0101 (p. D-137).

## Defenders of the Black Hills p. 2

*"6<sup>th</sup>. They [the Sioux Nation] withdraw all pretence of opposition to the construction of the railroad now being built along the Platte River and westward to the Pacific Ocean, and they will not in future object to the construction of railroads, wagon-roads, mail-stations, or other works of utility or necessity, which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the Government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head-man of the tribe."*

We ask that the Forest Service provide us with evidence of the assessment of such damages by the Presidential commission required by the Fort Laramie Treaty regarding the Cement Project. We further ask that the Forest Service use the Cement Project Area environmental impact statement analysis to address the land claims of the signatory tribes to the 1851 and 1868 Fort Laramie Treaties, including:

- document the source of the Forest Service's alleged jurisdiction to override Treaty provisions that have never been abrogated by Congress;
- demonstrate how the Forest Service intends to honor the terms of the 1851 and 1868 Fort Laramie Treaties as it proceeds with forest management activities; and
- base all alternatives on fulfilling the United States' trust responsibility toward the Sioux Nation, including how the Forest Service intends to prohibit actions that would destroy cultural artifacts or desecrate burial or other sacred sites, recognizing that the entire Black Hills area is such a sacred site to the Fort Laramie signatory tribes.

The Forest Service must use this public review process, including an appropriate consultation process with the Sioux Tribes, to reach an agreement with the Sioux Nation on the actions proposed in the Cement Project Area, (and other continuing activities such as logging, grazing, mining, and motorized travel throughout the lands of the sacred Black Hills) that degrade the environmental, cultural, and spiritual values of the Great Sioux Reservation.

The Defenders of the Black Hills is a group of volunteers, without racial or tribal boundaries, whose mission is to ensure that the provisions of the Fort Laramie Treaties of 1851 and 1868 are upheld by the federal government of the United States. In doing so, these volunteers are also upholding the Constitution of the United States, Article Six, which states "treaties are the Supreme Law of the land." Until the Treaties are upheld, the actions of the Defenders are to restore and protect the environment of the Black Hills to the best of their ability.

It is my honor to be able to submit these comments to you on behalf of the *Defenders of the Black Hills*.

Sincerely,



Charmaine White Face  
Defenders of the Black Hills  
(605) 343-5387  
P.O. Box 2003  
R.C. S.D.

DBH-0101

**USFS Response – Defenders of the Black Hills p. 2**

See previous response.

## Susan Eagle



"H&S Eagle"  
<mcc@rapidnet.com>  
06/09/2003 08:43 AM

To: <ekrueger@fs.fed.us>  
cc:  
Subject: Cement Project Area DEA Comments

006 12

June 9, 2003

USDA Forest Service  
Bear Lodge Ranger District  
Attn: Elizabeth Krueger  
PO Box 680  
Sundance, WY 82729

Re: Cement Project Area DEA Comments

Dear Ms. Krueger:

Please include the following comments in your development of the environmental impact statement (EIS) for the Cement Project.

The current Draft Environmental Assessment must be abandoned, and a full EIS initiated to determine the significant adverse impacts to the lands of the Great Sioux Reservation being proposed in this project. This EIS process must include the full and comprehensive "government to government" consultation required by federal laws, as well as establishment of the Presidential compensation committee required by the Fort Laramie Treaty of 1868 for agreement of the Great Sioux Nation with appropriate compensation for the proposed actions. In addition, the EIS must fully evaluate and disclose the negative impacts to the lands, waters, wildlife, plants, and air quality of the lands of the Great Sioux Reservation, and the cumulative effects of the past century of unlawful activities by white trespassers onto the Great Sioux Reservation. Although the area was, and still is, protected by treaty for the exclusive use of the people of the Great Sioux Nation, the United States has allowed the complete destruction of the natural Black Hills through unconstrained mining, logging, roadbuilding, and housing development.

The logging and roadbuilding activities proposed under the Cement Project would continue this unlawful encroachment onto sacred Treaty lands. The Forest Service is simply wrong in concluding that the laws of the United States authorize such facilitation of the unlawful exploitation of the sacred Black Hills by the descendants of the original white trespassers. In fact, the Fort Laramie Treaties remain the supreme law of the land, and as such enforcement of these Treaties should form the basis for all stewardship decisions made by the Forest Service in its stewardship role on the lands of the Great Sioux Reservation in general, and the sacred Black Hills in particular.

These Treaties should be used to deny any and all further requests for facilitation of developments proposed by Euro-American trespassers onto the sacred Black Hills, including road easements, land transfers, logging permits, mining permits, and grazing permits. In particular, the Cement Project DEA should be withdrawn as inadequate for protection of the lands, waters, wildlife and plant species that belong to the Great Sioux Nation, and for violations of the Fort Laramie Treaties of 1851 and 1868. The sixth element of Article 11 of the 1868 Treaty explicitly delineates the obligations of all parties with respect to new roads within the Great Sioux Reservation:

"6th. They [the Sioux Nation] withdraw all pretence of opposition to the construction of the railroad now being built along the Platte River and westward to the Pacific Ocean, and they will not in future object to the

Eagle-0101

## **USFS Response – Susan Eagle p. 1**

### **Eagle-0101**

See response to NECBB-0101 (p. D-137).

construction of railroads, wagon-roads, mail-stations, or other works of utility or necessity, which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the Government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head-man of the tribe."

