
CUSTER GALLATIN NATIONAL FOREST LAND MANAGEMENT PLAN REVISION

Reviewing Officer Response to Eligible Objections

USDA Forest Service, Northern Region

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Introduction

The objection issues raised cover a broad range of resource management and public use concerns. However, many were similar enough to consolidate under specific topic areas. To facilitate my review and this response to the issues raised, I have grouped similar issues under general resource headings with one response provided for all objectors. Some, but not all proposed improvements to the plan (referred to as remedies in the following sections) are included as examples of what objectors provided for each issue. In some cases, objectors did not provide remedies.

The land management plan operates under the legal framework of the Multiple-Use Sustained-Yield Act, which requires sustainable, integrated resource management of the Forest in the context of the broader landscape. My review considers this, and Forest Service obligations under the National Forest Management Act and its implementation regulations at 36 CFR 219, the Endangered Species Act, and other related laws, regulation, and policy.

Overall, I found the final environmental impact statement (final EIS), the land management plan, the draft record of decision, and associated planning record demonstrate the responsible official complied with law, regulation, and policy. However, my review resulted in minor instructions to clarify information in the record to address objectors' concerns on some issues. The instructions provided are summarized at the end of the response.

For ease of discussion throughout this document, the Custer Gallatin National Forest will be referred to as "the Forest" when referencing the administrative unit, the staff that administers the unit, or the National Forest System lands within the unit. The 2020 Land Management Plan may be referred to as the plan, land management plan, or plan depending on the context of the discussion. All page numbers and plan components cited refer to the 2020 plan, final EIS, and associated appendices published in July 2020. Change may be forthcoming in the final land management plan, EIS and associated appendices.

Note all references to Council on Environmental Quality regulations refer to the 1978 version as they were current at the time the programmatic NEPA review was conducted.

The following acronyms are used in this document:

- CEQ – Council on Environmental Quality
- CFR – Code of Federal Regulations
- EIS – environmental impact statement
- FR – Federal Register
- FSH – Forest Service Handbook
- FSM – Forest Service Manual
- NEPA – National Environmental Policy Act
- USC – United States Code

National Environmental Policy Act (NEPA)

Programmatic NEPA Review

Objectors contend the effects analysis is inadequate.

Objectors' Proposed Remedies

Proposed remedies included revising the analysis or choosing different alternatives. See resource specific objection issue summaries for additional proposed remedies.

Background

The concept of "programmatic" NEPA reviews is imbedded in the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500 to 1508) that address analyses of "broad actions" and the tiering process. In 2014, Council on Environmental Quality issued guidance for the effective use of programmatic NEPA reviews (CEQ 2014). The final EIS for the plan fits under "III. When to Use a Programmatic and Tiered NEPA Review" as a "decision to adopt formal plans, such as documents that guide or constrain alternative uses of Federal resources, upon which future agency actions will be based".

As described in the planning regulations at 36 CFR 219.2, Forest Service planning occurs at three levels—national strategic planning, National Forest System unit planning, and project or activity planning. The development of this plan occurs at the unit level of planning. It results in a land management plan that provides a framework for integrated resource management and for guiding project and activity decisionmaking on the Forest. The plan does not authorize projects or activities or commit the Forest Service to take action. However, the plan may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur. Implementation of the plan occurs at the third level of Agency planning, project, and activity planning, consistent with the land management plan and supported with site-specific NEPA effects analysis. Although, all three levels of planning are subject to environmental review under the NEPA, the depth and detail of effects that can be described varies based on the nature of the decision associated with the planning level.

Response

Allegations of insufficient effects analysis, failure to describe effects of individual plan components, and inadequate assessment of baseline conditions are woven through many of the objections. Although I review and respond to specific resource area objections throughout this response, I wanted to provide the context for my review of this programmatic level analysis.

As indicated by the 2014 Council on Environmental Quality guidance, programmatic NEPA reviews address the general environmental issues relating to broad decisions, such as those establishing the plan, and can effectively frame the scope of subsequent site- and project-specific Federal actions. Because impacts in a programmatic NEPA review typically concern environmental effects over a large geographic and/or time horizon, the depth and detail in programmatic analyses reflects the major broad and general impacts that might result from making broad programmatic decisions. The programmatic NEPA review of this land management plan addresses the broad environmental consequences relevant to guiding future project and activity decisionmaking. This includes constraints on the design of management activities to minimize the risk of adverse effects to the various Forest resources. The final EIS is clear about the context of the decision being made and how it relates to the context and intensity of any potential impacts (sections 1.1, 1.8.2, 2.2, 3.1, and in the environmental consequence description of individual resource sections). Section 3.1 indicates that the environmental consequences are assessed on a large scale in contrast to analyses conducted for site-specific projects.

The location, timing, and design of activities to be authorized under this plan are unknown at this time. Thus, the final EIS does not predict what will happen each time individual plan components are implemented. The environmental effects of individual projects will depend on the implementation of each project, the environmental conditions at each project location, and the application of the full integrated suite of plan components in each site-specific case. Thus, effects are generally described as the expected outcomes of the management guidance based on scientific information, monitoring implementation of the 1986 plans, the assessment, and the professional experience of the interdisciplinary team.

The discussions of the affected environment and environmental consequences in the final EIS allow a reasonable prediction of consequences on the Forest. However, as appropriate at the programmatic scale, the final EIS does not describe every environmental process or condition.

Conclusion

Unless otherwise indicated in a response to a specific resource area objection in the sections to follow, I find Forest Supervisor Erickson disclosed the appropriate level of detail required for a programmatic NEPA review.

Response to Comments

Objectors contend the final EIS does not adequately respond to comments on the draft EIS.

Background

Council on Environmental Quality regulations at 40 CFR 1503.4 requires Federal agencies to assess and consider comments both individually and collectively, but do not require a point-by-point response. If a number of comments are identical or very similar, agencies may group the comments and prepare a single answer for each group. Comments may be summarized if they are especially voluminous (Council on Environmental Quality Forty Most Asked Questions).

An agency may respond by one or more of the following possible responses (40 CFR 1503.4):

1. Modify alternatives including the proposed action.
2. Develop and evaluate alternatives not previously given serious consideration by the agency.
3. Supplement, improve, or modify its analyses.
4. Make factual corrections.
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.

Response

Given the voluminous comments received in response to the draft EIS, a line by line response to each comment was neither practicable nor required. My review found the Forest used a systematic content analysis process to review, categorize, and summarize the information received in the approximately 21,000 public comment letters. In response to comment, Forest Supervisor Erickson developed alternative F, modified and improved analyses, and made corrections to the plan and final EIS per the five possible responses described at 40 CFR 1503.4 of the Council on Environmental Quality regulations. In addition, appendix F of the final EIS includes responses to the comment summaries.

Descriptions of changes made between draft and final EIS based on public comment and internal review can be found at section 2.5.1 of the final EIS, in each section of the final EIS under the header "Notable changes between the draft and final EIS", and pages 28 to 30 of the draft record of decision. As discussed in the preceding issue summary, the final EIS is a programmatic NEPA review and reflects the broad and general impacts of guiding project

and activity decisionmaking consistent with the integrated suite of plan components. Thus, not every change between draft and final EIS is described in detail, such as the modifications to individual plan components or updates to effects descriptions where changes are minor and qualitatively with effects disclosed in the draft EIS. This is consistent with Council on Environmental Quality's direction that "NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail".

Conclusion

This response addresses the broad obligations under the NEPA as it relates to the assessment and consideration of public comments on the draft EIS. Unless specifically discussed within individual resource issue summary responses, my review found Forest Supervisor Erickson met her obligations under the NEPA as it relates to responding to public comments on the draft EIS.

Range of Alternatives

Objectors contend the final EIS fails to provide a full range of alternatives.

Objectors' Proposed Remedies

Various alternatives were proposed related to scale of vegetation management, project timber outputs, recreation opportunities, livestock grazing, etc.

Background

Under the NEPA, the Forest Service must consider appropriate and reasonable alternatives sufficient to permit the responsible official a reasoned choice. The Council on Environmental Quality has indicated the "range of alternatives" referred to in 40 CFR 1505.1(e) includes all reasonable alternatives, which must be rigorously explored and objectively evaluated, as well as those other alternatives, which are eliminated from detailed study with a brief discussion of the reasons for eliminating them. In addition, they indicate that a reasonable range of alternatives depends on the nature of the proposal and the facts in each case (Council on Environmental Quality Forty Most Asked Questions). Agencies are to focus on significant environmental issues and alternatives (40 CFR 1502.1).

Forest Service Handbook 1909.12 Section 21.21 indicates "the need to change the plan helps define the proposed action, purpose and need, and decision framework for the environmental analysis related to the planning process."

Response

While some objectors contend the "adoption of a new plan is not simply a matter of updating the old plan" and advocate for additional alternatives to address "significant" changes on the Forest, this plan revision is not a zero-based planning effort. It's the Agency's policy to use the current land management plan as a starting point for revision and make changes based on a need to do so (FSM 1920.3).

The proposed action and need to change is described in chapter 1 of the final EIS, which identifies changes in the administration of the forests, demographics, ecological threats, and recreation demands that necessitates revision of the 1986 and 1987 plans to ensure management is responsive to current issues and conditions. In addition, the nature of the proposal is informed by new policy in the form of the 2012 planning rule (final EIS section 1.5).

The proposed action was based on the 2017 assessment, the need to change, desired conditions, implementation, and monitoring of the 1986 and 1987 plans, and the comments received during the public involvement period, interagency meetings, and meetings with tribal partners. Public scoping for the proposed action led to the identification of five primary issues that involved "unresolved conflicts concerning alternative uses of available resources" as described in the Council on Environmental Quality regulations at 40 CFR 1500.2(e) (final EIS chapter 2):

- 1) land allocations and allowed uses;
- 2) bison, bighorn sheep, and wildlife connectivity;
- 3) timber harvest and timber production;
- 4) objectives to achieve various resource outcomes;
- 5) aircraft landing strips.

As a result of scoping comments and comments on the draft EIS, the Forest evaluated six alternatives in detail, including the no-action alternative. They represent a range of possible management options that meet the purpose and need for change and address one or more significant issues. While all alternatives provide a wide range of ecosystem services and multiple uses, some give slightly greater emphasis to selected resources based on the theme of the alternative and response to revision topics (final EIS section 2.5). In addition, 22 alternatives were considered but eliminated from detailed consideration. The final EIS provides a description of the suggested alternatives eliminated from detailed consideration and the rationale for not considering them (final EIS, section 2.5.10). Although some organizations objected to the dismissal of their proposed alternative to divide the management emphasis of each watershed for wildlife and timber from detailed analysis, the rationale for dismissing the suggested alternative is sound. For example, concerns regarding large areas of unfragmented wildlife habitat and effects of climate change are addressed within the range of the alternatives considered in detail.

The Forest Service received many public comments that included suggestions for plan component additions, deletions, and modifications, including a detailed set of plan components for the Continental Divide National Scenic Trail. Although none of the suggestions rose to the level of a significant issue that Forest Supervisor Erickson determined should drive the development of another alternative, changes were made where appropriate in all alternatives (e.g., additional plan direction for the OTO Ranch) or are reflected in alternative F (e.g., plan component specificity for pack goats). Where plan components were not changed per public comment, the responsible official determined that the retained plan components were sufficient to meet obligations under the planning regulations as described in the final EIS, response to comments, and planning record.

Conclusion

My review finds Forest Supervisor Erickson acted within her authority and discretion to identify a reasonable range of alternatives at a programmatic scale that respond to need to change and the significant issues identified during scoping. Although some objectors sought different mixes of land allocations for lands and resources, the potential list of alternative allocations could be limitless. Thus, it was appropriate to limit the proposed action and alternatives based on the need to change as described in the planning regulations.

Environmentally Preferable Alternative

Objectors assert that the Plan does not meet the National Environmental Policy Act implementing regulation's definition of the environmentally preferable alternative because it lacks standards for wildlife connectivity, diversity, and population viability and fails to "best protect, preserve, and enhance" American bison. They assert that plan components for American bison will not "preserve important historic, cultural, and natural aspects of our national heritage" in the Custer Gallatin planning area.

Objectors' Proposed Remedies

- The final alternative must include clearly defined and binding standards conforming to National Forest planning regulations requirements for wildlife connectivity, diversity, and population viability.

Background

Council on Environmental Quality regulations at 40 CFR 1505.2 (b) requires agencies specify the alternative or alternatives which were considered to be environmentally preferable. In addition, an agency also “may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions”.

Forest Service NEPA regulations at 36 CFR 220.3 define an environmentally preferable alternative as “the alternative that will best promote the national environmental policy as expressed in the NEPA’s section 101 (42 USC 4321). Ordinarily, the environmentally preferable alternative is that which causes the least harm to the biological and physical environment; it also is the alternative which best protects and preserves historic, cultural, and natural resources. In some situations, there may be more than one environmentally preferable alternative”.

Response

The draft record of decision specifies alternative F is the environmentally preferable alternative because “when compared to the alternatives analyzed in detail, it best contributes to, and moves the Custer Gallatin toward, ecological, social, and economic sustainability and desired conditions that will benefit future generations” (page 34). It then continues with a comparison of how the alternatives address the six policy goals of the National Environmental Policy Act described at 42 USC 4321. This includes an explanation of how alternative F better meets the goal of preserving our national heritage than the other alternatives.

Conclusion

I find that Forest Supervisor Erickson met her obligation to disclose the environmentally preferable alternative and provided reasoned comparison of each action alternative’s relative contribution to achieving the national environmental policy. As such Forest Supervisor Erickson has complied with the Council on Environmental Quality regulations at 40 CFR 1505.2(b) and Forest Service NEPA Regulations at 36 CFR 220.3.

See the issues summaries for plan component sufficiency, wildlife species diversity, connectivity, and bison for additional details regarding the review of plan components.

Public Engagement

Multiple objectors contend that the responsible official was exclusive in public involvement and favored positions of partnership and collaborative groups, local governments, and state agencies over the general public. Some objectors allege the responsible official's consideration of the Gallatin Forest Partnership's proposal was a violation of the Federal Advisory Committee Act.

Other objectors assert the complicated NEPA planning process is not effective in reaching most of the public and is biased toward groups with the time, money, and expertise to participate. They also contend the Covid pandemic restricted their ability to participate in the objection process.

Objectors’ Proposed Remedies

The Forest cannot consider the Gallatin Forest Partnership recommendations.

Background

The Federal Advisory Committee Act of 1972 is a federal law that governs the establishment and operation of advisory committees. The purpose of the Act is to ensure that the public has knowledge of and an opportunity to participate in meetings between federal agencies and groups that the agency either has established, or manages and controls for the purpose of obtaining group advice and recommendations regarding the agency’s operations or

activities. The Federal Advisory Committee Act requires that such groups be chartered, that their meetings be announced in advance and open to the public, and that their work products be made available to the public.

There are many statutes and regulations that authorize the Forest Service to cooperate with state and local government agencies, as well as encourage early engagement and consultation. For example, the National Forest Management Act and planning regulations at 36 CFR 219.4(b) specifically direct the responsible official to coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. In addition, Council on Environmental Quality NEPA regulations (40 CFR 1501.6) include provisions for state, local, and tribal governments to provide special expertise for the environmental analysis as a cooperating agency.

Response

The Forest Plan Revision Public Participation and Collaboration Strategy (posted on the Forest's webpage), section 2.3 of the final EIS, and pages 4 to 7 of the draft record of decision describe the robust outreach to the public; underserved, low-income, and minority populations; Tribes; local and State governments; and other Federal agencies. The Forest offered daytime and nighttime in-person meetings in communities across southwestern, central, and eastern Montana and South Dakota for multiple phases of the plan revision effort. In addition, they offered online webinars for those unable to attend the scheduled meeting times, provided web-based information, and offered a self-subscription service through the GovDelivery email platform for interested individuals wishing to receive regular updates. They received feedback on the assessment from 150 groups and individuals, 10,500 comment letters in response to scoping, 21,000 comment letters on the draft EIS, and 677 objections from eligible objectors.

The Federal Advisory Committee Act (Act) regulates federal agency establishment or utilization of a group to obtain advice or recommendations. It ensures that advisory committees are accountable to the public by maximizing public access to committee deliberations and availability of documents and minimizing the influence of special interests through balanced committee membership.