We ask that the Forest Service provide us with evidence of the assessment of such damages by the Presidential commission required by the Fort Laramie Treaty regarding the Cement Project. We further ask that the Forest Service use the Cement Project Area environmental impact statement analysis to address the land claims of the signatory tribes to the 1851 and 1868 Fort Laramie Treaties, including:

- documentation of the source of the Forest Service's alleged jurisdiction to override Treaty provisions that have never been abrogated by Congress;
- demonstration of how the Forest Service intends to honor the terms of the 1851 and 1868 Fort Laramie Treaties as it proceeds with forest management activities; and
- please base all alternatives on fulfilling the United States' trust responsibility toward the Sioux Nation, including how the Forest Service intends to prohibit actions that would destroy cultural artifacts or desecrate burial or other sacred sites, recognizing that the entire Black Hills area is such a sacred site to the Fort Laramie signatory tribes.

The Forest Service must use this public review process, including an appropriate consultation process with the Sioux Tribes, to reach an agreement with the Sioux Nation on the actions proposed in the Cement Project Area, (and other continuing activities such as logging, grazing, mining, and motorized travel throughout the lands of the sacred Black Hills) that degrade the environmental, cultural, and spiritual values of the Great Sioux Reservation.

Sincerely,

Sue Eagle

Mennonite Central Committee  
Program Coordinator  
Oglala Lakota Nation Unit  
Box 120  
Porcupine, SD 57772

Eagle-0101

**USFS Response – Susan Eagle p. 2**

See previous response.

## Joy Owen

June 5, 2003

Elizabeth Krueger  
Black Hills National Forest  
Bear Lodge Ranger District  
PO Box 680  
Sundance, WY 82729

SUBJECT: Sand Creek

Please do not go ahead with the "Cement Timber Sale" that would impact over 5,000 acres of the Black Hills National Forest and would log over 10 million board feet. This amount of logging is outrageous, non-conservational behavior, which would have severe negative effects on the wildlife, their suitable habitat, as well as many plant species.

### Dangers

Cutting that much timber out of the already suffering Black Hills will kill even more wildlife and wild lands. Erosion, which inevitably occurs when trees are extracted, will take away nutritious topsoil that enables the trees to grow and flourish. (Erosion is especially prevalent when the form of logging is clear cutting.) Therefore, the cut land will have a difficult time replenishing itself.

Owen-0101

Another negative aspect of this timber sale is the approximately 70 miles of road that would be constructed and/or reconstructed for the extraction to take place. Roads cause fragmentation and erosion on the forest. They also are one of the leading causes of death for animals, which has actually jumped ahead of hunting (Forman and Alexander, 1998). Roads have a lasting imprint on the land. And, with the 70 miles of road being proposed migratory paths and wildlife corridors will be affected.

Owen-0102

In addition, the traffic on those roads disrupts and stresses out the wildlife. Vehicle disruption such as traffic noise, visual disturbance, pollutants and predators moving along a road are the main causes of wildlife avoidance of roads (Forman and Alexander, 1998). Traffic noise is largely why wildlife stay clear of roads because it "interferes with communication during breeding activities, increases stress hormones, alters behavior, has a deleterious effect on their food supply and/or habitat attributes, and may cause hearing loss" (Forman and Alexander, 1998).

Studies have also shown that roads spread invasive plant species. The exotic species will spread having the potential to change the existing ecosystem of the forest.

### Sand Creek

A particularly special place in the Black Hills National Forest is the Sand Creek roadless area, which would also be threatened with this timber sale under the 1991 citizens' boundaries. Sand Creek is the largest roadless area on the Forest and is vital to the survival of many plants and animals because it is one of the few remaining wild lands on the Forest. Please base your final

Owen-0103

## **USFS Response – Joy Owen p. 1**

### **Owen-0101**

Effects of proposed activities on soil and water are discussed on pp. 98-103 of the EA. Clearcutting is proposed only in several small areas (less than 7 acres each) to increase wildlife forage and diversity of forest structure. These patch clearcuts would not be located in drainages.

### **Owen-0102**

The action alternatives propose construction of 3.8 miles of new road. Reconstruction, mainly to improve drainage, is proposed on roads that already exist. Proposed closure of approximately 50 miles of road would reduce the environmental impacts of roads in the project area.

### **Owen-0103**

See response to comment 1A on p. D-2.

proposal on the 1991 citizens' surveys and wilderness proposal. Please protect this special place by not logging, constructing any roads, or degrading the wilderness qualities.

**Environmental Impact Statement**

The US Forest Service Black Hills branch must prepare an Environmental Impact Statement (EIS) for the Cement Timber Sale. It is truly the only way to ensure a credible and accurate analysis of the environmental impacts and to ensure the wilderness values of the Sand Creek roadless area.

**Protection**

Please protect all sensitive, rare and imperiled plants and animals.

Protect old growth forest habitat with the protection of all dense, mature forest to ensure the creation of future old growth.

Protect interior forest habitat and restore large blocks of mature and old growth forest to benefit sensitive woodpeckers, forest raptors, pine marten and other species dependent on that interior forest habitat.

Protect water quality and soils by not constructing any new roads and to reclaim all user-created (illegally created) and other unnecessary roads in the timber sale area.

Thank you for your time and consideration with this extremely important issue. I hope the US Forest Service Black Hills branch will concern itself more heavily with the needs of the wildlife and plant species as well as the health of the forest.

Thank you,

Joy Owen  
Concerned Citizen

Owen-0201

## **USFS Response – Joy Owen p. 2**

### **Owen-0201**

See responses to Form Letter 2 (p. D-5).

## Kristin Ryan



Kristin Ryan  
<kristin5@nyc.rr.com  
>

06/09/2003 09:33 PM

To: <ekrueger@fs.fed.us>  
cc:  
Subject: Protecting the Black Hills from New York City!!!!

57

Hello,

As a follow up to my personal email sent to you on May 29th, 2003 in regards to saving the Sacred Black Hills from the proposed Cement Project, I am now sending another, June 9, 2003, on behalf of the Defenders of the Black Hills. I will forward this on to my home town newspapers as well (New York Times etc.) in hopes that all will understand the importance of protecting the Sacred Black Hills and restoring the damage already illegally done.

USDA Forest Service  
Bear Lodge Ranger District  
Attn: Elizabeth Krueger  
PO Box 680  
Sundance, WY 82729

Re: Cement Project Area DEA Comments

Dear Ms. Krueger:

Please include the following comments in your development of the environmental impact statement (EIS) for the Cement Project. The current Draft Environmental Assessment must be abandoned, and a full EIS initiated to determine the significant adverse impacts to the lands of the Great Sioux Reservation being proposed in this project. This EIS process must include the full and comprehensive "government to government" consultation required by federal laws, as well as establishment of the Presidential compensation committee required by the Fort Laramie Treaty of 1868 for agreement of the Great Sioux Nation with appropriate compensation for the proposed actions. In addition, the EIS must fully evaluate and disclose the negative impacts to the lands, waters, wildlife, plants, and air quality of the lands of the Great Sioux Reservation, and the cumulative effects of the past century of unlawful activities by white trespassers onto the Great Sioux Reservation.

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The logging and road building activities proposed under the Cement Project would continue this unlawful encroachment onto sacred Treaty lands. The Forest Service is simply wrong in concluding that the laws of the United States authorize such facilitation of the unlawful exploitation of the sacred Black Hills by the descendants of the original white trespassers. In fact, the Fort Laramie Treaties remain the supreme law of the land, and as such enforcement of these Treaties should form the basis for all stewardship decisions made by the Forest Service in its stewardship role on the lands of the Great Sioux Reservation in general, and the sacred Black Hills in particular.

K\_Ryan-0101

## **USFS Response – Kristin Ryan p. 1**

### **K\_Ryan-0101**

See response to comment NECBB-0101 (p. D-137).

These Treaties should be used to deny any and all further requests for facilitation of developments proposed by Euro-American trespassers onto the sacred Black Hills, including road easements, land transfers, logging permits, mining permits, and grazing permits. In particular, the Cement Project DEA should be withdrawn as inadequate for protection of the lands, waters, wildlife and plant species that belong to the Great Sioux Nation, and for violations of the Fort Laramie Treaties of 1851 and 1868. The sixth element of Article 11 of the 1868 Treaty explicitly delineates the obligations of all parties with respect to new roads within the Great Sioux Reservation:

"6th. They [the Sioux Nation] withdraw all pretence of opposition to the construction of the railroad now being built along the Platte River and westward to the Pacific Ocean, and they will not in future object to the construction of railroads, wagon-roads, mail-stations, or other works of utility or necessity, which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the Government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head-man of the tribe."

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§ document the source of the Forest Service's alleged jurisdiction to override Treaty provisions that have never been abrogated by Congress;  
§ demonstrate how the Forest Service intends to honor the terms of the 1851 and 1868 Fort Laramie Treaties as it proceeds with forest management activities; and

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The Defenders of the Black Hills is a group of volunteers, without racial or tribal boundaries, whose mission is to ensure that the provisions of the Fort Laramie Treaties of 1851 and 1868 are upheld by the federal government of the United States. In doing so, these volunteers are also upholding the Constitution of the United States, Article Six, which states "treaties are the Supreme Law of the land." Until the Treaties are upheld, the actions of the Defenders are to restore and protect the environment of the Black Hills to the best of their ability.

It is my honor to be able to submit these comments to you on behalf of the Defenders of the Black Hills.

The outcry is loud and it will be heard!!!!

K\_Ryan-0101

## **USFS Response – Kristin Ryan p. 2**

See previous response page.

## Curtis Ryan



"Curtis Ryan"  
<ryan@amnh.org>  
06/09/2003 01:44 PM  
Please respond to ryan

To: <ekrueger@fs.fed.us>  
cc:  
Subject: Black Hills Cement Project Area DEA Comments

95

USDA Forest Service  
Bear Lodge Ranger District  
Attn: Elizabeth Krueger  
PO Box 680  
Sundance, WY 82729

Re: Cement Project Area DEA Comments

Dear Ms. Krueger:

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The current Draft Environmental Assessment must be abandoned, and a new, full EIS initiated to determine the significant adverse impacts to the lands of the Great Sioux Reservation being proposed in this project. This EIS process must include the full and comprehensive "government to government" consultation required by federal laws (soliciting comments through postcards is NOT a consultation!), as well as establishment of the Presidential compensation committee required by the Fort Laramie Treaty of 1868 for agreement of the Great Sioux Nation with appropriate compensation for the proposed actions. In addition, the EIS must fully evaluate and disclose the negative impacts to the lands, waters, wildlife, plants, and air quality of the lands of the Great Sioux Reservation, and the cumulative effects of the past century of unlawful activities by white trespassers onto the Great Sioux Reservation.

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The logging and road building activities proposed under the Cement Project would continue this tradition of unlawful encroachment onto sacred Treaty lands. The Forest Service is wilfully ignorant in concluding that the laws of the United States authorize such facilitation of the unlawful exploitation of the sacred Black Hills by the descendants of the original white trespassers. In fact, the Fort Laramie Treaties remain the supreme law of the land under Article VI of the US Constitution, and as such enforcement of these Treaties should form the basis for all stewardship decisions made by the Forest Service in its stewardship role on the lands of the Great Sioux Reservation in general, and the sacred Black Hills in particular.