A Federal agency must comply with the Act when it (1) establishes, utilizes, controls, or manages (2) a group with non-federal members that (3) provides the agency with group advice or recommendations (41 CFR 102-3.40; 41 CFR appendix A to subpart A of part 102-3). Only groups that meet all three of these legal elements are subject to the Act. Under the Act, the term "utilize" does not have its ordinary meaning. Instead, the regulations provide that an agency "utilizes" a group only when it exercises actual management or control over a group's operations (41 CFR 102-3.25).

Although the Gallatin Forest Partnership is composed of non-federal members, and the working group provided input that informed the development of alternatives per criteria (2) and (3) of when the Act applies, the Forest Service did not establish, nor manage or control the working group. Therefore, the Partnership is not an Advisory Committee under the Act. Comments from members of the collaborative stakeholder group were considered equally with comments from the general public received throughout the planning process outreach. Chapter 2 of the final EIS describes how public comments influenced the development of alternatives (final EIS section 2.4.1, pages 13 to 15; multiple descriptions in the draft record of decision

As to concerns regarding cooperating agency participation in the plan revision process, the Council on Environmental Quality National Environmental Policy Act regulations at 40 CFR 1508.5 allow state or local government agencies that have jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal to participate in the environmental analysis. Four governments or agencies requested cooperating agency status: Park County, Montana; Sweet Grass County, Montana; the State of South Dakota, and the South Dakota Department of Game, Fish, and Parks (draft record of decision, page 4). The National

Environmental Policy Act requires a discussion of possible conflicts between the proposed action and the objectives of federal, regional, state, and local (and in the case of a reservation, Indian Tribe) land use plans, policies, and controls for the area concerned (40 CFR 1502.16(c)). The National Forest Management Act requires coordination of land use planning with other agencies (36 CFR 219.4(b)). State and local government cooperating agency participation is valuable for providing consistency review of state and local plans. The results of this review are available in appendix E of the final EIS (pages 298 to 393).

Conclusion

As evidenced by the voluminous feedback and comments received throughout the revision effort, I find Forest Supervisor Erickson conducted comprehensive public engagement, offering interested individuals the opportunity to participate regardless skill or finances. I also find the Forest Service's engagement with the Gallatin Forest Partnership did not violate of the Federal Advisory Committee Act and cooperating agency participation complied with law, regulation, and policy. The record demonstrates that Forest Supervisor Erickson provided numerous opportunities for public engagement, was responsive to comments from the public in the development of alternatives, and provided a reasoned decision that considered the diverse perspectives related to the multiple uses of the Forest.

As to the pandemic affecting the ability of the public to engage in the objection process, the Forest Service carefully evaluated how to move forward with all public engagement early in the pandemic, with a focus on the safety of employees and the communities we serve. When the draft record of decision was released in July 2020, Montana State quarantine measures had been reduced. All documents were available online for public review and 1,876 individuals and organizations submitted objections by mail, fax, and through the online electronic webform. Resolution meetings were held virtually, with 66 to 73 objectors and interested persons participating each day. Thus, although the pandemic offered many new challenges for all of us, it did not appear to limit participation in the plan objection process.

Plan Framework

Plan Component Sufficiency

Some objectors contend that the lack of enforceable, measurable standards in the plan will not effectively manage the Forest's resource or meet the sustainability and diversity requirements of the planning regulations. Other objectors found the plan components too prohibitive ("as thou shall not") without providing guidance for future project activities or assert each resource must have a full set of all plan component types.

Objectors' Proposed Remedies

- The commonly proposed remedies were to include additional "mandatory" standards or change guidelines and/or suitability plan components to standards.
- Some objectors proposed full sets of plan components including desired conditions, objectives, standards, guidelines, and suitable use for specific resources.
- Some objectors suggested plan standards to require monitoring or additional analysis.

Background

The planning regulations define the required plan components, desired conditions, objectives, standards, guidelines, and suitability of lands at 36 CFR 219.7(e)(1). It requires projects be consistent with each applicable plan component and describes how consistency is determined at 36 CFR 219.15(d). Optional plan content in the plan can include

potential management approaches or strategies and partnership opportunities or coordination activities (36 CFR 219.7(f)(2)).

The planning regulations define a standard as: a mandatory constraint on project and activity decision-making, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements (36 CFR 219.7(e)(1)(iii)). It defines a guideline as constraint on a project and activity decision-making that allows for departure from its terms, *so long as the purpose of the guideline is met [emphasis added here]* (36 CFR 219.7(e)(1)(iv)). Desired conditions are a “description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed” (36 CFR 212.7(e)(1)(i)).

36 CFR 219.2(b)(2) indicates plans do not authorize projects or activities or commit the Forest Service to take action. A plan may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur. In addition, a plan does not regulate uses by the public.... Plans should not repeat laws, regulations, or program management policies, practices, and procedures that are in the Forest Service Directive System.

The planning regulations also allow for optional plan content such as potential management approaches or strategies and partnership opportunities or coordination activities (36 CFR 219.7(f)(2)). Management approaches can describe the principal strategies and program priorities the Responsible Official intends to employ to carry out projects and activities developed under the plan and may discuss potential processes such as analysis, assessment, inventory, project planning, or monitoring.

Response

Some objectors contend the 2020 Land Management Plan is insufficient because they view the desired conditions as aspirational, and both desired conditions and guidelines as discretionary. They assert the plan does not include adequate “mandatory” standards to address adverse effects to resources or comply with planning regulation requirements.

Although I address specific resource or species objections regarding this issue throughout this document, I wanted to provide a broad response to set the context for my review. I understand that many of the objectors are accustomed to the previous planning regulation framework where Forest Service plan consistency could only be determined with respect to standards and guidelines, or just standards, because an individual project alone could almost never achieve objectives and desired conditions.

Although the Forest Service continues to believe that any single project or activity cannot achieve every desired condition or objective of a plan (preamble to the 2012 planning rule 77 FR 21241, April 9, 2012), two fundamental changes in Forest Service Policy remove the previous planning regulation’s aspirational nature of desired conditions and objectives. The first is that desired conditions are specifically defined at 36 CFR 219.7(e)(1)(i) as the “description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, *toward which management of the land and resources should be directed*” [emphasis added here]. Thus, desired conditions are a critical piece of the planning framework that guide where and why project and activity decisionmaking will occur, even if they take multiple years or decades to achieve. As such, they are the basis for developing all the other plan components.

The second policy shift that removes the strictly aspirational nature of desired conditions is the required project and activity consistency with all plan components, including desired conditions (36 CFR 219.15(d)). For desired conditions, this requires a determination the project “contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term” (36 CFR 219.15(d)(1)). Regardless of *when* a desired condition may be achieved, Forest Service policy is that management should be directed toward achieving desired conditions

and management actions cannot preclude achievement of them over time. As such they both show management intent and constrain projects, if the management actions would preclude attainment any of the desired conditions ([USDA Response to Comments on the Proposed Land Management Planning Directives, 2015](#)).

The definition of the desired condition also indicates they “must be described in terms that are specific enough to allow progress toward their achievement to be determined”. Objectors assert the “vague” descriptions in some of the 2020 Land Management Plan desired conditions are not specific enough. Review of the plan and final EIS indicates desired conditions are described in quantitative terms where landscape level information, data, and scientific information are sufficient to inform their description (e.g., terrestrial vegetation desired conditions). Where detailed data are lacking, and scientific information indicates site-specific conditions across the landscape are widely variable and/or dynamic, desired conditions are described in a qualitative format (e.g., riparian vegetation desired conditions). Qualitative descriptions are also used for resources where the desired characteristics may be more experiential in nature such as those for scenic resources or wilderness. My review of the plan’s desired conditions found that both approaches are sufficiently descriptive to determine whether project effects would either contribute toward, or preclude, achievement over time. I respond in more detail to specific objections related to the sufficiency of the plan components for elk, bull trout, and other at-risk species in issue summaries that follow.

Some objectors seek standards and guidelines to “promote achieving” desired conditions or provide for “concrete action” for moving toward desired conditions. However, as with the change in policy regarding desired conditions, the planning regulations provide specific definitions for standards and guidelines. Per 36 CFR 219.7(e)(1)(iii) and (iv), standards and guidelines are *constraints* on project and activity decisionmaking. They place design or operational constraints on projects and activities; or prohibit the Forest Service from authorizing certain types of projects or activities. They *limit* management actions to address a resource risk or stressor to help achieve or maintain desired conditions, to avoid undesirable effects, or to meet applicable legal requirements. They *cannot* compel action to “achieve” a desired condition.

Similar to my review of the plan desired conditions described above, I find that the management constraints specified in the standards and guidelines appropriately vary depending on data and scientific information regarding what is needed for resource protection. Where there is scientific information that indicates a management activity provides a similar risk forestwide, the plan provides specificity (e.g., fill material shall not be side-cast in streams). Where varying management strategies may be needed or appropriate to address variable site-specific conditions, standards or guidelines may be more descriptive in nature in order to minimize the risk while allowing for project design to be tailored to site-specific conditions (e.g., FW-GDL-SOIL-03).

As required by the planning regulations (36 CFR 219.15) and as incorporated by the plan (p. 11), both standards and guidelines have mandatory project and activity consistency requirements. Consistency with a standard is determined by strict adherence to the specific terms of the standard, while consistency with a guideline allows for either strict adherence to the terms of the guideline, or deviation from the specific terms of the guideline *if the purpose for which the guideline was included in the plan is met* at the project level (FSH 1909.15, chapter 22) [emphasis added here]. This approach to guidelines allows for flexibility as circumstances warrant; for example, when there is more than one way to achieve the intended purpose, or new information provides a better way to meet the purpose, *without lessening protections*. Thus, both standards and guidelines provide certainty in terms constraining management activities to address a resource risk or stressor.

While the land management plan must fulfill all the requirements of the planning regulations, a one-to-one correlation of one plan component to each requirement listed in sections 219.8 through 219.11 is not necessary. Rather, the integrated plan content provided by all combined components must provide the necessary protections and framework for guiding future activities (FSH 1909.12 section 22).

Some objections requested standards or guidelines to require monitoring, analysis, or surveys prior to conducting management activities. However, standards or guidelines should not direct or compel processes such as analysis, assessment, consultation, planning, inventory, or monitoring. Those processes can be part of other plan content such as management approaches. The forest describes management approaches such as possible habitat improvement projects that could be implemented to facilitate bison movement into suitable, yet unoccupied habitats to support plan implementation in appendix A of the plan.

The response to comments in appendix F of the final EIS describes the reasons various suggestions for modifications, additions, or deletions to plan components were appropriate or needed to comply with planning regulation requirements.

Conclusion

Overall, I find Forest Supervisor Erickson appropriately identified a suite of integrated plan components, supported by additional plan content, to meet the requirements of the planning regulations and other law, regulation, and policy. There are some instances, however, in the issue summaries that follow where I provide instructions to review proposed plan component modifications to reflect an objector's desire for clarity, or to review new information to determine if updates to the plan are warranted.

Monitoring

Objectors contend that monitoring questions and indicators are inadequate to measure progress towards desired conditions, inform adaptive management, and determine when changes to plan components may be necessary.

Objectors' Proposed Remedies

- Include standards to prevent deleterious effects on the resource beforehand, not react to an already-degraded resource.
- Objectors provided a number of suggestions for additional monitoring questions and indicators.

Background

Direction for the monitoring and evaluation of land management plans is found under the planning regulations at 36 CFR 219.12 and in the directives at 1909.12 chapter 30.

Executive Order 11514 states, "Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities".

Response

As required by 36 CFR 219.12, the plan monitoring program includes questions and indicators to monitor key ecological conditions, including conditions that contribute to the recovery, conservation, or maintenance of at-risk species (plan chapter 4). Monitoring questions and indicators are informed by the best available scientific information, (36 CFR 219.3 and 219.14; plan chapter 4; draft record of decision, page 37). The plan monitoring program addresses the most critical components for informed management of the Forest's resources within the financial and technical capability of the agency (36 CFR 219.12(b); plan chapter 4, page 182).

Several objectors raised concerns about the need to monitor specific species, plan components, or management strategies. Under 36 CFR 219.12, Forest Supervisor Erickson has the discretion to set the scope, scale, and priorities for plan monitoring. While not every plan component must link to a monitoring question, the monitoring program includes a wide spectrum of questions designed to monitor indicators of ecological integrity or management success across many different resource areas. This includes questions and indicators addressing vegetation and watershed conditions, wildlife habitat, stressors, and some individual species and issues mentioned by objectors (e.g., see

responses to Aquatic Integrity, Soils, Bison, Grizzly Bear, and Livestock Grazing Monitoring). Factors considered to help determine the need to track information related to specific species or plan components are described on page 184 of the plan.

Objectors raised two site-specific concerns about monitoring that I'd like to discuss. First, objectors pointed out that the draft record of decision states existing uses will continue in the Lionhead backcountry area "as long as they do not degrade the character of the area" (draft record of decision, page 16), yet the plan does not contain a monitoring component that would allow the Forest to determine if motorized or mechanized recreation is becoming problematic. One objector expressed similar concerns about off-route mountain bike and motorized uses in the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area. Objectors argue that the monitoring program should include additional questions or indicators to track the level of mechanized use and mechanized and motorized travel incursions in these two areas. The monitoring program does include a question that would partially address these concerns by tracking actions taken to eliminate motorized travel incursions (MON-REC-02).

As noted above, Forest Supervisor Erickson has broad discretion to determine where monitoring can help inform management, and chapter 4 of the plan describes criteria that were considered in determining what to monitor. For the Lionhead area, the draft record of decision indicates that there is little cause for concern to justify monitoring because the area's characteristics have generally been retained even with existing mountain biking trails, which are not heavily used. I address monitoring in the wilderness study area in the Mountain Bike Effects in the Wilderness Study Area issue summary.

One objector stated that the Forest is relying on monitoring and "corrective actions" based on monitoring data in place of more protective standards and guidelines, however I found this statement to be unfounded. My review of more specific resource concerns indicates that the revised plan will provide for ecological integrity, as described in other responses throughout this document.

Finally, I would like to note that the monitoring program is not intended to depict all monitoring activities undertaken by the Forest, nor is the Forest limited to conducting only this monitoring. The biennial evaluation of the monitoring information will help determine whether a change to the plan or change to the monitoring program is warranted based on new information, whether a new assessment may be needed, or whether there is no need for change at that time (36 CFR 219.5). Several objectors expressed concern about the adequacy of specific indicators, and so I'd like to note that the indicators selected for monitoring will be evaluated as part of the biennial monitoring report, and changes can be made if any indicator is not providing sufficient information to address the monitoring question.

Conclusion

I find Forest Supervisor Erickson developed a monitoring program using best available scientific information, within the fiscal capability of the unit as required at 36 CFR 219.12. All monitoring questions are linked to one or more desired conditions or objectives and the eight required categories are addressed (36 CFR 219.12). See my response to Mountain Bike Effects in the Wilderness Study Area for instructions related to that issue.

Statutory Compliance

An objector alleges the portions of the plan that address ecological sustainability, as an overriding objective of forest management, through the maintenance of "ecological integrity" and "diversity of ecosystems" is a violation of the Organic Act, Multiple-Use Sustained-Yield Act, and National Forest Management Act. They also assert plan components for ecosystem services are unlawful and that informing plan components with the "best available science" unlawfully limits the information on which the plan decision can be based.

Objector's Proposed Remedy

Remove unlawful portions of the 2012 Planning Rule from the plan.

Background

The Organic Administration Act of 1897 establishes the Forest Service's authority to "improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States" (16 USC 475).

The Multiple-Use Sustained-Yield Act of 1960, as amended, authorizes and directs the Secretary of Agriculture to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom, including "outdoor recreation, range, timber, watershed, and wildlife and fish purposes". The statute defines "multiple use" broadly, calling for management of the various uses in the combination that will best meet the needs of the American people (16 USC 528 to 531). Under this framework, courts have recognized that the MUSYA does not envision that every acre of National Forest System land be managed for every multiple use and does envision some lands being used for less than all resources.

The National Forest Management Act of 1976 requires the development of regulations, consistent with the principles of the Multiple-Use Sustained-Yield Act, to set out the process for the development and revision of the land management plans, and the guidelines and standards the Act prescribes (16 U.S.C. 1600).

The planning regulations at 36 CFR 219 require plans provide for social, economic, and ecological sustainability (36 CFR 219.8), the diversity of plant and animal communities (36 CFR 219.9), ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish (36 CFR 219.10), and specific timber management requirements (36 CFR 219.11) within Forest Service authority and consistent with the inherent capability of the plan area.