These Treaties should be used to deny any and all further requests for

C\_Ryan-0101

## **USFS Response – Curtis Ryan p. 1**

### **C\_Ryan-0101**

See response to comment NECBB-0101 (p. 137).

facilitation of developments proposed by Euro-American trespassers onto the sacred Black Hills, including road easements, land transfers, logging permits, mining permits, and grazing permits. In particular, the Cement Project DEA should be withdrawn as inadequate for protection of the lands, waters, wildlife and plant species that belong to the Great Sioux Nation, and for violations of the Fort Laramie Treaties of 1851 and 1868. The sixth element of Article 11 of the 1868 Treaty explicitly delineates the obligations of all parties with respect to new roads within the Great Sioux Reservation:

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§ demonstrate how the Forest Service intends to honor the terms of the 1851 and 1868 Fort Laramie Treaties as it proceeds with forest management activities; and

§ base all alternatives on fulfilling the United States' trust responsibility toward the Sioux Nation, including how the Forest Service intends to prohibit actions that would destroy cultural artifacts or desecrate burial or other sacred sites, recognizing that the entire Black Hills area is such a sacred site to the Fort Laramie signatory tribes.

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Thank you for your time and attention. I am honored to be able to submit these comments to you on behalf of the Defenders of the Black Hills.

The outcry is swelling and it will be heard worldwide!

In Unity to Protect Grandmother Earth,

C\_Ryan-0101

**USFS Response – Curtis Ryan p. 2**

See previous response page.

June 5, 2003  
515 Franklin St.  
Rapid City, SD 57701  
Libyad817@aol.com

RE: **Public Comment**  
- **Black Hills National Forest**

TO: Liz Kruger, Paul Klug - Bearlodge Ranger District  
USDA Forest Service  
Black Hills National Forest  
Sundance, Wyoming  
Duane Bubac - Mt. Rushmore National Memorial  
Effluent Recycling System

Hello,

In regard to the June 9, 2003 deadline for public comment on both the Sand Creek Roadless/Wilderness Area and the proposed effluent recycling system in the National Park System, I would like to address an overall assessment of the entire state of our sacred Black Hills, in the following order:

- 1) Bearlodge Ranger District
- 2) Bear Butte-Inyan Kara-Devil's Tower Triangle
  - a. Native Rights in regard to these sacred mountains:
  - b. Aquash murder trial beginning June 24 in Federal Court in Rapid City
  - c. Bear Butte gunnery range and Motorcycle Rally
- 3) Homestake-Barrick Mine and National Lab, & environmental liability
- 4) methane gas wells pumping into the Cheyenne River drainage
- 5) Mt. Rushmore effluent
- 6) Buffalo industrial slaughter in Wind Cave National Park and Custer State Park

1) Timber sales have to stop immediately, as well as mining leases and all livestock grazing permits.

The Black Hills are sacred, and that does not mean you can go to church on Sunday and then ravage God's Earth on Monday with these proposals for timber sales in the Cement Project Area and Welcome-Sand Creek Area of the Black Hills National Forest. This is the last small pristine area left in the entire Black Hills! By setting this unreasonable June 9 deadline for public comment you are obviously fast-tracking both EAs (Environmental Assessments) at the pleasure of the logging and cowboy lobbyists. A much more extended period of public comment is therefore necessary; and I also urge you to consider the certainty of a legal Appeal for an EIS (Environmental Impact Statement) which would extend the period for public comment and ethical analysis of the permanent damage to our beautiful land for at least another year, in which time you can be certain we will mobilize the people to oppose your actions.

Seals-0101

## **USFS Response – David Seals p. 1**

### **Seals-0101**

Sand Creek Roadless Area is not in the Cement project area. The Welcome/Sand project is outside the scope of the Cement project.

2  
Sole Comment  
David Seals

Who are "We"? The 7 signatory Native Nations of the 1851 Ft. Laramie Treaty who can mobilize significant resources within the Dept. of the Interior and the Nuclear regulatory Commission, just to name a few; and a coalition of environmental groups that include the National Forest Protection Alliance, Defenders of the Black Hills, Biodiversity Conservation Alliance, and Native Ecosystems Council. I know you as Forest Rangers did not go to college and study biological science in order to spend the rest of your life defending the rights of domesticated cattle to shit in Sand Creek. Surely you have read John Muir, who described commercial livestock as "hooved locust". They are ruining the forests, just as surely as the beetles and Homestake Timber are. You know that. We know that.

2) Even more important than these RARE II (roadless Area Review and Evaluation) processes is the **Spiritual Attack** FS and NPS policies are continuing to launch on the human population.

Let's forget the geocide of trees and wildlife and undrinkable water anywhere in the West for a moment. Look at the Moon when it sets over Nowah'wus (Bear Butte in the Zezesta Cheyenne language, meaning "The Good Mountain Where the People Are Taught") and tell me that isn't as religious an experience as any hymn or sermon you hear in church. Tell Crazy Horse he was wrong to live and die for his people so that they could pray to their Creator in their own way, in Freedom. Do you think his Spirit is just going away if you build enough roads and fences, or that White Buffalo Woman and Sitting Bull are only powerless legends before the rational onslaught of petroleum science and engineering? Do you really think a bulldozer or a buck is stronger than the Arapaho and Assiniboine and Mandan faith in the power of their many Sundancers and Pipe-Carriers who are fasting and dancing right now, all this summer, to stop just such irresponsible actions as timber sales on the last wilderness area of the last sacred forest in America?

Sand Creek is a holy place and we will not let you destroy it, as these latest logging incursions would. Look at the map. You will see that not only does Sand Creek lie in the center of the great equidistant circle of the solemn Covenant signed by all our governments at Ft. Laramie, Wyoming in 1851, and ratified into solemn Law **FOREVER**, but it crosses exactly on the line between between Nowah'wus but also southwest to Inyan Kara, a very powerful mountain on public land and an enclosed BBNF square surrounded completely (illegally) by private ranching interests. Draw another line northwest from Cement Ridge, the source of the Creek, and you'll hit Mato Tipila (Devil's Tower).

- a. Native Rights are violated by these proposed logging sales, mining permits, private home ownerships, and wanton livestock grazing. You have had over 150 years to honor your Word and the legal promise of the U.S. Senate who ratified the Treaty, but as we all know your government has always, ALWAYS, broken its promises.

Seals-0201

## **USFS Response – David Seals p. 2**

### **Seals-0201**

The issues of Sand Creek, cattle grazing, and treaty rights are outside the scope of this analysis. See also response to comment NECBB-0101 (p. D-137).

Page 3  
Public Comment  
David Seals

- b. On June 24 in U.S. Federal Court in Rapid City the first of 2 murder trials will begin into the 1976 death of AIM (American Indian Movement) leader Anna Mae Aquash. Several Native men have been accused by the FBI and others of her ruthless murder. Aquash was a very serious and spiritual woman, and her internationally important Trial will bring in hundreds of serious AIM activists from all over the continent to assist in our efforts to save the Black Hills from any further "development".
- c. Another court case is scheduled for this summer regarding a Gunnery Range to be built 4 miles north of Bear Butte itself, disrupting solemn prayers and ceremonies that are always ongoing there by spiritual peoples of many creeds and beliefs. Extensive organizational efforts are already under way to accommodate hundreds of committed activists in the environmental, Native, and Anti-war communities to stop any more rape of Mother Earth.

3) Former Governor William Janklow is now using his bad offices as the sole U.S. representative for South Dakota in the U.S. Congress to get additional \$10 million (they've already gotten \$10 million approved by Congress, by Senators Daschle and Johnson) to fund Barrick Corporation's anti-environmental liabilities for any waste and destruction they left all over the Hills. Barrick owns the former infamous Homestake Gold Mine that used the Whitewood Creek for cyanide leeching, and a host of other unnatural travesties too numerous and heinous to chronicle here. Suffice it to say their champion in government, Janklow, has been convicted of rape twice in 1956 and 1967, and he once said "The only way to deal with those AIM sonsabitches is to put a bullet in their heads." Janklow is implicated in the Aquash murder, who had a bullet in her head.

4) It gets uglier. Imagine the nerve of Conoco-Philips petroleum conglomerate (who are also receiving several multimillion dollar contracts in Iraq and Afghanistan) pumping coal-bed methane water directly into the drainage of the Cheyenne River, which encircles the Black Hills. Even South Dakota's Department of Environmental and Natural Resources was "concerned" about such actions, as well as several conservative Republican state representatives. Even the right-wing Rapid City Journal publicized this case, as well as the listing of BBNF as one of the 10 worst-managed Forests in the country. It's a fact that not one creek or river is drinkable anywhere in the United States of America, and yet BBNF supervisor John Twiss was quoted in the Journal on 6/4/03 saying that "BBNF has clean water." You just can't drink it. Perhaps all those thousands of cattle shitting in it puts a new twist on the Mad Cow scenario.

Seals-0201

## **USFS Response – David Seals p. 3**

### **Seals-0301**

These issues are outside the scope of this analysis.

## David Seals p. 4

Page 4  
Public Comment  
David Seals

5)& 6) The criminal carnage just goes on and on, in this nation which seems to have the motto "Nice instead of True". As we are all butchered like so many picturesque touristy Buffalo, the media moguls smile nicely for the cameras. Americans go about their fun-loving way pretending to be good and Christian while all the time turning a blind eye to the mass murder of our Troops overseas, and the infestation of the Hills with profiteers and worthless Bikers.

The Buffalo are sacred. The People were originally Buffalo, you know? Do you care?

Sincerely,



David Seals

cc: Black Hills People's News  
Native American Village, internet  
First Nations  
Aquash family  
Leonard Peltier Defense Committee  
U.S. Attorney Mandel  
RC Journal  
Prairie Audubon Society  
Defenders of the Black Hills  
SD Peace & Justice Center  
Ace Gallagher, Senator Daschle chief of staff

## **USFS Response – David Seals p. 4**

These issues are outside the scope of this analysis.

John R. Swanson

John R. Swanson  
3400 Edmund Blvd.  
Minneapolis, MN 55406

6 June 2003

Black Hills National Forest

25-41 N. Hwy 16  
Custer 2 SD 57730

Dear Sirs:

Please accept my following Comments concerning the  
Cement Timber Sale.

1. This timber sale will promote logging and roading that will damage soil, water, air, wildlife, fish, plant and recreation resources.

May I suggest that the National Forests biological, scenic and wilderness attributes be preserved.

and to establish the Black Hills National Forest as a Habitat Sanctuary Preserve with the preservation of all old growth.

I designate the Dank Creek Wilderness of 16,307 Acres.

and to fully preserve all Roadless Areas.

I designate the Black Hills National Forest Wilderness of 612,000 Acres.

and to promote solitude.

Sincerely,

John R. Swanson.

## **USFS Response – John R. Swanson p. 1**

Effects of proposed activities on these resources are disclosed in the EA.

See also response to comment 1A, p. D-2.