Response

At the core of the Forest Service's statutory mission is the management and use of National Forest System lands on a sustainable basis. For example, the Organic Act grants authority to "regulate their occupancy and use and to preserve the forests thereon from destruction" (16 USC 551). The Multiple-Use Sustained-Yield Act requires the provision of forest products and services "in perpetuity" and "without impairment of the productivity of land" (16 USC 531(b)). The National Forest Management Act states land management plans should be developed in a manner that "will not produce substantial and permanent impairment of the productivity of the land" (16 USC 1604(g)(3)(C)).

As such, 2012 Planning Rule (current planning regulations) requires plan components designed to provide for ecological sustainability (36 CFR 219.8(a)). Rather than competing with the agency's Multiple-Use Sustained-Yield Act responsibilities, the goal of ecological sustainability serves as the mechanism for ensuring the plan area is capable of providing for multiple-use of the renewable resources of the National Forest System, with outputs that are sustainable over time (36 CFR 219.1(b)). This is supported by an explanation in the preamble that states the Rule "emphasizes restoration of ecosystems *so that they are capable of* sustaining multiple uses over time" (77 FR volume 68, page 21,177) [emphasis added here].

Although the objector contends the ecological sustainability provisions of the rule, and thereby the related plan components in the plan, unlawfully establish ecological integrity and ecosystem diversity as an overriding objective of forest management, it is clear these provisions must be met *while also* meeting the multiple use requirements described at 36 CFR 219.10 (i.e., "while" indicates at the same time not before or instead of). The rule clearly establishes a framework for integrated resource management to provide for multiple uses on a sustainable basis rather than requiring ecological sustainability as a stand-alone purpose. See 36 CFR 219.1(b), 36 CFR 2129.2(b), 36

CFR 219.5(a), 36 CFR 219.10(a), 36 CFR 219.10(b)(2) and the definition of “integrated resource management” at 36 CFR 219.19, which is, “multiple use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors.”

Consistent with both the regulatory and statutory requirements, the 2020 Land Management Plan includes a suite of integrated plan components guiding sustainable management of water, recreation, livestock grazing, timber, wildlife, and fish. This includes measurable objectives for “products and services” such as timber and livestock grazing, and a broad range of recreation opportunities.

Similarly, the consideration of ecosystem services as defined in the planning regulations at 36 CFR 219.19 are consistent with the statutory requirements for “securing favorable conditions of water flows”, supplying timber, and administering “the renewable surface resources of the national forests for multiple use and sustained yield”. The benefits described in the final EIS such as providing “nutrient cycling; provisioning services such as fresh water, forage and habitat for wildlife; regulating services such as carbon storage, water and flood regulation, water quality, and erosion control; and cultural services such recreation, scientific discovery and education, cultural, intellectual and spiritual inspiration” from riparian habitats (section 3.6.2, page 215), “wildlife habitat, recreation, watershed functions, carbon sequestration, and biodiversity conservation” from rangelands (section 3.14.1), and “timber and other forest products” (section 3.16.2) are all directly related to, and products of, management of Nation Forest System lands for the purposes described in the Organic Administration Act and the Multiple-Use Sustained-Yield Act.

Regarding objector’s concern that the requirement to use the “best available science” would unlawfully limit the information the responsible official could consider, I’d like to clarify that the requirement is actually to use the best available scientific information to *inform* the planning process. As indicated in both the preamble to the rule and the planning handbook, this requirement does not preclude the inclusion of non-scientific information into the planning and decisionmaking process, nor does the scientific information dictate what the decision must be. Plan decisions also reflect other relevant factors such as budget, legal authorities, traditional ecological knowledge, agency policies, public input, and the experience of land managers (FSH 1909.02 section 07 and 77 FR volume 68, page 21193).

The draft record of decision (page 37 to 38) summarizes the wide breadth of information Forest Supervisor Erickson used to inform the assessment, plan, and monitoring program as required by the regulations at 36 CFR 219.3. This includes the professional knowledge and experience of planning team members, peer-reviewed and technical literature, databases and data management systems, modeling tools and approaches, knowledge from local experts, information obtained from collaborations, and information received during public participation periods. However, Forest Supervisor Erickson also describes how all the information in the final EIS, planning record, and comments from State and local government partners, Indian Tribes, other Federal agencies, and the public informed her decision throughout the draft record of decision (primarily pages 7 to 29). In addition, plan components and the monitoring program reflect budget considerations within the fiscal capability of the unit (final EIS sections 2.4.1, 2.6, 3.2.3, 3.5.3, 3.6, 3.7, 3.15.1, and others; appendix B and F) and the legal authority of the Forest Service (final EIS legal and regulatory framework descriptions and various response to comments in appendix F).

Conclusion

I find the plan guides the management of the Forest consistent with the Organic Administration Act, the Multiple-Use Sustained-Yield Act, and the National Forest Management Act by providing integrated plan components to supply timber, clean water, and a wide range of multiple uses in a sustainable manner while providing for species diversity and avoiding substantial and permanent impairment of the productivity of the land. The record documents Forest Supervisor Erickson’s consideration of the best available scientific information and other government and public comment.

Best Available Scientific Information

Objectors contend the plan and final EIS analysis are not based on the best available scientific information.

Objectors' Proposed Remedies

Remedies requested additional analysis, changes in plan components, or use of specific citations. See resource-specific responses for more detail.

Background

Section 219.3 of the planning regulations addresses the role of science in planning. It requires the responsible official to use the best available scientific information to inform the planning process. In doing so, the responsible official determines what information is the most accurate, reliable, and relevant to the issues being considered.

Forest Service Handbook (FSH) 1909.12, chapter 07 describes the use of best available scientific information to inform the land management planning process. It describes how scientific information should be integrated in the planning process and indicates the plan decision document should summarize the general process of how the best available scientific information was identified, evaluated, and used throughout the planning process.

Documentation of what is most accurate, reliable, and relevant for the issues being considered may be done through a reference list or other methodology as determined by the responsible official. The plan decision document should also summarize the general process of how the best available scientific information was identified, evaluated, and used throughout the planning process. This summary should describe outreach to gather scientific information, the evaluation process, models and methods used, evaluation of risks, uncertainties, or assumptions, and any science reviews conducted (section 07.15b).

Council on Environmental Quality regulations at 40 CFR 1502.24 require Federal agencies to ensure the professional integrity, including scientific integrity, of the discussions and analyses in the environmental impact statements.

Response

The draft record of decision discusses the role of science in the revision effort. It indicates the Forest interdisciplinary team of resource professionals compiled and evaluated the relevant information for the assessment of the Forest (USDA, 2017) and the best available scientific information and analyses contained therein. From this foundation, the interdisciplinary team used the best available scientific information to develop the proposed action (January 2018), the alternatives, and the analysis and comparison of alternatives in the draft EIS (March 2019) and final EIS (July 2020). This information includes peer-reviewed and technical literature, databases and data management systems, and modeling tools and approaches.

The final EIS provides documentation of how the best available scientific information was used to inform planning, the plan components, and other plan content, including the plan monitoring program, throughout individual resource sections and in general at section 3.1. Resource specialists considered what is most accurate, reliable, and relevant in their use of the best available scientific information to inform the plan development. This includes all or portions of the publications listed in the reference sections of the assessment and the final EIS, as well as any additional information that was used and is included in the planning record. These documents also include reference to and discussion of responsible opposing views or incomplete scientific information, as appropriate under the Council on Environmental Quality regulations.

Some of the objector's issues regarding the consideration of scientific information are related to their allegations that the Forest failed to adequately respond to comments on the draft EIS because it did not use the scientific information that they provided. The Forest reviewed scientific information provided by the public and either used information provided or documented why the information was not used (planning record documents:

20200708PreAssessmentCitationCatalog, 20200708DraftAssessmentCitationCatalog, 20200623PACitationCatalog, 20200708DEISPublicCitationCatalog). See the Response to Comments issue summary for my response to that general issue. This demonstrates consideration of public feedback to ensure the use of best available scientific information per FSH 1909.12, chapter 42.12.

Conclusion

Overall, I find the assessment, final EIS, and planning record demonstrates scientific integrity and the consideration of the best available scientific information to inform the plan revision. The draft record of decision discloses the methodology for integrating consideration of the best available scientific information throughout the planning process, supported by the planning record.

Coordination with Other Planning Efforts

Objectors contend Forest Supervisor Erickson did not provide adequate coordination with local and state government as required.

Background

There are many statutes and regulations that authorize the Forest Service to cooperate with State and local government agencies, as well as encourage early engagement and consultation. In particular, the planning regulations at 36 CFR 219.4(a)(1) require the responsible official to engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. ...In providing opportunities for engagement, the responsible official shall, ...(iv) where appropriate, encourage States, counties, and other local governments to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan.

36 CFR 219.4(b) describes the requirement for coordination with other public planning efforts as follows

- 1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.
- 2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes (43 USC 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:
 - i. The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;
 - ii. The compatibility and interrelated impacts of these plans and policies;
 - iii. Opportunities for the plan to address the impacts identified or to contribute to joint objectives; and
 - iv. Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives.
- 3) Nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the plan area, nor will the responsible official conform management to meet non-Forest Service objectives or policies.

Response

The planning regulation requirements for public participation as it pertains to State and local governments are twofold. The first requirement is that the responsible official is required to provide opportunity for participation by State and local governments throughout the planning process and to encourage their participation as cooperating agencies (36 CFR 219.4(a)). The project record contains numerous documents that demonstrate meetings beginning in 2016, covering the assessment phase through the planning phase with city councils, county commissioners, and State entities (e.g., a 2016 contact list for the Custer Gallatin Working Group in the planning record document 20160500IGWGContactListUpdate.pdf). The final EIS (section 1.7, page 6) and draft record of decision (page 4) indicates city, county, State, Federal, and Tribal representatives (collectively referred to as the “Intergovernmental Working Group”) were presented with information via webinars and virtual meetings and provided opportunity to provide feedback. As described in a presentation to the group, a purpose of the group was for coordination of forest planning with the plans of the other entities (planning record document 20180123ICWGCoopAgInfoPPT). All members of the group were invited to request cooperating agency status, and four accepted.

The second requirement is that the responsible official must coordinate Forest Service land management planning with the equivalent and related planning efforts of Tribal, Federal, State, and local governments (36 CFR 219.4(b)). A summary of the review must be displayed in the EIS. Appendix E of the final EIS provides the review for compatibility of the plan and the various other plans, and page 4 of the draft record of decision provides the finding that the plan is “largely compatible with the land use plans of other governments” at the level evaluated for compatibility and states that “some aspects of one county land use plan could not be accommodated.” However, the record is not clear which aspects of the county plan were not compatible. And while full alignment of the land management plan with other land use plans is not required by law or regulation, the review must consider opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives. It is not clear how the Forest considered opportunities to address impacts or resolve the conflict.

Conclusion

Upon reviewing the public engagement information in the project record, and appendix E of the final EIS, I find that the responsible official met the planning regulation requirements to provide opportunities for State and local governments to engage throughout the planning process.

I also find that the responsible official coordinated the plan development with the equivalent land use with Tribal, Federal, State, and local governments, as required by the planning regulations and described in the draft record of decision. However, to clearly communicate how each relevant plan was considered per ii to iv of 36 CFR 219.4(2)(b), However, to clearly communicate how each relevant plan was considered per ii to iv of 36 CFR 219.4(2)(b), I am instructing Forest Supervisor Erickson to clarify the statement that “some aspects of one county land use plan could not be accommodated” by providing additional detail in appendix E regarding which aspects of that one county land use plan could not be accommodated. This should include documentation of how the plan provides opportunities to resolve or reduce conflicts.

Areas of Tribal Importance

Objectors contend plan components for the areas of tribal importance are insufficient.

Objectors Proposed Remedies

- Desired conditions (BC-DC-TRIBAL) should be modified to address the specific characteristics that make the Crazy Mountains a significant cultural landscape.
- Tribal consultation requirements should be included as a plan standard that clearly describes when it is required.

- Write specific measurable standards to prohibit mining, road construction, and the development of new recreation sites.

Background

Executive Order 13175 of November 6, 2000 directs Federal Agencies to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian Tribes, and reduce the imposition of unfunded mandates upon Indian Tribes. The Executive Branch's commitment to engage in meaningful, and robust consultation with Tribal Officials was reaffirmed in the recent January 2021 Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.

The Culture and Heritage Cooperative Authority of 2008. 25 U.S.C. 3056(b)(2) requires the Forest Service consult with affected Indian tribes before releasing culturally sensitive information.

The National Historic Preservation Act of 1966 (NHPA) (54 U.S.C. 300101 et. seq.) as amended requires Agency officials to consult with Indian tribes concerning the effects of undertakings on historic properties of traditional and cultural importance to Indian tribes.

USDA Department Regulation 1350-002 directs the USDA and its agencies to provide federally recognized tribes the opportunity for government-to-government consultation and coordination in policy development and program activities which have direct and substantial effect on their tribe.

The planning regulations at 36 CFR 219.4(a)(2) require the responsible official to provide the opportunity for federally recognized Indian Tribes and Alaska Native Corporations undertake consultation consistent with Executive Order 13175 of November 6, 2000, and 25 U.S.C. 450 note.

Also see background information in the Plan Component Sufficiency issue summary.

Response

Objectors' concerns regarding the requirement to consult with Tribes is required by law and policy (219.4(a)(2); Executive Order 13175, of November 6, 2000 and 25 U.S.C. 450 note). The Forest Service is obligated to follow all law, regulation, and policy, and should not repeat those in the land management plan (36 CFR 219(b)(2)). Nor should standards or guidelines "direct or compel processes" such as consultation per the planning handbook (FSH 1909.12 section 22.13, page 39).

However, based on tribal input for the development of plan components for areas of tribal importance, the plan includes a goal to express management intent regarding how and when consultation will be accomplished (FW-GO-TRIBAL-01). Goal FW-GO-TRIBAL-02 further states that the Forest seeks to develop agreements with the associated Tribes for processes for consultation.

Several objectors contend that the plan lacks clarity about the specific characteristics that make the Crazy Mountains a significant cultural landscape. At the resolution meeting, an objector talked about the Anzick site and its possible relationship with the cultural landscape of the Crazy Mountains to reiterate his objection point that the desired conditions do not sufficiently describe the characteristics that make the Crazy Mountains a significant cultural landscape. The proposed remedy is to revise desired condition BC-DC-TRIBAL-01 to state, "The Crazy Mountains are many things to the Apsáalooke nation: A sacred ceremonial range, a cultural touchstone, a repository of history and heritage, a living cultural landscape, a refuge, a hunting ground, a critical ecosystem, a wildlife sanctuary, a place of solitude, and an important part of both tribal and non-tribal community values. As a legally held territory within the external boundaries of the original 1851 Treaty, the Crow people have always maintained their ceremonial presence there."

While I appreciate the importance of this landscape to the Crow Tribe and the desire to see those values recognized in the plan, the suggested text does not comply with the definition of a desired condition at 36 CFR 219.7(e)(1)(i) because it is not a description of the specific social, economic, and/or ecological characteristics of the plan area “toward which management should be directed”. Rather, it’s a description that provides important context that the Forest should consider when developing the plan’s desired conditions both for areas of tribal importance as well as for other related resources and uses of the Forest landscape as a whole.

In support of the history and values the objector describes, the forestwide desired conditions for areas of tribal importance describe desired characteristics for sustainable plant and animal habitats that support the availability of reserved treaty rights resources for traditional cultural practices, access to sacred sites, sacred places and tribal cultural landscapes within the Forest for the exercise of reserved treaty rights and traditional cultural practices, and the ability for Tribes to conduct rituals and ceremonies in privacy and without disruption (FW-DC-TRIBAL-01 through 03). The geographic area desired conditions describe the desired characteristics that the Crazy Mountains embody a tribal cultural landscape significant to ongoing traditional cultural practices of the Crow Tribe and that research, education, and interpretation of the Crazy Mountain tribal cultural landscape provides public benefits and enhances the understanding and appreciation of Crazy Mountain’s natural environment, precontact, contact, and Crow traditional cultural values (BC-DC-TRIBAL-01 and 02). In addition, the distinctive roles and contributions of the geographic area describe the important role for wildlife connectivity and cultural practices for the Crow Tribe. I find plan content in multiple places reflects the context provided by the suggested desired condition text.

Another objector contends that the plan needs standards to protect the Crazy, Pryor, and Beartooth Mountains from new recreation sites, mineral extraction, and road building. Such restrictions are already provided by a number of plan components for backcountry and recommended wilderness allocations (FW-STD-RWA-01, 04, and 06; PR-STD-PBCA-01 and 02, BC-STD-CMBCA-01 and BC-SUIT-CMBCA-01) in these land units as well as designated wilderness (FW-STD-DWA-08). For example, portions of the Pryor Mountains, Crazy Mountains, and Beartooth Mountains are allocated as backcountry areas, under which new salable mineral material extraction or developed recreation sites would not be allowed (FW-STD-BCA-03, 04). In addition, portions of the area are within inventoried roadless areas, which prohibit road construction with limited exceptions.

There are also plan components for the Pryor Mountains Geographic Area that recognize traditional uses of the area by the Crow Tribe and indicate new recreation opportunities should not interrupt ongoing Crow traditional cultural activities (PR-DC-TRIBAL-01, 02, and 03; PR-GO-TRIBAL-01; PR-GDL-TRIBAL-01). In addition, standard FW-STD-TRIBAL-03 requires all new land management activities to avoid, minimize and mitigate potential conflict with forest resources used in the exercise of reserved treaty rights and traditional and cultural practices that could include new mining, road building, and recreation sites.

Conclusion

I find the plan includes a suite of plan content that recognizes and manages areas of tribal importance consistent with law, regulation, and policy. Standards for Tribal consultation are not needed as government to government Tribal consultation is required under law and policy. However, although the suggested desired condition does not fit the policy definition of a plan component, I am instructing Forest Supervisor Erickson to review the suggestion and consider whether there is an opportunity to reflect the suggested text in other plan content.

Treaty Rights

An objector contends that the final EIS does not provide information on what treaty rights were considered for the analysis or development of the plan. They are unable to adequately assess the impact of the plan components for areas of tribal importance without knowing the specific locations where treaty rights will be exercised.

Objectors Proposed Remedies

Sweet Grass County Commissioners wish to be involved with any further designations or consultations with the Forest Service and Crow Tribe as these affect the county's interests, legal rights of other parties, and private landowners, all of whom should be involved in these discussions.

Background

36 CFR 219.1(e) requires the responsible official to comply with Section 8106 of the Food, Conservation, and Energy Act of 2008 (25 U.S.C. 3056), Executive Order 13007 of May 24, 1996, Executive Order 13175 of November 6, 2000, laws, and other requirements with respect to disclosing or withholding under the Freedom of Information Act (5 U.S.C. 552) certain information regarding reburial sites or other information that is culturally sensitive to an Indian Tribe or Tribes.

FSH 1909.12 section 23.23h(1)(e) indicates that when developing plan components some Indian Tribes or Alaska Native Corporations may not want areas of tribal importance identified. The Responsible Official shall not disclose (if restricted by 25 U.S.C. 3056) or may choose to not to disclose, any locational information in the plan to maintain confidentiality of the areas of tribal importance. Sacred sites identified by federally recognized Indian Tribes or Alaska Native Corporations during consultation with the Responsible Official can be treated as confidential by the Agency consistent with 25 U.S.C. 3056 and Executive Order 13007.

Land management plans guide sustainable, integrated resource management of the resources within the plan area in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas (36 CFR 219.1(b)). Although the responsible official is required to coordinate land management planning with the equivalent and related planning efforts of other governments, the planning regulations explicitly state "nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the plan area..." (36 CFR 219.4(b)(3)). 36 CFR 219.19 defines plan area as the National Forest System lands covered by a plan.

Response

The final EIS section 3.12.1 (table 7, pages 38 to 39) describes the treaty clauses referencing reserved treaty rights. In addition, the assessment of the areas of tribal importance report contains a table (table 2 on page 6) of treaty clauses referencing the treaty by tribe and reserved treaty rights. The assessment also includes figure 2(8) that displays land cessions relative to the lands currently administered by the Custer Gallatin National Forest with a key noting cession numbers for the Crow Tribe.

Regarding where the plan components for areas of tribal importance will apply, the responsible official may not be allowed by statute, or may choose not to disclose, any locational information in the plan to maintain confidentiality of the areas of tribal importance (per 36 CFR 219.1(e)). In addition, confidentiality in government to government tribal consultation does not allow for other entities to participate unless both governing bodies agree to the external party's inclusion. However, even without knowing the site-specific location of sacred sites, the location of where plan components for areas of tribal importance apply can be determined through the treaty descriptions in the final EIS and assessment as cited in the previous paragraph.

It's also important to note that the plan components for areas of tribal importance, and all plan components in the plan, apply to National Forest System lands *only*, and do not apply to private lands or other jurisdictions.

Conclusion

Upon reviewing the final EIS and assessment, I find that Forest Supervisor Erickson disclosed sufficient information to know where the plan components pertaining to areas of tribal importance would apply, including those pertaining to the Crazy Mountains.

Compliance with United States Department of Agriculture Memorandum

Objectors contend Forest Supervisor Erickson ignored national direction on increasing the productivity of national forests and grasslands and increasing access.

Objectors' Proposed Remedies

Remand the decision and develop an alternative that follows the directive to increase productivity, increase grazing opportunities, and increase access.

Review the Plan for consistency with the Forest Service Strategic Plan: Fiscal Year 2015-2020 and remand the decision until consistency is achieved.

Background

Secretarial Memorandum to the Chief of the Forest Service (June 12, 2020) establishes vision, priorities, and direction on increasing the productivity of national forests and grasslands, valuing our nation's grazing heritage and the national grasslands, increasing access to national forests, and expediting environmental reviews to support active management.

To increase the productivity of national forests and grasslands, it directs the Forest Service to:

- streamline processes and identify new opportunities to increase America's energy dominance and reduce reliance on foreign countries for critical minerals;
- **modernize management practices** and reduce regulatory burdens to **promote active management on Forest Service lands to support and protect rural communities, critical watersheds, and species habitat**; and
- expedite broadband development on Forest Service lands to increase internet connectivity in rural America.

To value our Nation's grazing heritage and the National Grasslands, it directs the Forest Service to:

- **establish in forest plans that grazing and support for grazing on the National Grasslands is essential for their management within the framework of their governing statutes**;
- streamline renewal of range permits and range improvements on the National Forests and Grasslands; and
- enhance flexibility for Forest Service employees to work with ranching families and communities.

To increase access to National Forest System Lands, it directs the Forest Service to:

- **increase access to Forest Service lands** by streamlining the permit process for recreational activities and **embracing new technologies and recreation opportunities**;
- **open public access to National Forest System lands with currently limited access where feasible in cooperation with States, counties, and partners**;
- improve customer service by modernizing and simplifying forest products permitting and the Forest Service land exchange process.

Response

As highlighted in bold text, the aspects of the memorandum that apply to land management plan revision include modernizing management practices to promote active management on Forest Service lands to support and protect rural communities, critical watersheds, and species habitat; establishing support for grazing; and increasing access to Forest Service lands by embracing new technologies and recreation opportunities and opening public access to National Forest System lands with currently limited access where feasible in cooperation with States, counties, and partners.

Consistent with this direction, the plan modernizes the 1986 and 1986-era management direction for vegetation, watershed, wildlife habitat, and livestock grazing based on best available scientific information to maintain and restore ecological, social and economic sustainability as required by the planning regulations. It includes plan components to address emerging recreation technologies, provides a wide range of recreation opportunities, and includes a desired condition that road and trail easements provide adequate reasonable public access to National Forest System lands (FW-DC-LAND-03).

Conclusion

I find the 2020 Land Management Plan is consistent with the referenced memo. In addition, upon review of this issue and the others addressed in this response, I find Forest Supervisor Erickson has developed a plan aligned with the Forest Service mission to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.

Management Activities

Timber

Background

The NFMA at USC 1604(k) states “In developing land management plans pursuant to this Act, the Secretary shall identify lands within the management area which are not suited for timber production, considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary, and shall assure that, except for salvage sales or sales necessitated to protect other multiple-use values, no timber harvesting shall occur on such lands for a period of 10 years.”

The planning regulations at 36 CFR 219.7(c)(2)(viii) requires the responsible official to “identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of 36 CFR 219.8 through 219.11, including identifying lands that are not suitable for timber production (36 CFR 219.11)”.

The responsible official shall identify lands within the plan area as not suited for timber production if any one of the following factors applies:

- (i) Statute, Executive order, or regulation prohibits timber production on the land;
- (ii) The Secretary of Agriculture or the Chief has withdrawn the land from timber production;
- (iii) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands;
- (iv) The technology is not currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions;
- (v) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest; or
- (vi) The land is not forest land.

The planning regulations at 36 CFR 219.11(c) indicates “the plan may include plan components to allow for timber harvest for purposes other than timber production throughout the plan area, or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety”.

The planning regulations at 36 CFR 219.8 require plan components to provide for social, economic, and ecological sustainability, describing the timber requirements based on the National Forest Management Act at 36 CFR 219.11.

Lands Suitable for Timber Production

Objectors contend that the plan and final EIS do not clearly show which areas are suitable for timber production. Other objectors assert some lands should not be suitable for timber production because of the potential for detrimental soil effect or because timber production would not be compatible with achieving desired conditions.

Objectors' Proposed Remedies

- Include a map in the final EIS showing the suitable timber base for each alternative.
- The upper slope limit determining timber production suitability should be lowered and based on geomorphic, geologic, landtype and soil criteria that informs whether slopes are subject to mass failure or highly erodible.
- Add the following suitability statement: Suitability (AB-SUIT-NSB) To protect the scenic characteristics of the Beartooth National Forest Scenic Byway, the Main Fork Rock Creek drainage is not suitable for timber production.

Response

Appendix B of the final EIS (pages 135 to 139), explains the steps in a two-stage process taken to make a determination of “lands suited for timber production” according to the direction in the planning handbook (FSH 1909.12.61). On lands suitable for timber production, active vegetation management and some regular flow of timber products is expected to occur. Unless prohibited by other plan components, timber harvest may occur on lands unsuitable for timber production to meet other resource objectives (plan, chapter 2).

The first stage is to identify lands *that may be* suited for timber production based on legal, technical, and ecological context. Lands that are legally withdrawn (such as wilderness), lands that cannot be harvested without causing irreversible damage to the land, or lands that are not forested or not capable of re-growing trees once harvested are withdrawn at this first stage. This stage is constant and used as a basis for all alternatives and is termed “lands that may be suited for timber production.”

The second stage of suitability withdraws land from those “lands that may be suited for timber production” identified during the first stage based on plan components for various resources and/or land allocations. At a programmatic scale for the purposes of modelling, the Forest found timber production would not be compatible with desired conditions for lands allocated to eligible wild and scenic rivers, special interest areas, riparian management areas, recommended wilderness, and backcountry areas (final EIS appendix B, table 6). Where those allocations varied by alternative such as recommended wilderness areas or backcountry areas, suitability for timber production varied by alternative (final EIS, page 135).

The final EIS acknowledges that due to the scale of analysis and data limitations, there are small inclusions of unsuitable areas in areas mapped as suitable, and vice versa. Thus, site-specific suitability must be determined at the project level (appendix B, page 136 and 138). This may be influenced by suitability plan components (e.g., developed recreation sites per FW-SUIT-RECDEV) or site-specific resource conditions (e.g., inclusions of unstable soils or very steep slopes). Thus, while the modelled estimations provide a set of GIS data for estimating effects in the programmatic final EIS and initial project planning purposes, it would be inappropriate to include as a stand-alone plan map. Rather, suitability is reflected in the land allocation maps via associated suitability plan components.

Wherever timber harvest takes place, either on lands suitable for timber production or on lands where timber harvest is suitable for multiple use purposes, numerous plan components limit harvest or regulate harvest in ways that will avoid irreversible damage, protect resources, and maintain or restore ecological integrity. For example,

together with a suite of watershed and soils plan components, FW-STD-TIM-02 prohibits harvest on lands “where slope or other watershed conditions may be irreversibly damaged by harvest activities, as identified in project specific findings”. FW-GDL-SOIL-01 limits the use of mechanical equipment on sustained grades steeper than 40 percent.

In addition, all timber harvest must be consistent with maintaining or restoring the scenic resources per FW-STD-TIM-05 and the scenery plan components. The Beartooth Scenic Byway corridor has a scenic integrity objective of high. Thus, harvest operations must apply site-appropriate design features consistent with maintaining that scenic integrity, consistent with the desired condition AB-DC-NSB-01.

Conclusion

I find Forest Supervisor Erickson has appropriately identified lands suitable for timber production as required by the regulations and implementing directives.

Calculation of Sustained Yield Limit and the Budget Limited Projected Timber Sale Quantity

An objector contends the calculation of the sustained yield limit does not comply with the Multiple-Use Sustained-Yield Act because “simply calculating an upper limit for sustained-yield does not ensure that the Forest” will “develop and administer timber resources for achievement and maintenance of regular outputs”. They further assert the calculation of the projected timber sale quantity is not based on sustained yield because “sustained yield of timber as a “desired condition”” wasn’t modeled.

Objectors also assert that the projected timber sale quantity was improperly constrained based on anticipated budgets.

Objector’s Proposed Remedies

- Do not inappropriately tie timber harvest levels to current budgets.
- Analyze the timber component of the plan to meet the intent of the Multiple-Use Sustained-Yield Act.
- The plan should make clear that any figures tied to budget are merely non-binding projections rather than restrictions on future management.
- Prepare an alternative that would reflect the sustained yield calculation that isn't tied to budget constraints.

Response

As described in the Statutory Violations issue summary, the Multiple-Use Sustained-Yield Act of 1960, as amended, authorizes and directs the Secretary of Agriculture to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom, including “outdoor recreation, range, timber, watershed, and wildlife and fish purposes”. The statute states “Sustained yield of the several products and services” means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land” (16 USC 531 section 4(b)).

Consistent with Multiple-Use Sustained-Yield Act requirements to provide a sustained yield of timber as *one* of the products and services provided from the National Forest System, the National Forest Management Act and planning regulations require the land management plan “to *limit* the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis...” [emphasis added here]” (16 USC 1611(a) and 36 CFR 219.11(d)(6)). Thus, the land management plan identifies the sustained yield limit as the maximum volume of timber that can be produced on an annual basis from the Forest (subject to exceptions stated in the statute). It represents a timber volume potential that is not bound by

the plan components that address providing a sustained yield of products and services of other resources such as recreation, range, watershed, and wildlife and fish purposes.

As plan components to provide for ecological, social, and economic sustainability (36 CFR 219.8), species diversity (36 CFR 219.9), multiple uses (36 CFR 219.11), and to ensure “timber harvest would occur only where soil, slope, or other watershed conditions would not be irreversibly damaged” (36 CFR 219.10) may limit year to year, or decadal timber volume output from the plan area to less than what is calculated for the sustained yield limit, the directives require the identification of the projected timber sale quantity to provide a more realistic estimate of expected timber volume. As budget and organizational capacity often provide the greatest limitation on the amount of vegetation management that can be achieved within a planning period, the regulations and directives are clear plan objectives and estimated timber sale quantities must be identified within the fiscal capability of the unit. Calculation of these volume estimates are sensitive to a number of important assumptions including future budget trends, future markets for timber products, efficiency in planning and implementation, and the timing and locations of large disturbance events (final Plan, page 76).

Both in written objections and in discussions at the resolution meeting, objectors expressed concern regarding that the selected alternative “reduces the sustained yield limit” or inappropriately “limits” the maximum volume that could be sold based on funding. However, the plan and final EIS also clearly state that the projected sale quantities are simply estimates and are *not* targets, maximum limits, nor minimum amounts to be sold during the plan period (final EIS glossary and plan, page 76, consistent with information in FSH 1909.12 section 60.5 and the response to comments on the planning directives). Thus, the projected sale quantities do *not* function as limit for management opportunities to achieve forested vegetation or economic sustainability desired conditions. In response to public comment expressing concerns about applying budget constraints to the harvest model, the Forest also estimated the potential volume *without* budget constraints to provide an indication of timber volume outputs that could be achieved should additional funding (e.g., staff funding from the State of Montana), partnerships, or other authorities allow achievement of timber harvest volume above the fiscally constrained projections. This range of projected timber volume is described in plan objectives FW-OBJ-TIM-01 and 02.

Although not required in the planning regulations, one of the harvest model constraints was for a non-declining yield that required the volume in each decade to be at or above the volume in the previous decade. This was included to ensure harvest projects remained at or below the sustained-yield limit, with an even flow of timber to contribute to a sustainable timber sector of the economy (final EIS appendix B, page 145).