## Wes Thompson

Route 1 Box 198A  
Spearfish, SD 57783

June 8, 2003

Elizabeth Krueger  
Black Hills National Forest  
2014 N. Main  
Spearfish, SD 57783

Dear Ms. Krueger:

Thank you for the opportunity to comment on your Cement Project. It is good to see science-based management resumed in the Black Hills National Forest. It would be nice to see a project like this every 10 years or at the most every 20 years on all areas. With only two management areas on this unit, I hope it will be less complicated. The success of the Cement Project will help to sell this kind of management on the Sand/Welcome Project

The active timber management programs this area has had in the last 20 years will moderate the risk of your various fire prescriptions. The public still needs to be sold on control burning. They need to be reminded of ramifications of the catastrophic fire potential that are prevalent throughout the Black Hills. If a 100-year precipitation event followed a fire of this intensity, entire watersheds and their perennial streams would be ruined by erosion and siltation (Sand Creek in this case). Species diversity would go back to zero. The various developments and a historic country club need to have the above points driven home. A little smoke and a few log trucks are a small inconvenience to keep a healthy stream flowing and fire danger down.

Goal 1 does address water yield in passing, but it should be emphasized that management practices proposed here will increase water yield on an important watershed. This watershed is a major contributor to Sand Creek and Redwater. These two streams provide excellent fisheries and domestic and irrigations water that are important to the local economy. Some people do not even know that proper timber management increases water yield as well as quality. I think healthy watersheds and yield ought to be a separate goal.

Goal 2 basically addressed species diversity. Nothing threatens species diversity more than an unmanaged forest. We are creating botanical deserts under unmanaged over story as well as under story. I think under story densities are a much-neglected subject. Fire suppression has impacted forest floor species also. Hazelnut, hawthorn, and scrub oak, for example, shade out and rob moisture from many forbs and grasses. In meadows snow berry and again hawthorn and even pine encroach, shade, and rob moisture from desirable forbs and grasses. Fire coupled with mechanical and chemical control would help. Judging from the comments by people who should know better, the benefits of

Thompson-0101

Thompson-0102

Thompson-0103

## **USFS Response – Wes Thompson p. 1**

### **Thompson-0101**

(No response needed)

### **Thompson-0102**

See response to BHFRA-0103 (p. D-121).

### **Thompson-0103**

(No response needed)

**Wes Thompson p. 2**

small patch cuts have not gotten through to some. Some people can't get the large, square clear-cuts in the Pacific Northwest out of their heads. Judging from Project Maps, most treatments are irregular and small in nature and will do much to enhance the scenic diversity and quality. Small patch cuts create edge effect and forage, which is important to wildlife.

Thompson-0103

Objective 226 of Goal 2 is of utmost importance. I know there is a liability issue associated with using local, state, and private personnel on Forest Service fires, both natural and prescribed. There should be some way around this problem, as a willing labor force exists that could help make the projects more cost effective.

Thompson-0201

I commend you for Objective 303 in Goal 3. However, it is a gross oversight not to address sustainable water yield and forage for both game animals as well as domestic livestock. I do think you cover the road issue fairly in Objective 309.

Thompson-0202

I think Goal 4 gets caught up in the roading issue at the expense of scenic diversity. Also one of the oldest forms of survival and recreation is not addressed. I am speaking of berry gathering and picking. With fire suppression and a closing forest canopy, most berry species have become decadent and are dying. The Cement Ridge area used to have wonderful serviceberry stands. An over aggressive road closure plan may discriminate against the older population in which the gathering instinct is still alive.

Thompson-0203

I think I addressed most of the Issues in comments on Goals.

I know you have to present the No Action Alternative, and I do not need to expound on the disaster it would bring. I support Alternative 2 with the consideration of my comments on your Goals. Alternative 3 would also be acceptable but not preferred.

Thompson-0204

I think grazing by domestic livestock got on unfair rap on page 47 especially when considering exploding game populations and damage to adjacent private lands and towns.

Your comments from page 16 on restoration treatment should go way beyond aspen and Guidinger Spring. If Alternative #2 were followed to a tee, it would be a good dose of restoration ecology and help return the land to that pre white man condition that continues to elude us.

All in all it is a good draft with a lot of potential. Keep up the good work.

Sincerely,



W. W. Thompson & Sons, Inc.

## **USFS Response – Wes Thompson p. 2**

### **Thompson-0201**

Fire suppression comments will be forwarded to the fire staff officer.

### **Thompson-0202**

(No response needed)

### **Thompson-0203**

Scenic diversity was not raised as an issue during the developmental stages of this project. Forest Plan direction would be met; see also mitigation (EA p. 32).

Serviceberry is known to decline with fire exclusion (Arno and Ottmar 1994). This and other early succession species such as raspberry would benefit from proposed burns and activities that would open the forest canopy and regenerate understory plants. Under either alternative, roads that are proposed to remain open would provide fairly comprehensive access to most of the project area.

### **Thompson-0204**

Presumably Mr. Thompson is referring to the following statement on page 47: “Forest vegetation has been altered by humans through timber harvest, fire suppression, introduction of exotic species, human-caused wildfires, and grazing by domestic livestock.” The contribution of livestock grazing to development of the current structure and composition of vegetation in the Black Hills is discussed by Parrish et al. (1996) and in the Final Environmental Impact Statement for the Black Hills National Forest 1996 Revised Land and Resource Management Plan.



JUN 2 2003

THE WILDERNESS SOCIETY

WILDERNESS SUPPORT CENTER

Memo to: Liz Kruger and Paul Klug; Bearlodge Ranger District  
5/27/2003

Black Hills National Forest/Sundance, Wyoming  
From: Bart Koehler, Director  
Subject: Welcome/Sand and Cement Timber Sale Projects

-----  
On behalf of the Wyoming members of The Wilderness Society, and also for the entire organization, I wanted to go on record regarding the above-proposed timber sales.

First off, I'd like to go on record in strong support of the comments submitted to you by the Prairie Hills Audubon Society. I urge you to give very serious consideration to these thoughtful comments.

Second, I stongly urge that you combine these two projects under the scope of a full-blown Environmental Impact Statement, since they are adjacent to one another, and have the potential of causing damaging impacts to the Sand Creek Roadless Area and potential Wilderness lands.

Finally, I urge that you abandon any action that would impact the Conservationists' Wilderness Proposal for Sand Creek which was adopted by the Sierra Club, The Wilderness Society and many other groups in 1991. Since Sand Creek embraces incredible wildland and wildlife values, includes rare ancient yellowbark Ponderosa Pines, and because there is so little of the Black Hills National Forest that still qualifies for designation by Congress as Wilderness -- I urge that you move quickly to grant interim protection for this area, plus recommend it for Wilderness designation by the Congress of the United States of America.

Thank you for the opportunity to comment.  
Bart Koehler

copy: John Travis

TWS-0101

## **USFS Response – The Wilderness Society p. 1**

### **TWS-0101**

Each project considers the effects of the other as part of cumulative effects analysis. See also response to comment 1A on p. D-2.

# Wyoming Wilderness Association

05/08/2003 23:58

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WYO WILD

PAGE 01

9A



June 9, 2003  
Liz Kruger  
USDA Forest Service  
Black Hills National Forest-Bearlodge Ranger District  
P.O. Box 680  
Sundance, Wyoming 82729  
307-283-1361 office, (307) 283-3727 fax  
[ekrueger@fs.fed.us](mailto:ekrueger@fs.fed.us)

## Wyoming Wilderness

### Association

PO Box 6588  
1345 S. Sheridan Avenue  
Sheridan, WY 82801  
307 672-2451 office  
307 672-2752 fax  
[wild@wvacom.net](mailto:wild@wvacom.net)  
[www.wildwyo.org](http://www.wildwyo.org)

Dear Ms Kruger:

The Wyoming Wilderness Association (WWA) is a locally-based Wyoming organization which believes in the value of wild lands and advocates for the protection of wilderness. We are dedicated to identifying and preserving natural ecosystems that embody the history, beauty, sustenance and spirit of Wyoming. The Sand Creek Roadless Area has many extraordinary traits for wilderness protection that we will address. We thank you for this opportunity to express our opinion of the Cement Timber Sale project.

In 1991, citizen groups proposed wilderness protection for several areas in the Black Hills, including about two-thirds of the former Sand Creek Roadless Area. The Black Hill Forest Service's Cement timber sale will impact over 5,000 acres of the Black Hills National Forest and log over 10 million board feet -- which is business as usual for the Black Hills. The Sand Creek Roadless Area is the last bastion in Wyoming containing many attributes of wilderness with its clean water, rare plants, animals and old growth forests. WWA urges the BHFS to cancel the Cement Timber Sale in the name of protection of this unique and outstanding ecosystem.

WWA-0101

WWA seeks to protect the integrity of all roadless areas. There are too many roads in the Black Hills and we oppose logging in the edges of the roadless area. Sand Creek needs to have its boundaries and beyond protected. We also want an external "buffer area" around the Sand Creek Roadless Area protected. This "buffer area" should have only light management activities and be managed as a primitive area, retaining its late successional pines and low road densities. Please maintain the area outside the roadless area as a "primitive buffer", which will receive only light management retaining the mature yellow bark pine overstory and late successional landscapes in this area. Based on the 1991 citizens' boundaries, the Cement timber sale threatens to log inside the Sand Creek roadless area. Citizen surveys in 1991 determined the Sand Creek roadless area is over 10,000 acres in size.

WWA-0102

Very little of the Black Hills remains wild and very little is in old growth pine. With beetles and beetle frenzy threatening other wild areas in the Forest, Sand Creek, which is an exceptional area, has had little beetle activity. To retain some wildlands in this Forest, it is critical that the area be kept pristine and remote. In the 1970s, during RARE II, the Forest Service inventoried a larger roadless area. Damp, narrow, sheltered canyons, where side springs recharge the stream and lush green

WWA-0103

## **USFS Response – Wyoming Wilderness Association p. 1**

### **WWA-0101**

See response to comment 1A on p. D-2.

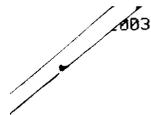
### **WWA-0102**

See response to comment 1C on p. D-2.

### **WWA-0103**

Sand Creek is not in the project area.

Wyoming Wilderness Association p. 2



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WYO WILD



vegetation overhangs the stream alternate with wide open drier canyon segments, where one can see the high cliffs that are reminiscent of the Southwest. Please use the boundaries of the Sand Creek Roadless Area as proposed by conservation groups in 1991, not the boundaries as developed by the Forest Service during the Plan revision.

Sand Creek, a "class one stream", has the highest water quality protection in Wyoming. Upper segments have a brook trout fisheries of regional importance. There are areas with cascading water falls, water troughs and pools. There are sink holes where the water can suddenly disappear. The stream side slopes support a rare snail and beaver ponds. Spotted Tail Creek supports the fine scale dace, a rare fish. Upstream between the Roadless area and Cement Ridge there are lushly vegetated beaver pond/wetland complexes. Sensitive species in the area include golden crown kinglet, red bellied snake, black backed woodpeckers, goshawks, leopard frogs and tawny crescent. coopers rocky mountain snail.