As indicated in the planning handbook at section 64.3 to 32 and 64.35, and the plan glossary on page 238, volume from salvage and sanitation timber harvest is not included in calculating the sustained yield limit or the projected sale quantities consistent with USC 1604(k) and 1610(k).

Conclusion

I find Forest Supervisor Erickson complied with Multiple-Use Sustained-Yield Act, and all related National Forest Management Act requirements, in the calculation of the sustained yield limit and projected timber and wood sale quantities. The full suite of integrated plan content ensures the sustained yield of *all* products and services, including timber. Thus, a stand-alone desired condition for a sustained yield of timber, or the other National Forest System Land products and services, is not required.

Harvest Volumes and Number of Acres Treated

Some objectors contend that the projected timber sale quantity, and thus associated acres treated using timber harvest as a vegetation management tool, are too low and will not allow the Forest to achieve desired conditions related to fuels, forested vegetation, wildlife habitat, and social and economic sustainability. Several objectors

contend that the final EIS should have analyzed additional alternatives that would have reached, or departed from, the sustained yield limit.

Other objectors contend that too many acres are available for timber harvest and that harvest levels will be detrimental to forested vegetation, wildlife, and recreation, particularly if salvage harvest is allowed to exceed the sustained yield limit.

Objectors' Proposed Remedies

- Treat more acres to address areas affected by pine beetle, Western spruce bud, and the Douglas-fir bark beetle. This should be in addition to the stands that continue to require harvest to capture economic value and reduce hazardous fuels.
- Provide an adequate range of alternatives to address the needs of the landscape for increased restoration and address the insect and disease problems on the Forest. Provide an alternative that moves the Forest more quickly to the desired conditions representing the historic range of variability.
- Prepare an alternative and/or change the decision to produce the maximum sustained yield limit.
- The final plan should emphasize maintaining sawmilling infrastructure and contribute raw materials to sustain the current workforce.
- Prepare an alternative that addresses the need of existing sawmill and logging infrastructure.
- Increase harvest levels to reduce the severe fuel loads and better manage the forest.
- Recreation and wildlife values should be the priority focus rather than timber harvest.

Response

The 2017 Final Assessment of Existing Conditions led to the identification of a “need to develop plan direction that emphasizes ecological restoration and management that promotes more resilient ecosystems with a greater capacity to resist stressors, such as insects, disease, and wildfire, as well as absorb and recover from disturbances” (Preliminary Need to Change the Existing Custer and Gallatin Forest Plans, page 7). It did not identify a broad need to accelerate timber harvest beyond a non-declining even flow of timber. (See the preceding issue summary regarding timber harvest modelling constraints.)

However, the Forest received many comments requesting either an increase in the amount of lands suitable for timber production, timber volume offered, and acres treated with harvest. Conversely, other commenters requested that few or no lands be suitable for timber production, and that less timber harvest occurs on National Forest System lands. Thus, the level of timber production and harvest was a key issue that drove alternatives. Alternative D was designed to emphasize natural processes with the least acres of timber harvest and estimates of timber volume. Alternative E was designed to increase timber production with the greatest number of acres suitable for timber harvest and plan objectives to emphasize timber and wood products volume (final EIS sections 2.4.1 and 2.5.8).

The Forest modelled a number of factors that may affect the estimated volume that could be produced and acres that could be treated, including current budget limitations, while optimizing for achievement of desired conditions (final EIS appendix B). In all alternatives, timber volumes were used as a minimum constraint and the model was able to schedule higher volumes if doing so would accelerate the rate of achieving the desired vegetation conditions. (final EIS section 3.15.1). In a similar manner, the model was able to schedule treatments such as prescribed fire, timber harvest, or fuels treatments on more acres if doing so would accelerate the rate of achieving the desired vegetation conditions (ibid). However, as noted in the final EIS (section 3.6.3 conclusions), “expected trends for key indicators of terrestrial vegetation forestwide show progress towards desired conditions but little variability across alternatives. This is primarily due to the limited scope and impact of vegetation management

treatments (which vary slightly by alternative) relative to the size of the national forest and the effects of natural disturbances, particularly fire (which does not vary by alternative)”.

Regardless, timber management is one of the tools available to change vegetation conditions for purposes of maintaining or moving towards desired vegetation conditions (FW-OBJ-VEGF-01). The final EIS indicates it will be used not only to provide timber products and contribute to the local economy, but also to achieve multiple resource objectives. These include reducing insect or disease impacts, improving wildlife habitat, increasing tree growth, improving timber productivity, lowering fuels and fire risk, and altering vegetation conditions to enhance forest resilience (final EIS section 3.15.2). And although the final EIS doesn’t include a single alternative with a projected timber sale quantity as high as the sustained yield limit, as indicated in the preceding issue summary the projected sale quantities are not a harvest limitation. Additional volume could be harvested to make progress toward desired conditions if funding and organizational capacity allows.

Regarding objectors’ concerns that project timber harvest activities would be detrimental, the plan includes a full suite of components that articulate a detailed description of ecological integrity for the plan area and provide a clear vision to guide management activities. This is supported with numerous scientific citations that demonstrate that timber harvest can be used as a tool to contribute to ecological sustainability (final EIS section 3.6.3). Plan components guiding timber harvest activities are provided throughout the plan for purposes of protecting values associated with forest vegetation such as riparian areas (e.g., FW-STD-RMZ-01, FW-GDL-RMZ-06, FW-GDL-RMZ-07), old growth (e.g., FW-GDL-VEGF-01), or areas of known plant or animal species of conservation concern or threatened and endangered species (e.g., FW-STD-PRISK-01). In addition, as another objector pointed out in the resolution meeting, close to two thirds of the Forest is within a designated area or plan allocation that either prohibits or restricts timber harvest. Only 19 percent of the Forest is suitable for timber production. Although timber harvest can occur on an additional 20 percent for such purposes as fuels reduction or wildlife habitat enhancement, plan components or regulations associated with those allocations provide a number of constraints on how harvest may occur to protect associated resource values (e.g., riparian management zones or inventoried roadless areas) (final EIS section 3.15.2, table 32).

Conclusion

I find Forest Supervisor Erickson considered an appropriate range of alternatives related to the projected timber harvest levels and acres treated based on the 2017 Final Assessment, need to change, and public scoping. The final EIS includes a description of the methodology and modelling used to consider the various factors associated with estimating potential outcomes, consistent with the requirements in the planning rule and handbook.

Timber Harvest Economics

An objector contends that the analysis of jobs and labor income associated with timber production is flawed.

Objector’s Proposed Remedy

Rework the economic analysis as it pertains to newly created jobs in the timber sector.

Response

The analysis area for the contribution of timber consists of a multi-county region depicted in the benefits to people, economic analysis area of influence. This area includes a total of 52 counties that stretch into five states. Within this economic area of influence exist all of the national forest industry and wood products manufactures that historically have purchased timber sales and processed timber from the Forest (final EIS section 3.11.2).

Tables 4 and 5 in section 3.11.3 provide two kinds of job and labor income contribution information. The first data column discloses the current operational average contribution based on the [National Forest and Grasslands At A](#)

[Glance Reports](#) from the year the analysis was completed (2016). The next six columns compare the projected operational limit for the current plan (alternative A) and all proposed plan alternatives (alternatives B through F). In other words, it discloses current contributions based on timber volume sold along with the comparison of what timber volume the current plan and all alternatives would allow at a maximum.

The first column numbers indicate that the current timber volume production is less than the maximum sale volume allowed for either the current plan or the proposed plan. This is expected due to a number of factors such as market fluctuations, organizational capacity, and/or project litigation, that limit sale volume aside from plan authorization.

As a result, the labor and income estimated across these columns represent the maximum potential of economic contributions from the parameters authorized by the plan.

Conclusion

I find that Forest Supervisor Erickson accurately analyzed the contribution of timber to the economy. However, I am instructing her to provide additional explanation in the body of the final EIS to clearly describe the information in the employment and job income tables.

Fire and Fuels

Objectors contend that the plan direction and analysis for fire and fuels are not based on the best available scientific information. One objector asserts that motorized use should be limited to logging roads to mitigate the risk of wildfire ignition.

Objectors' Proposed Remedies

- The forest service needs to look at the science of logging to create healthy forests to determine if logging really reduces hazardous fuels. This should be looked at through the lens of climate change to determine what conditions are driving forest fires and whether hazardous fuel reduction can be done on the huge landscape of forest service lands
- Supplement the EIS to analyze the efficacy of the proposed activities at reducing wildfire risk and severity in the future, including a 2-year, 5-year, 10-year, and 20-year projection authorized under the plan.
- The forest service needs to address to educate landowners to make their structures as fire resistant as possible.

Response

Although an objector asserts humans are the number one cause of wildfires as a reason motor vehicle access should be limited, lightning accounts for 74 percent of all ignitions on the forest (final EIS section 3.7.2). Additionally, according to data for the same time period, equipment, including vehicles, accounted for 1.8 percent of all ignitions. Even if vehicles were restricted to logging roads, non-motorized trail users can still ignite fire a number of ways such as by not following fire bans, improperly disposing of cigarette butts, and not fully extinguishing campfires. It is unlikely that this restriction of vehicles to logging roads would meaningfully decrease human-caused fire risk and fire risk overall.

One objector cites scientific information (Baker 2015) to contend that programs to generally reduce fire severity in dry forests are not supported and have significant adverse ecological impacts. However, final EIS provides scientific information describing the efficacy of timber harvest to reduce hazardous fuels (sections 3.6.2, 3.6.3, 3.7.1, 3.7.3, 3.5.3). Plan components are designed to meet desired conditions in order to create healthy forests and reduce hazardous fuels. The Forest used several resources that included peer-reviewed and technical literature, databases and data management systems, and modeling tools and approaches to develop the plan. Specialists considered what is most accurate, reliable, and relevant in their use of the best available scientific information as described in the final EIS (section 3.6.2) and plan record (plan, page 16).

To the point that the Forest should not be taking steps to lessen fire severity in dry forests, the forest has seen firsthand that fires of higher severity can kill fire-resistant seed-bearing trees, disrupting the ability of these forests to regenerate. Large fires in 2006 and 2012 in the Ashland Geographic Area reduced forest cover by 47 percent (U.S. Department of Agriculture 2014). Section 3.6.2 of the final EIS acknowledges that there are studies that conclude large-scale stand-replacing fires were historically more frequent on the landscape and that these same studies state that taking measures to lessen severity could have negative ecological impacts. There are subsequent studies that question these assertions and in fact, Baker in his 2015 paper acknowledges limitations of the study's trend analyses and fire rotations and raised management issues in a world with increasing temperatures and drought. Baker also stressed the importance of local knowledge. Regardless, the majority of research continues to support the low severity, high frequency paradigm and the Forest used the preponderance of credible science to inform decision making to enhance resiliency in forestwide ecosystems.

As stated in the response to comments (final EIS appendix F, page 31), the plan does not prescribe fuels reduction treatments or authorize any specific fuel reduction activities. Site-specific efficacy of fuel reduction activities is best assessed at the project level where more precise information on treatment type, vegetation composition and fuel loading are available.

The plan includes goal FW-GO-FIRE-01 to work with community leaders, service providers, business owners, homeowners and permittees who are invested in or adjacent to the Custer Gallatin to provide education about wildfire risk and that wildland fire is an essential ecological process. However, the Forest Service does not have authority to direct how private lands are managed and recognizes that responsibility for fuels management on non-Forest Service lands is the responsibility of the property owners, as well as local and state governments (final EIS section 3.7.3).

Conclusion

I find Forest Supervisor Erickson used the best available scientific information to inform the plan components and the final EIS demonstrates scientific integrity as required by the NEPA. While there is disagreement in the literature about historical conditions and what future forests could and should resemble, the final EIS considered opposing views and provides a reasoned discussion that the scientific consensus supports the plan decision.

Livestock Grazing

Background

The planning regulations at 36 CFR 219.10(a) requires a plan to include plan components including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses, including range.

Forest Service Handbook 1909.12 at section 23.23(d) provides guidance that plan components should be designed to accommodate the range of site-specific needs of individual areas, species, allotments, and plant communities. Allotment management plans for livestock provide specific operational guidance and are the most appropriate planning level to carry out management tools such as minimum stubble height, multiple year mean utilization, or streambank alteration limitations.

The range management regulations at 36 CFR 222 subpart A requires allotment level analysis and planning consistent with land management plans.

Forest Service Handbook 2209.13 chapter 90 addresses NEPA analysis and implementation of rangeland management and livestock grazing with an objective of achieving and maintaining desired rangeland conditions on

National Forest System lands. It provides direction to determine whether livestock grazing is an acceptable use on a given allotment of National Forest System land.

Adequacy of Baseline Assessment and Plan Components

Objectors contend that the livestock grazing analysis is inadequate, asserting the forestwide baseline condition assessment is outdated and the final EIS fails to assess the current impacts of the livestock grazing program. They assert that a suitability analysis must be conducted. They further contend the Forest Service should reduce or remove livestock grazing from riparian areas until baseline assessments are conducted to provide an accurate understanding of current conditions and how management activities are impacting the ecological integrity of the riparian areas, drier pine savanna, and prairie ecosystems.

Objectors also assert plan components are insufficient to protect riparian and aquatic resources from livestock grazing. They suggest changing guidelines to “enforceable” standards to move aquatic and riparian habitat towards fully functioning systems. In addition, objectors suggest utilization and stream bank alteration standards as interim requirements to better manage livestock use of riparian areas.

Objectors’ Proposed Remedies

- Keeping cattle and sheep out of waterways and riparian areas should be a number one priority.
- Provide overarching criteria-based guidance related to the determination of areas that are suitable and capable for livestock grazing.
- Provide the data used to conduct the capability and suitability analysis.
- Quantitatively assess rangeland health, and riparian areas located within active grazing allotments. Provide a schedule for completion of the analysis and provide the public the opportunity to review and comment on the actual baseline rangeland data during an official NEPA process.
- Include site-specific analysis of existing grazing allotments and implement decisions for each allotment or group of allotments based on resource conditions and progress toward desired conditions.
- Conduct a full-scale monitoring program to understand current conditions.
- Assess the capacity to manage the grazing program and adjust the scope of the grazing program to reflect that reality.
- Implement specific and enforceable plan components that will move aquatic and riparian habitat towards fully functioning systems.
- Upland utilization allowable use limits should be determined with specific habitat requirements for greater sage-grouse in general and priority habitat.
- Create and commit to adhering to a schedule for updating and revising if necessary, all of the AMPs and/or grazing permits through a NEPA compliant process.
- Most asserted that interim standards that reduce or remove livestock grazing from these systems must be implemented until the analyses listed above have been completed. Some provided specific suggestions what those interim standards should be.

Response

As required at the time by the 1982 planning regulations (36 CFR 219.20 1982 version), suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for management indicator species was determined for the 1986 and 1987 forest plans. During 30+ years of implementation under those plans, suitability analyses have been conducted on allotments with changed conditions resulting in decisions that have refined capability and suitability aspects relative to livestock use. Current allotments are deemed suitable for permitted grazing. Availability and productivity of forage is verified during site-specific allotment planning NEPA analyses (final EIS section 3.14.2).

The current planning regulations do not require a rangeland suitability analysis at the plan level. The planning handbook at FSH 1909.12 section 13.32 indicates the interdisciplinary team should identify and evaluate *available* information about range conditions, levels of grazing activity, the capability and productivity of the plan area to support grazing, the impacts of grazing on ecological integrity and species diversity, and the contribution of grazing in the plan area to social, economic, and ecological sustainability.

Range condition and trend for uplands, riparian and wetlands, and woody draws is discussed in the 2017 Final Assessment of the Existing Condition, and both the affected environment and environmental consequences sections of the final EIS (2017 assessment Permitted Livestock Grazing Report, pages 7 to 25, final EIS sections 3.14.2 and 3.14.3). Detailed, site-specific analysis of rangeland condition and trend, as well as rangeland health indicators is not possible or necessary at the programmatic scale (final EIS appendix F, page 66). As guided by the Council on Environmental Quality, the programmatic EIS must provide sufficient detail to foster informed decision-making that reflects broad environmental consequences from a wide-ranging federal program. The analysis properly evaluates the anticipated effects of managing livestock grazing consistent with proposed livestock grazing plan components designed to protect upland and riparian resources, manage noxious weeds, and maintain adequate levels of forage. Collectively with the additional riparian management zone and other plan components, the grazing standards and guidelines improve management over the existing plans' direction and will inform the design and implementation of allotment management to maintain or restore rangelands consistent with desired conditions (final EIS section 3.14.3, and the effects from livestock grazing sections of 3.4.3, 3.5.3, and 3.6.3).