WWA-0201

Additionally, over 70 miles of roads will be constructed or reconstructed. Please do not log or build roads in the Sand Creek Roadless Area and please effectively close the Roadless Area to off-road vehicle use, and do not construct new nor reconstruct old roads in the entire timber sale area. WWA supports any efforts to decommission roads, but the success of enforcement of road closures is difficult if not impossible. WWA recommends that if roads are slated for "decommission", that they be ripped, graded to natural topography and reseeded. These restores areas will eventually disappear into the natural landscape. Roads decommissioned that are left intact will be used by off-road vehicles and will never really be closed. WWA supports proposal to close the unclassified forest road, U725 and U763, in upper surprise gulch/Guidinger springs drainages. No upgrades should occur to this "troad" (trail/road). The federal dollars are not there to maintain the roads that the BHFS already has in the system. The BHFS cannot add more classified roads to this burden.

WWA-0202

WWA would like to see a trail along the south fork of Plato Gulch, up to ridge between Surprise/Plato and then connecting down into Surprise along the two track that connects, via, U725 and U763 to the top of Guidinger Springs drainage and Cement Ridge. WWA urges the BHFS to connect these drainages with the old trails that lead to ridge tops, without any new road building to occur. Again, the Black Hills needs to take roads out of the system, not build new roads. In both alternatives the Forest Service plans to build a brand new road up the south fork of Plato Gulch towards the ridge between Plato Gulch and Surprise. This planned road would cross a stream, cross a wet meadow soggy area and go along the edge of a beautiful drainage that is full of yellow barks, aspen and birch and shrubs, marshes and wet meadows. This exceptionally beautiful spot and the water quality of the streams and bogs will be destroyed with road building and the use of the roads. The purpose of this construction is to supposedly log a small stand of pine that is in an isolated island of pine in a matrix of aspen/birch/low meadow/high grasslands. WWA urges the BHFS to delete this proposal from the plan. In fact in the previous plan the whole area was designated as aspen/birch management area (no pine recorded --4D area).

WWA-0203

## **USFS Response – Wyoming Wilderness Association p. 2**

### **WWA-0201**

Sand Creek and Spotted Tail Creek are not in the Cement project area. These drainages are not in the same 7<sup>th</sup>-code watershed as the project area. The project area drains into Sand Creek via Cold Springs Creek (though no perennial or intermittent streams leave the project area). Potential effects are discussed on pp. 98-103 of the EA.

### **WWA-0202**

Road decommissioning methods vary according to the situation. Recontouring may be necessary in some cases but is inappropriate and unnecessary in other spots, such as in drainages where disturbance of soil would increase the potential for sedimentation. Other methods can also be effective.

### **WWA-0203**

See response to comment PHAS-1103 (p. D-199).



With the diversity in aspen/birch/hazelnut/meadows/springs/riparian, logging this area will destroy the diversity, upset the water quality and disturb nesting goshawks in the area. WWA urges the BHFS to plan for long term trail system that allows for development of hiking trails in the area which will traverse both the Roadless and "primitive buffer" area, and especially protect primitive values along this future trail system. Please protect scenic values along all travel corridors to the Roadless Area.

WWA-0301

The Sand Creek Roadless Area has the highest known concentration of rare plants in the Northern Hills. The Welcome/Sand project area contains at least 4,300 acres of sensitive plant populations or suitable habitat for such plants. Cement Ridge is exceptional Black Hills montane grasslands habitat, a vegetation type unique to the Black Hills. Extensive stands of old growth pine exist, forming large areas of late successional landscapes. Birch and aspen stands abound, growing larger, straighter aspen than much of the Black Hills. Majestic old growth pine tower above deciduous trees and shrub understory. It is extremely important that the BHFS protect all at-risk plants and wildlife, and retain all remaining old growth forests. Many forests are trying to retain about 10% of their forests in old growth, which requires a no-logging policy for old growth, but also planning to retain forests that will provide future old growth forests. Identification and protection of all old growth forests and the sites for the future old growth forests is necessary to retain diversity is urged by WWA.

WWA-0302

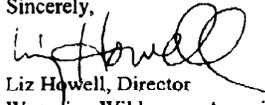
Only about 1% of the Black Hills Forest is protected as wilderness. The BHFS neighboring forest, the Bighorn, boasts nearly 30% of the Forest with Wilderness protection. The Black Hills needs to come to terms with the desecration of its forest lands, and save all intact roadless areas for future generations to discover and enjoy. WWA urges to Black Hill Forest Service to cancel the Cement Creek timber sale and protect the Sand Creek Roadless Area, and protect the remaining wild and pristine values within the entire area of the Welcome/Sand Project.

WWA-0303

Finally, WWA urges the BHFS to prepare an Environmental Impact Statement (EIS) for the Cement timber sale. An Environmental Analysis is completely inadequate to evaluate the destruction to this unique wild area. An EIS is the only way to ensure a credible and accurate analysis of environmental impacts and to ensure the wilderness values of the Sand Creek roadless area and other natural values are not significantly impacted.

Please keep WWA on your mailing list for future decisions and plans for this Wyoming portion of the Black Hills National Forest.

Sincerely,

  
Liz Howell, Director  
Wyoming Wilderness Association

## **USFS Response – Wyoming Wilderness Association p. 3**

### **WWA-0301**

See response to PHAS-1103 (p. D-199).

### **WWA-0302**

The Sand Creek Roadless Area and Welcome/Sand project area are outside the scope of the Cement project.

### **WWA-0303**

See response to comment 2B (p. D-5).