An objector at the resolution meeting indicated that they "reviewed all the different sections [of the entire plan]" and "feel that there are not strong enough standards and guidelines to protect the different resource areas". Although I recognize objectors would prefer livestock grazing was reduced or eliminated to avoid the potential for any adverse resource effects, the Multiple-Use Sustained-Yield Act specifically provides that range is one of the multiple uses for which the national forests are managed. Thus, the plan includes a desired condition for livestock forage that contributes to local ranching operation sustainability and local community economy, while maintaining or moving toward ecological desired conditions (FW-DC-GRAZ-01).

My review found components in multiple sections of the plan constrain and/or guide management to maintain or restore riparian-wetland and woody draw conditions (e.g., FW-GDL-RMZ-01, FW-STD-GRAZ-01, FW-GDL-GRAZ-01, FW-GDL-GRAZ-02, FW-GDL-GRAZ-03, FW-GDL-VEGNF-05, FW-GDL-VEGNF-06, and FW-GDL-VEGNF-07) as supported by the final EIS in sections 3.14.3 and 3.6.3. Indicators such as forage use, bank alteration or riparian stubble height (FW-GDL-GRAZ-02) would be used to inform allotment management to maintain or restore rangeland vegetation, riparian function and wildlife habitat consistent with desired conditions (final EIS section 3.14.3). The suite of integrated plan content is appropriately designed to accommodate the wide range of site-specific needs areas, species, allotments, and plant communities across the over 3 million-acre Forest as described in the planning handbook (FSH 1909.12 section 23.23(d)).

In addition, plan objectives such as FW-OBJ-VEGNF-01, FW-OBJ-WTR-01 and 03, and FW-OBJ-PRISK-01 emphasize improving upland, watershed, and plant species at risk conditions of the Forest and woody draw conditions are expected to continue under all alternatives (final EIS section 3.6.3, page 244).

Regarding objectors' assertions that interim standards reducing livestock grazing must be immediately implemented, it's important to note site-specific NEPA decisions and grazing permits contain management prescriptions and monitoring necessary to address resource conditions to maintain and/or meet desired resource conditions and values. The NEPA decision and/or any associated allotment management plans are considered part of the permit's terms and conditions. As described in FSH 1909.12.23d, allotment management plans provide specific operational guidance and are the most appropriate planning level to carry out management tools tied to annual use levels, rather than prescriptive interim standards applied at the Forest scale.

The permit and/or allotment management plan also include monitoring requirements to evaluate compliance with standards and design criteria (implementation monitoring) and whether those actions are effective in meeting or moving toward desired long-term trends in range condition (effectiveness monitoring) (final EIS appendix F; FSH 2209.13 section 95). When needed, permits have been adjusted based on monitoring and adaptive management. The assessment indicates 35 to 50 percent of allotments are monitored annually for compliance with the terms and conditions of their permits. When compliance issues are identified, the Forest works with permittees to resolve them (2017 assessment Permitted Livestock Grazing Report, page 13). As indicated in the draft record of decision, authorizations made before this plan approval may proceed unchanged until time of reauthorization. At time of reauthorization, all permits, contracts, and other authorizing instruments must be made consistent with the plan, subject to existing valid rights, as provided at 36 CFR 219.15(d) of the planning regulations (draft record of decision, page 47).

Although the objector asserts “the Agency has no intention of actually completing site-specific analysis”, the final EIS indicates 210 allotments out of the Custer Gallatin National Forest's 233 allotments have had interdisciplinary review and analysis per the National Environmental Policy Act. The draft record of decision indicates plan components applicable to livestock grazing (including the end of season stubble height guideline) will be incorporated through permit modification(s), reissuance of existing term permits, issuance of new term grazing permits, and as allotment management plan revisions and sufficiency reviews occur. Monitoring data will be used to prioritize both allotments and stream reaches. It is expected that all allotments will be managed under the plan direction within the first decade (draft record of decision, page 48).

Conclusion

I find Forest Supervisor Erickson complied with the planning regulation's requirements for assessing rangeland conditions to inform the development of plan components. In addition, the programmatic analysis indicates the plan provides the framework to guide sustainable livestock grazing management. Livestock grazing on National Forest System lands provides important and valued contributions to social and economic sustainability. It is the Forest Service's goal to conserve rangeland resources while supporting communities dependent upon them. The 2020 Land Management Plan will continue to guide improvements in rangeland management and will minimize risks to soil, water, vegetation, and species at risk. Therefore, I do not find a need to eliminate livestock grazing, or to arbitrarily reduce grazing outside of the site-specific allotment management planning processes.

See the Plan Component Sufficiency response regarding the need for “enforceable components to move toward desired conditions”.

Amount of Livestock Grazing

Objectors seek an alternative that reduces or limits livestock grazing through voluntary cancellation of permits, closing vacant allotments, or reducing active allotment seasons, particularly in the grizzly bear recovery zone and connectivity areas.

Objectors' Proposed Remedies

- As allotments are vacated, they should be closed or modified.
- All alternatives analyzed need to include specific direction and language authorizing the permanent retirement of voluntarily waived grazing permits, particularly in the grizzly bear recovery zone.
- Active grazing allotments within the grizzly bear recovery zone and connectivity areas should be targeted for closure.
- On-dates of active allotments should be changed to July 15 in recognition of disease transmission as a seasonal manifestation. The probability of transmission from elk is very likely to increase over the years and unless a

more effective cattle vaccine is developed, the possibility of all public land grazing being terminated is very real and should be mentioned.

Response

The final EIS includes two alternatives considered but not analyzed in detail that address no permitted livestock grazing or a reduction in livestock grazing (final EIS section 2.5.10). Eliminating all grazing at a programmatic scale was not analyzed in detail for several reasons, one of which is it would not be consistent with the Forest and Rangeland Renewable Resources Planning Act which directs the Forest Service to provide for livestock use of National Forest System lands. An alternative that reduced permitted livestock grazing was not analyzed in detail because the 3 million-acre scale of the programmatic land management plan analysis is too large to make such a determination. Provisions for an analysis to eliminate or reduce grazing occurs for individual allotments or groupings of allotments as guided in the Forest Service manual and Handbook (FSM 2200 and FSH 2209. 12) where the effects can be understood in their proper scale (final EIS appendix F, page 64).

Some objectors at the resolution meeting referenced standards in other Forest Service or Bureau of Land Management plans that include language to retire grazing and asked for something similar in the 2020 Land Management Plan. The plan reflects a similar intent with the plan objective FW-OBJ-GRAZ-01, which includes a range of animal unit months reflecting a potential reduction in vacant allotment capacity. The final EIS (section 3.14.3) and draft record of decision (page 48), identify eight vacant allotments that will be site-specifically evaluated for potential closure subsequent to the plan approval per that objective.

Other objectors at the resolution meeting stated those eight allotments identified for potential closure should be closed concurrent with the plan approval. The reason they assert this should occur immediately is since four of them are located in bison management zones, there is a conflict with bison and livestock grazing. However, as noted in the Programmatic NEPA Review issue summary and in the introduction to the environmental consequences (final EIS section 3.1), the EIS addresses a programmatic proposal, thus effects disclose broad, plan-level scale effects of how future decisions will be guided. It does not address the site-specific or project-level effects of actions that regulate public uses. The final EIS (section 3.14.3, page 99 to 100) discusses varying vacant allotment capacity across alternatives but does not address specific aspects that should be considered when closing allotments such as resource conflicts, conservation opportunities, or economic considerations. While site-specific planning *may* identify conflicts with bison (or other resources) that lead to a determination not to authorize grazing, to close allotments, or to make other adjustments, it cannot be assumed at the plan scale based on the information in the programmatic EIS that conflicts are occurring just because an allotment overlaps the bison management zone. As discussed in the preceding issue summary, the plan includes integrated plan content across multiple resources sections of the plan to guide sustainable livestock grazing and minimize resource conflict while providing for economic sustainability. All applicable plan direction would be considered as these eight allotments are evaluated.

Some objectors advocated for closing all allotments to eliminate potential lethal grizzly bear removal due to livestock depredation. They also seek plan components that require non-lethal conflict prevention measures in all livestock grazing permits. Predator control is under the authority of Wildlife Services Division of the United States Department of Agriculture Animal and Plant Health Inspection Service, and the Forest Service works cooperatively with this agency to address wildlife conflicts with domestic livestock on National Forest Service lands. In addition, as disclosed in the final EIS, while there have been a few livestock depredations attributed to grizzly bears on the Forest in recent years, those occurrences have been isolated incidents that neither led to recurring conflicts nor resulted in grizzly bear removals (final EIS section 3.10.2).

Livestock grazing management effects to big game species are discussed in final EIS (section 3.1.4). As indicated in the preceding issue summary, site-specific allotment management planning is the appropriate level to provide specific operational guidance such as specific "on-dates". The possibility that all public land grazing will be

terminated in the planning period is highly speculative and it would not be appropriate to discuss in the environmental analysis for the plan.

Conclusion

I find Forest Supervisor Erickson considered an appropriate range of alternatives related to livestock grazing at the programmatic scale. She was responsive to scoping comments through the consideration of alternatives considered but not analyzed in detail and additional explanation in appendix F. Also see the preceding issue summary regarding the sufficiency of the plan to provide for a sustainable livestock grazing program.

Livestock Grazing Monitoring

An objector contends that permitted livestock grazing monitoring MON-GRAZ-01 should include additional monitoring criteria beyond the number of animal unit months permitted.

Objector's Proposed Remedy

Include an additional monitoring element: "Number of allotments monitored annually for compliance with allotment management plans, stocking rates and forage utilization standards and periodically monitored for changes in in soil and vegetation condition and trend in key areas." Similar wording should be added as a guideline or standard.

Response

The Forest has a robust and long-standing monitoring program designed to assess the different aspects of rangeland condition. This monitoring helps with site-specific environmental analysis for allotment management plans and provides information on when grazing practices may need to be adjusted at the site-specific scale. These efforts will continue, together with new monitoring questions designed to assess implementation of the plan and progress toward desired conditions (final EIS 3.14.2; appendix F).

At the plan level, the plan monitoring program consists of a set of monitoring questions and associated indicators to evaluate whether plan components are effective and appropriate and whether management is effective in maintaining or achieving progress toward desired conditions and objectives for the plan area. The economic contribution of livestock grazing on the Forest is critically important in rural counties (draft record of decision, page 2). Thus, the monitoring question for livestock grazing (plan chapter 4, table 77) is designed to track the level of permitted animal unit months over time based on FW-OBJ-GRAZ-01. This objective is an intended outcome of achieving the desired condition: "Grazing allotments contribute to a supply of livestock forage that contributes to local ranching operation sustainability and local community economy while maintaining or moving toward ecological desired conditions" (FW-DC-GRAZ-01). Monitoring questions for grassland, shrubland, woodland, riparian, and alpine vegetation are found in other portions of the monitoring program and are designed to measure indicators to track the status of key ecological conditions within these vegetation types (plan chapter 4, table 71).

In addition, monitoring efforts will continue to determine implementation and effectiveness of livestock grazing practices by tracking compliance with terms and conditions of the term grazing permit. Many allotments are inspected annually, and any compliance problems with the terms and conditions of the grazing permits are addressed with the permittee to jointly resolve issues where possible (final EIS section 3.14.2).

Conclusion

I find the monitoring program in the plan, together with ongoing site-specific allotment management plan compliance monitoring, meets the requirements of the planning regulations and will provide sufficient information to inform the potential for changes needed in the plan and/or site-specific grazing practices.

Transportation System and Travel Management

Minimizing Motor Vehicle Use Impacts

Objectors assert the plan fails to include standards and guidelines to “incorporate the minimization criteria” and ensure consistency with the Travel Management Rule and Executive Orders 11644 and 1198.

Objectors’ Proposed Remedies

Include a standard that all off-road vehicle designations made through implementation-level travel planning will be located to minimize resource impacts and conflicts with other recreational uses.

Background

Per 36 CFR 219.2(b)(2) a plan does not regulate uses by the public. Rather, that is accomplished through project or activity decisionmaking to issue an order under 36 CFR Part 261, Subpart B.

The travel management regulations at 36 CFR 212 implement Executive Order 11644 (February 8, 1972), “Use of Off-Road Vehicles on the Public Lands,” as amended by E.O. 11989 (May 24, 1977) to ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands (preamble, page 68264 Federal Register, Vol. 70, No. 216). The Forest Service codified the criteria of the executive orders in subparts B and C of the regulations and the agency is required to comply with these criteria when *designating* trails or areas for motor vehicle use at 36 CFR 212.55(b).

Response

Subparts B and C of the Travel Management Rule (36 CFR 212) describe the requirements for designating roads, trails, and areas for motor vehicle use; and for identifying designated roads, trails, and areas on a motor vehicle use map and an over-the-snow vehicle use map. It is important to note that Subpart B and C of the Travel Management Rule only apply to site-specific designations of motor vehicle use. The draft record of decision (page 9) and final EIS (section 1.1) are clear that the plan decision is strategic in nature. It does not authorize projects, activities, or site-specific changes to current motor vehicle use designations. Any future route or area designations will be made with site-specific analysis in compliance with the National Environmental Policy, consistent with revised plan components, and in accordance with 36 CFR 212.

Section 3.18.2 of the final EIS states that prior to initiating plan revision, the Gallatin National Forest designated the specific roads, areas, and trails for the use of motor vehicles that are displayed on the motor vehicle use and over-the-snow vehicle use maps as required by 36 CFR 212 subparts B and C (2006 Gallatin National Forest Travel Management Plan). The Custer National Forest completed motor vehicle use designations required by subpart B (2009 Ashland, 2008 Beartooth, and 2009 Sioux Travel Plan decisions). These decisions informed the land allocations for motor vehicle use suitability and broad changes were not identified as part of the need to change during the revision effort (draft record of decision and final EIS appendix F). Plan suitability alone does not mandate off-road vehicle use or indicate an area is subject to unmanaged off-road vehicle use. Public use must continue to adhere to the current motor vehicle and over-the-snow vehicle use maps until site-specific planning is completed. Because the plan’s land suitability decisions are not public motor vehicle use designations of roads, trail or areas, their identification does not have to be made with “the objective of minimizing” effects to the criteria at 36 CFR 212.55(b).

While an objector at the resolution meeting acknowledged that “travel [management] plans are the primary mechanism to ensure compliance within this minimization criteria”, they asserted “land management plans should include the minimization criteria as standards in order to meet the planning rule wildlife diversity requirements”.

However, plans should not repeat law, regulation, and policy (36 CFR 219.2(b)(2)). Rather, the suite of desired conditions, standards, and guidelines that provide for wildlife diversity, ecological integrity, and sustainable recreation will provide guidance for considering the effects of future motor vehicle use designations on forest resources and recreation conflicts, as described at 36 CFR 212.55(b). These include the plan components associated with the recreation opportunity spectrum settings, infrastructure, and those that address management risks and stressors to wildlife habitat, connectivity, soil productivity, and aquatic resources. Including standards requiring the consideration of the minimization criteria, or repeating each criterion as a standard, is not necessary as it repeats the regulations.

Conclusion

As the plan does not make any site-specific designations of motor vehicle use in the plan area Forest Supervisor Erikson is not required to consider the effects on (with the objective of minimizing) forest resources and recreation conflicts described at 36 CFR 212.55(b). Future designations of roads, trails or areas for motorized use must comply with the travel management regulations, and therefore it is not necessary to duplicate those requirements in the plan.

Mix of Motorized, Non-Motorized, and Mechanized Transport (Mountain Biking) Recreation Opportunities

Objectors assert that the plan over- or under-emphasizes specific types of recreation relative to their environmental impact or popularity among forest visitors. Some objectors contend the recreation settings are skewed toward motorized use or allows mountain biking on a disproportionate area of the forest. They allege that allowing motorized or mechanized recreation in various specific areas, or on specific trails, will degrade ecological or cultural resources and the user experience. Others contend the plan does not provide enough opportunities for motorized or mechanized recreation and lacks a reasonable alternative to address the public's need for more motorized access and motorized recreational opportunities.

Objectors' Proposed Remedies

- Consider shifting the recreation opportunity spectrum settings outside of wilderness toward lower-impact non-mechanized recreation.
- Many objectors suggested specific additions or modifications of desired conditions, standards, or suitability in various areas or specific trails to reduce motorized or motorized access, to limit such access to designated trails, or limit new route designations.
- Choose alternative C.
- Management of the forest must reflect the ratio of visitors and meet their needs in an equal manner. Sharing must be the expectation on all multiple-use land otherwise multiple-use land becomes special-use land.
- Adjust land allocations more fairly based on the "a history of multiple co-existing recreation uses" as described in the draft record of decision.
- The agency must evaluate whether it is providing preferential treatment to non-motorized recreationists compared to motorized recreationists including the adequacy and level of opportunities, quality of opportunities, internal staff representation, and levels of maintenance. Multiple use land must be used for the greatest good and not manipulated for elite/exclusive use only.
- Remand the decision and develop a plan that addresses the needs of those in need of motorized and mechanized transport in order to access their public lands. The agency must adequately identify the needs of motorized recreationists and OHV recreationists including those motorized recreationists that the process does not comfortably accommodate and reasonably provide for those needs.

- Impacts from all user groups and natural impacts must be adequately compared to demonstrate a true sense of magnitude for impacts. Assess and allocate motorized recreation on a level consistent with its overall impact. A criteria and impact analysis must be developed that differentiates effects between the different trends and level of use of a road and motorized trail.
- Roads previously closed to the public should be reopened for firewood gathering and other activities.

Response

Discussions at the resolution meeting were often brought back to concerns about mountain bike effects on wildlife habitat, with some alleging the “Forest has a disproportionate number of miles of roads and trails that are open to mountain bikes when compared to the number of people that participate in this activity”. They argue that the “opening up” of backcountry areas such as Cowboy Heaven, Lionhead, and the wilderness study area to mountain bikes is an abuse of Forest Service discretion. Other objectors sought additional limits to motorized or mechanized transport in specific backcountry areas. I address objections regarding recreation impacts on wildlife, the amount and areas recommended for wilderness, management of the wilderness study area, and specific backcountry area allocations in issue summaries that follow. This issue summary will focus on the landscape level review of the mix of access-related recreation opportunities in general.

As indicated in the previous issue summary, the Gallatin National Forest completed forestwide travel management decisionmaking for summer and winter motorized use consistent with subpart B and C of the travel management rule at 36 CFR 212 prior to initiation of plan revision. The Gallatin travel plan decision also designated mountain bike use. The Custer National Forest completed forestwide travel management decisionmaking for motor vehicle use, consistent with subpart B prior to initiating plan revision, but has not completed subpart C over-snow motor vehicle use designations.

The infrastructure sections affected environment (section 3.18.2) describes the miles of roads and trails designated for motor vehicle use, and the miles of trails maintained for non-motorized use. This includes the opportunity for wheeled motorized vehicle use on about 1,445 miles of National Forest System roads and about 1,140 miles of National Forest System trails, for a total of about 2,585 miles of routes designated for motor vehicle use either yearlong or seasonally. 1,941 miles of trail are maintained for non-motorized users, with approximately 738 miles of those designated summer mountain bike trails. Approximately 496 miles of winter trails are designated and maintained for snowmobiles and 120 miles maintained for cross-country skiing. Over 40 percent of the Forest is suitable for over-snow vehicle use (final EIS section 3.19.3, table 49).

FSM 1920.3 indicates it is the Agency’s policy to use the current land management plan as a starting point for revision, making changes based on a need to do so. Therefore, the existing routes and areas designated for motorized use were used as a starting point for motorized suitability and the desired recreation opportunity spectrums. Changes from the existing condition to identify the desired recreation opportunity spectrum, and associated motorized recreation suitability determinations, were based on integrated resources considerations and public comment.

Section 3.19.3 (table 49) of the final EIS indicates that in alternative F, 58 percent of the forest is allocated to non-motorized recreation opportunity spectrum settings (primitive and semi-primitive non-motorized), while 42 percent is allocated to motorized recreation opportunity spectrum settings (semi-primitive motorized, road natural, and rural) in the summer. Winter settings ratios are 55 percent non-motorized and 45 percent motorized. Although the split is not 50/50, it is neither “skewed” toward motorized recreation or “disproportionately” favors non-motorized recreation. And overall forestwide percent allocations remain nearly unchanged from the current recreation settings. Thus, maintaining opportunities for additional future route or area designations under the 2020 Land Management Plan.

I recognize some objectors are concerned with motorized and mechanized transport suitability plan components that may lead to future site-specific prohibitions in recommended wilderness, backcountry or key linkage area allocations. The draft record of decision indicates Forest Supervisor Erickson prioritized maintaining existing motorized and mechanized uses when choosing land allocations. She did this either by selecting areas for recommended wilderness where motorized and mechanized uses are currently not authorized or occur rarely, by selecting a backcountry allocation for areas with popular motorized and mechanized uses, or by selecting boundaries to exclude popular mountain bike trails and snowmobile areas. This includes, for example, a backcountry allocation for the Lionhead area (maintains current mountain bike trail), and the boundary choices for the Buffalo Horn Backcountry Area which maintain motorized and mountain bike trails and popular snowmobile areas (also see the Recommended Wilderness Area Management issue summary).

However, there are some recommended wilderness and backcountry areas where motorized and mechanized access is currently authorized, and the final EIS discloses these existing uses would not be consistent with plan suitability components. Given the high level of public interest in this issue, Forest Supervisor Erickson is very transparent in the potential future effects and identifies the specific miles and acres of existing access that future travel plan decisionmaking will need to address for plan consistency. This includes 24 miles of trails where mountain biking is currently allowed (final EIS section 3.13.3, page 72) and 10,128 acres of land suitable for snowmobiling (not considering topography, access, or consistent snow) (final EIS section 3.22.2, page 368). This amounts to 3 percent of the trails where mountain biking is currently allowed and 1 percent of the areas suitable for snowmobiles. All other miles of road and trail motor vehicle use designations in the travel plans are consistent with the 2020 Land Management Plan. But it's important to note, that while the final EIS doesn't speculate on potential quantitative increases in miles or acres of motor vehicle access that could occur during site-specific decisionmaking, as indicated above 42 and 45 percent of the Forest is assigned to a summer or winter motorized recreation settings respectively that provide this opportunity.

The Forest evaluated a range of alternatives, including an alternative (alternative E) that adds recreation emphasis areas, increases timber production, adds motorized and mechanized transport opportunities, and does not recommend wilderness areas (final EIS section 2.5.8). In addition, the final EIS includes an alternative not considered in detail that would make all lands suitable for motorized and mechanized transport that were suitable prior to 2006, when travel planning was initiated. This alternative was not considered in a detailed analysis because the Forest has completed travel management and as indicated above, broad changes in motorized transport suitability was not part of the need for change.

The final EIS discusses the alternatives' motorized and mechanized recreation management effects on various resources in the plan area including wildlife, water, vegetation, and user experience, citing scientific information. Section 3.19.1 describes the focus of outdoor recreation management is to provide a range of environmentally sustainable opportunities in natural settings in order to meet the needs and desires of visitors. Section 3.19.2 indicates management of sustainable recreation opportunities is accomplished in part through the components contained within the recreation opportunity spectrum. Section 3.22.2 describes the effects of suitability of motorized and mechanized transport within the various land allocations. Sections 3.4.3, 3.5.3, 3.6.3, 3.9.3, 3.10.2, 3.10.3, 3.10.4, and 3.10.6 describe the programmatic effects of recreation management on aquatic resources terrestrial vegetation, and wildlife. Sections 3.11.3, 3.12.3, and 3.13.3 describe effects associated with social and economic sustainability, areas of tribal importance, and cultural and historic resources.

Section 3.11.2 social and economic analysis discusses the social and health benefits of outdoor recreation and acknowledges how each alternative respond to preferences for motorized or non-motorized recreation in section 3.11.3. It addresses the demand for recreational opportunities, noting that, "Many local stakeholders and visitors engage in non-motorized and non-mechanized transport and many local respondents are currently satisfied with the level of mechanized and motorized opportunities. However, some feel there are not enough motorized or

mechanized opportunities. For those who feel there are currently not enough mechanized or motorized opportunities (5 percent and 32 percent of local respondents, respectively), alternative E may provide the largest contribution and D the smallest, due to the differential in limitations placed on motorized and mechanized transport” (final EIS section 3.11.3).

Extensive scientific literatures from the fields of public health, environmental sociology, and environmental psychology document the health benefits, (physical, mental, and emotional) of connecting with nature and exposure to pristine landscapes (final EIS section 3.11.2). However, the literature does not differentiate the health benefits of motorized versus non-motorized recreation experiences. The plan alternatives are not expected to adversely affect these health benefits.

The final EIS includes the programmatic effects of management of recreation settings, opportunities, and access throughout various resources sections. This includes a discussion of the cumulative effects of increasing recreation use and the role the Forest plays to provide recreation opportunities in both Montana and South Dakota (section 3.19.8).

Objectors state final EIS does not include “site-specific studies and analysis of OHV recreation as required” by the 2001 Off-Highway Vehicle Record of Decision and Plan Amendment for Montana, North Dakota, and Portions of South Dakota (often referred to as the tri-state off-highway vehicle decision). That decision amended the 1986 and 1987 plans to prohibit motorized wheeled cross-country travel, while deferring “[off-highway vehicle] use on individual roads and trails” to site-specific planning. Since that plan amendment decision in 2001, the Forest Service promulgated the 2005 Travel Management Rule requiring site-specific designation of motor vehicle use (36 CFR 212 subparts B and C) and the 2012 Planning Rule codifying the three levels of Forest Service planning as national strategic planning, national forest system unit planning (i.e., the plan revision effort), and project or activity planning (e.g., travel management decisionmaking) (36 CFR 219.2). Consistent with both the travel management rule and the tri-state off-highway vehicle decision, the Forest completed the site-specific travel management decisionmaking designating roads and trails for motor vehicle use prior to the revision effort. And as described above, this plan level decision describes broad motor vehicle use suitability but does not include the site-specific decision to change current motor vehicle designations.

Some objectors requested single-track, ATV, side-by-side, or full-sized vehicle routes. As indicated previously, the plan doesn’t make any site-specific route construction or designation decisions. However, those opportunities can be considered during implementation of plan where consistent with land allocations suitable for motor vehicle use. One objection sought opportunities for long-distance motorized trail systems similar to the Continental Divide or Pacific Crest National Scenic Trails. However, designating long-distance trail systems crossing multiple Federal land units or other jurisdictions is outside the scope of the Forest’s plan revision effort and has generally been done through Congressional action.

Conclusion

I find Forest Supervisor Erickson acted within her discretion to determine the range of alternatives based on the need to change and issues identified through public comment. The 2020 Land Management Plan provides a wide range of recreation opportunities consistent with the planning regulations.

Also see the Programmatic NEPA Review, Range of Alternatives, Sustainable Recreation, Species Diversity, and Plan Allocation issue summaries.

Timeliness of Addressing Site-specific Travel Planning

Objectors contend that the responsible official should commit to a specific timeframe for initiating site-specific travel planning to address suitability components for recommended wilderness, winter travel planning, and backcountry area trail networks.

Objectors' Proposed Remedies

- The plan or record of decision should state that site-specific winter travel planning is required to designate OSV routes and areas in compliance with Subpart C of the Travel Management Rule on the Custer portion of the National Forest.
- The final record of decision should include a commitment to initiate site-specific travel management planning to update travel plans consistent with plan suitability within 3 years of plan approval consistent with the Flathead and Helen-Lewis and Clark National Forests revisions.
- The plan should include objectives to complete site-specific travel planning within 3 years of plan approval.
- The plan should include an objective to initiate travel analysis for Buffalo Horn Backcountry Area and the adjacent portion of the Gallatin River Recreation Emphasis Area to evaluate the area's trail network, including non-system trails, to identify and designate the necessary trail network within 3 years of plan approval.

Response

The planning regulations at 219.15(e) states resource plans, such as travel management plans, developed prior to decision must be evaluated for consistency with the plan and updated if necessary. The draft record of decision (pages 47-48) indicates this will be accomplished "as soon as practicable". This is consistent with the National Forest Management Act at USC 1604(i), which indicates "when land management plans are revised, resource plans...when necessary, shall be revised as soon as practicable".

As indicated in the response to comments (final EIS appendix F) land management plan components should not compel additional planning efforts. Rather the plan components provide a framework for integrated resource management and for guiding project and activity decision making. The planning handbook at FSH 1909.12 section 22.4 indicates that if used, management approaches would describe the principal strategies and program priorities the responsible official intends to employ to carry out projects and activities developed under the plan. Management approaches may discuss potential processes such as analysis, assessment, inventory, project planning, or monitoring. Thus, the suggested objectives should not be included in the 2020 Land Management Plan. Designation of oversnow motor vehicle use is required by the travel management regulations at 36 CFR 212 subpart C, thus does not need to be repeated in the plan.

As to commitments to initiate site-specific planning within 3 years as other revision efforts in the Northern Region have done, each Forest Supervisor has the discretion to prioritize plan implementation activities based on Forest-specific issues and needs. Thus, while Forest Supervisor Erickson has indicated she recognizes there is a need to update travel plans for full plan consistency in the record of decision, she has not specified the time frame so as to not "create unrealistic expectations regarding the delivery of programs" (FSH 1909.12, section 22.4).

The final EIS and draft record of decision indicate motorized and mechanized use is currently limited in recommended wilderness areas, and snowmobile use in the eastern portion of the forest is limited. However, should the responsible official determine those uses are "directly causing or will directly cause considerable adverse effects on public safety or soil, vegetation, wildlife, wildlife habitat, or cultural resources associated with that road, trail, or area" she has the authority to issue a temporary, emergency closure (36 CFR 212.52(b)(2)).

Conclusion

I find Forest Supervisor Erickson has acted within her discretion to indicate she will address travel planning needs as soon as practicable during plan implementation.

Access for Disabled Persons

Objectors contend that the plan does not provide for the needs of persons with disabilities or physically challenged user groups.

Objectors' Proposed Remedies

- Most of the plan centers around the "hyper" physically fit which is perceived the majority. The USFS plan needs to protect the minority users and their constitutional rights to use public lands.

Background

The Architectural Barriers Act of 1968 requires that buildings or facilities that were designed, built, or altered with federal dollars or leased by federal agencies after August 12, 1968, be accessible. This law covers all facilities within national forests and grasslands built after that date.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against people with disabilities in programs that receive federal financial assistance or are conducted by a federal agency.

The Americans with Disabilities Act, as amended, addresses accessibility in federal wilderness areas. The act clarifies that wheelchairs may be used in wilderness areas. However, consistent with the Wilderness Act, no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

The planning regulations requires that plan components address recreation settings, opportunities and access, and scenic character (36 CFR 219.8(b)(2)).

Response

The Forest Service is subject to several statutes related to accommodations for individuals with disabilities. However, none of these laws require agencies to modify natural features to facilitate use. Consistent with the Multiple-Use Sustained-Yield Act and the National Forest Management Act, the planning regulations direct the agency to provide a variety of recreational opportunities. The courts have recognized that the Multiple-Use Sustained-Yield Act does not envision that every acre of National Forest System land be managed for every multiple use and does envision some lands being used for less than all of the resources.

As noted in the response to comments on the draft EIS, "the Forest Service manages recreation use to conserve and sustain National Forest System resources and provide a range of opportunities for both motorized and non-motorized uses in a manner that is ecologically sustainable over the long term. National Forest System lands are not reserved for the exclusive use of any one group, nor must every use be accommodated on every acre" (final EIS appendix F, page 70).

The plan contains two desired conditions that specifically address recreation opportunities for individuals with disabilities, FW-DC-RECDEV-02 and FW-DC-RECORGCAMP-01. Additionally, the final EIS identifies a range of alternatives related to recreation opportunities and evaluates the effects of those alternatives on recreation settings, opportunities, and access (final EIS section 2.5 and section 3.19).

Conclusion

A review of the plan and final EIS indicates a wide range of recreational opportunities and settings. I find Forest Supervisor Erickson complies with law, regulation, and policy related to accommodations for individuals with disabilities.

Minimum Road System

Objectors claim the plan lacks direction to identify and implement, or move toward, a minimum road system.

Objectors' Proposed Remedies

- A policy that focuses on creating a minimum sustainable future road system with specific, measurable standards should be included in the plan revision. Adopt Amendment 19 from the previous Flathead Forest Plan and use the moving window method to inventory road densities throughout the forest and close roads that violate Amendment 19 especially where grizzly bears may be present. The moving window system for establishing road densities should be considered the standard of measurement.
- Establish motorized route trail density standards to provide for the protection of National Forest Service System Lands, and clear direction to identify and implement a minimum road system over the life of the plan that reflect long-term funding expectations and provide for the protection of National Forest System lands.
- Provide clear direction to remove roads, especially those that pose high or moderate resource risks as shown in previous and future travel analysis reports.

Background

Subpart A of the Travel Management Rule at 36 CFR 212 establishes requirements for administration of the Forest transportation system, including roads, trails, and airfields, and contains provisions for acquisition of rights-of-way. Subpart A requires identification of the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands and use of a science-based roads analysis at the appropriate scale in determining the minimum road system. This portion of the rule is intended to help ensure that additions to the National Forest System network of roads are those deemed essential for resource management and use; that construction, reconstruction, and maintenance of roads minimize adverse environmental impacts; and, finally, that unneeded roads are decommissioned and restoration of ecological processes are initiated.

Response

The regulations at 36 CFR 212.5(b) includes two requirements. One is to identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands. The other is to identify the roads on lands under Forest Service jurisdiction that are no longer needed to meet forest resource management objectives. In determining the minimum road system, the responsible official must incorporate a science-based roads analysis at the appropriate scale. Both Forests completed integrated travel analysis/travel management decisions by 2009. Those documents are available on the regional website at <https://www.fs.usda.gov/detail/r1/landmanagement/?cid=fseprd528882>. Consistent with the planning regulations, the plan does not repeat these policy requirements as standards in the land management plan (36 CFR 219.2(b)).

Note the requirement to identify the minimum road system does not require the Forest to establish an upper or absolute limit on the miles of road that the Forest must not exceed. Nor do the regulations include a substantive requirement mandating specific road management actions (e.g., decommissioning) to “achieve” a minimum road system. Although the objectors would prefer an objective to decommission unneeded roads, as described in the issue summary discussing objectives for unauthorized routes, it’s within Forest Supervisor Erickson’s discretion to

prioritize plan outcomes as objectives within the fiscal and organizational capacity of the Forest. Similarly, the Forest could decommission roads to achieve desired conditions for a cost-effective road system and to comply with 36 CFR 212.5(c) despite not being specifically identified in a plan objective. As indicated in the final EIS (section 3.18.2), the Forest decommissioned over 2,000 miles of road despite the fact the current plans do not contain specific plan direction to do so. Detailed road maintenance funding data is not needed to determine whether to include an objective to decommission additional roads.

Objectors also assert additional standards and guidelines are needed to accompany the road and trails desired conditions because a desire for the transportation system and its uses to have “minimal impacts” in FW-DC-RT-01 is too ambiguous to provide for the protection of National Forest System lands as the travel management rule directs. However, there are plan components throughout the plan that constrain potential management impacts such as FW-STD-WL-02; FW-STD-WLGB-01, 02; FW-STD-SOIL-01; FW-STD-WTR-01, 02; FW-STD-PRISK-01; FW-STD-WLPD-02; FW-STD-TRIBAL-01,03; FW-STD-RT-01-05; and a suite of guidelines. The integrated plan content as a whole provides for clear, “enforceable” direction to protect resources from road and trail impacts to achieve the desired condition described at FW-DC-RT-01 and provide for sustainable management of the transportation system.

The resolution proposed by one objector to adopt Amendment 19 from the previous Flathead Forest Plan is not necessary. Amendment 19 for the Flathead National Forest, as well as Amendment 19 for the Gallatin National Forest, were designed for the recovery of a grizzly bears, and when that species was proposed for delisting in each ecosystem, the Fish and Wildlife Service in concert with other agencies, developed conservation strategies to ensure that adequate regulatory mechanisms will continue to be present after delisting. On April 18, 2006, the Gallatin National Forest amended their current plan to incorporate the goals, standards, guidelines, and monitoring requirements of the Greater Yellowstone Ecosystem conservation strategy. This conservation strategy has been incorporated fully into the 2020 Land Management Plan. The plan maintains monitoring requirements to track changes in open motorized access route density and total motorized access route density inside the recovery zone (MON-WL-10). Monitoring secure habitat and changes in open and total motorized access route densities will allow the Forest, in cooperation with other agencies, to adjust management actions where needed to ensure resource management achieves conservation goals (final EIS section 3.10.2, pages 421 to 422).

Conclusion

I find the plan complies with the planning regulation requirements to guide sustainable management of transportation infrastructure. I also find the plan will appropriately guide project and activity decisionmaking consistent with the Travel Management Rule to move the forest toward achieving the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.

Plan Components for System, Temporary, and Unauthorized Routes

Objectors contend the plan should limit new road construction and does not include sufficient plan components to properly address unauthorized roads and trails.

Objectors’ Proposed Remedies

- New road construction should be limited and roads should be put to bed or closed when the need for them ends.
- Incorporate road specific plan components, especially in regards to temporary and unauthorized roads.
- The Forest Service must include stronger plan components to ensure temporary roads are removed from the landscape.

Background

The planning regulations at 219.10(a), “When developing plan components for integrated resource management...the responsible official shall consider... Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.”

Response

National Forest System roads are those roads the Forest Service has determined necessary for the protection, administration, and utilization of National Forest System land and the use and development of its resources (final EIS section 3.18.2). Site-specific road construction would need to be approved via NEPA review supported by travel analysis that the road is needed as part of the minimum road system per 36 CFR 212.5(b). However, the plan does prohibit road construction in some areas such as recommended wilderness areas (FW-STD-RWA-01) or semi-primitive non-motorized recreation settings (FW-STD-ROSSPNM-01). In addition, the Roadless Area Conservation Rule prohibits road construction in inventoried roadless areas, with limited exceptions (FW-STD-IRA-01).

In addition, the plan includes standards and guidelines to constrain road management activities to address resource risks associated with permanent and temporary road construction (e.g., FW-GDL-RT-02, 03, and 05, and 06; FW-GDL-SOIL-02, 03, and 05; FW-GDL-RMZ-03; FW-GDL-VEGF-02; FW-GDL-VEGNF-07; and FW-STD-WLGB-03).

Temporary roads are typically analyzed and authorized as part of a decision to manage vegetation, mine minerals, or mining reclamation, and are for single purpose use and subsequently removed from use, restored and/or revegetated as required at 36 CFR 223.37 and the National Forest Management Act (USC 1608(b)). This is all controlled and part of a specific project decision and can be highly variable in nature. Although objectors are concerned regarding plan component phrasing referencing the potential for temporary roads “left on the landscape” contradicts their description as temporary, the National Forest Management Act allows for later decisions that may determine the road is needed for use as a part of the National Forest Transportation System (ibid).

The plan includes objectives to remove unauthorized routes in the primitive and in the semi primitive non-motorized recreation opportunity spectrum settings (FW-OBJ-ROSP-01 and FW-OBJ-ROSSPNM-01). Although objectors would prefer the objectives would address additional unauthorized routes forestwide, Forest Supervisor Erickson has the discretion to prioritize plan outcomes as objectives within the fiscal and organizational capacity of the Forest. The final EIS includes a range of alternative objectives to evaluate the trade-offs of prioritizing management toward some desired conditions over others. However as noted in section 2.4.1, objectives are expected minimum achievements and could be exceeded with additional funding, additional authorities, or partnership opportunities. It is also true the Forest could address additional unauthorized routes in other areas of the Forest consistent with desired conditions if the opportunities arise, despite not being specifically identified in a plan objective.

Some of objectors’ concerns related to the removal of temporary roads are related to ensuring they are not used for unauthorized motorized recreation. It should be noted that the construction of temporary roads is prohibited or very limited in almost two thirds of the forest (wilderness, inventoried roadless areas, recommended wilderness, most backcountry areas, and other designations). Outside those areas, the plan includes a guideline that requires temporary roads to be located and constructed to facilitate removal and restoration following the needed use (FW-GDL-RT-01). This is emphasized with an additional guideline in recreation emphasis areas (FW-GLD-REA-01) and a standard in the recovery zone/primary conservation area that requires a level of decommissioning to restore secure grizzly bear habitat (FW-STD-WLGB-03).

Trespass or unauthorized use is outside the scope of the plan as it is direction for the Forest Service, not the public, and such issues are addressed through law enforcement and education. However, the plan includes objectives to

sign wilderness boundaries (FW-OBJ-ROSP-01) and eliminate unauthorized motorized incursions in semi-primitive non-motorized settings (FW-OBJ-ROSSPNM-01), and a goal to work with recreation user communities to develop solutions to emerging issues (FW-GO-REC-01) to proactively address the potential for recreation-related illegal activities.

Conclusion

I find that Forest Supervisor Erickson included plan components to address resource impacts associated with roads per the planning regulation requirements.

Effects to Valid Access Rights per Reserved Statute 2477

Objectors allege that the plan inappropriately closes routes that have Reserved Statute S2477 standing.

Background

Section 8 of Revised Statute 2477 (RS 2477) of July 26, 1866 (14 Statute 253; Revised Statue 2477; 43 USC 932), provided: "The right of way for construction of highways over public lands, not reserved for public uses, is hereby granted." RS 2477 was repealed by the Federal Lands and Policy Management Act of October 21, 1976 (FLPMA), but valid rights established under RS 2477 prior to 1976 were not affected by the repeal (section 701, 43 USC 1701).

Response

Existing travel plans for the Custer and Gallatin National Forests designate the system of roads and motorized trails (final EIS section 3.18.2, page 184). Neither the revised forest plan nor any alternative evaluated in the final EIS propose closing any open roads, nor make determinations that any open roads are no longer suitable (draft record of decision, pages 45 to 46; final EIS appendix F, page 46). Any future site-specific changes to current motor vehicle use designations will be subject to additional environmental analysis, in compliance with the 2020 Land Management Plan, the Travel Management Rule (36 CFR 212), and valid rights established under Revised Statute 2477 prior to 1976.

Conclusion

As the plan does not make any site-specific decisions to close any routes on the Forest, valid rights established under Revised Statute 2477 are unaffected.

Airfields

Some objectors contend that the plan does not provide sufficient guidance or contain sufficient plan components for airfields and airstrips. One objector asserts that the plan should not allow development of airstrips on the Forest.

Objectors' Suggested Remedies

Objectors provided a suite of plan component suggestions.

Background

The development of plan components must consider trails (36 CFR 219.10 (a)(1)) and appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors (36 CFR 219.10 (a)(3)).

The Forest Service Handbook clarifies that the plan may include the following related to other types of infrastructure such as trails for nonrecreational use, facilities for recreational visitors, airstrips, and utility corridors; Desired conditions, objectives, suitability, and standards or guidelines (FSH 1909.12 section 23.23!).

Response

Some objectors find the airfield section of the plan insufficient because it does not include airfield-specific desired conditions. The roads and trails section of the plan specifies airfields as part of the transportation system (as defined in the regulations at 36 CFR 212.1) and desired condition FW-DC-RT-01 address the transportation system as a whole, including airfields. Although the plan components under the airfield heading don't include additional airfield-specific desired conditions, plan components for one topic can be nested under desired conditions of another topic. It is the integrated plan content as a whole that complies with the planning regulations and provides guidance for aircraft use and access on the Forest. (Also see the plan component sufficiency issue summary.)

The plan documents recognize public airstrips as an appropriate use of National Forest System lands when consistent with land allocation desired conditions. Based on public comment, the final EIS evaluates alternative land allocations where backcountry airstrips would be allowed. The final plan allows for airstrip development in certain locations, taking into account other plan components, pending site-specific analysis (final EIS section 3.18.2, draft record of decision, page 9).

When I asked objectors at the resolution meeting about their objection in the context of the integrated plan content, they explained their concern is that if the plan lacks an affirmational desired condition specific to airfields, future plan implementers will not consider a proposal for a new airstrip or airfield. They are commonly frustrated by a response "that's not addressed in the forest plan". They said, "in simplistic terms, we're looking for the plan to give us permission to have a discussion."

Conclusion

I find the integrated plan content as a whole complies with the planning regulations by providing plan components to guide development of airfields and aircraft access on the Forest. Although objectors would prefer a desired condition specific to airfields to ensure future development requests would be reviewed, I find the current plan components and final EIS provide a framework to guide future airstrip development. In addition, the draft record of decision identifies the suitability of aircraft landing strips as a key element of the selected alternative. However, I am instructing Forest Supervisor Erickson to provide clarification in the final record of decision on how this aspect of the selected alternative provides opportunities for airfield proponents to engage Forest leadership on potential airstrip development proposals.

Sustainable Recreation

Background

Per 36 CFR 219.10(b), "the plan must include plan components, including standards or guidelines, to provide for...sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air". The planning directives establish the recreation opportunity spectrum as the framework for forest plan's spatial expression of sustainable recreation.

36 CFR 219.10 requires plan components for integrated resource management to provide for ecosystem services and multiple use [including outdoor recreation]; and plan components including standards or guidelines to provide for: Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

The Interdisciplinary Team should consider how sustainable recreation is related to achievement of the plan area's ecological sustainability and contribution to social and economic sustainability. They should also consider the

compatibility of different recreational uses in specific areas within the plan area and how the recreational uses will influence ecological conditions (FSH 1909.12 23.23a(1)(b)).

Recreation Opportunity Spectrum

An objector asserts the Forest improperly modified 1986 Recreation Opportunity Spectrum class definitions, describing "significant deviation from established physical Setting descriptions" because "evidence of humans," "non-recreation uses," and "naturalness" indicators are improperly omitted in the narratives for primitive and semi-primitive settings. The objector also contends establishing low and moderate scenic integrity objectives in semi-primitive non-motorized settings is inconsistent with the Landscape Aesthetics Handbook.

Others object to how summer and/or winter recreation opportunity spectrum classes were applied in recommended wilderness and other areas of the Forest.

Objector's Suggested Remedies

- Recreation opportunity spectrum class definitions need to be expanded to add descriptions of non-recreation uses and evidence of humans. Recreation setting descriptions need to be consistent with the 1986 ROS Red Book which was a basis for the recreation direction in the planning regulations as informed by the Planning Rule programmatic EIS and FSM 2310 (Washington Office Amendment 2300-90-1).
- Additional plan component modifications, deletions, and additions to "establish [recreation opportunity spectrum] plan components that are consistent with the 1986 ROS book".
- The 5-year time frame to achieve scenery integrity objective in FW-GDL-SCENERY-04 should only apply in roaded natural recreation settings and additional plan components should be added to control the extent and duration of the vegetation management impacts to achieve the desired condition in semi-primitive recreation settings.
- Establish a high scenic integrity objective for semi-primitive non-motorized settings.
- Apply a primitive recreation setting to all recommended wilderness areas.
- Requests for revisions to the assigned recreation opportunity spectrum settings within the Cooke City Winter Recreation Emphasis Area, the Line Creek plateau, and portions of the Bridger Mountains.
- Requests for semi-primitive non-motorized settings for Republic Mountain and Line Creek Plateau if not recommended for wilderness designation.

Response

Most of the objections related to which recreation opportunity spectrum class was assigned to an area were related to participants' preference for non-motorized recreation settings in specific areas to reduce impacts to wildlife, to address increasing recreation pressure, or to protect the character of an area they highly value. Those issues are addressed throughout this response in the sustainable recreation issues summaries that follow this one, as well as the Travel Management, Species Diversity, and Designated Area and Plan Allocation issue summaries. This issue summary will address the general use of the recreation opportunity spectrum manual and handbook guidance in the development of plan components.

The Forest utilized the National Recreation Opportunity Spectrum Inventory Mapping Protocol, April 2018, to map recreation opportunity spectrum (final EIS section 3.19.1 and appendix F). As required by the planning handbook, the plan includes desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes. Forestwide desired conditions describe the characteristics for both winter and summer seasons using social, managerial, and physical categories.

I recognize that some objectors would prefer additional non-motorized recreation settings in some areas of the Forest such as those described in the Bridgers at the resolution meeting to set up future changes they would like see

in current travel plans. They indicate the Forest failed to properly identify “future” desired recreation opportunity settings. The planning handbook indicates desired recreation opportunity spectrum classes *may* be different from existing classes (FSH 1909.12 section 23.23a) [*emphasis added here*]. However, neither the planning handbook nor FSM 2310 requires them to be different. As indicated in the Mix of Motorized, Non-Motorized, and Mechanized Transport (Mountain Biking) Recreation Opportunities issue summary, broad changes in suitability of motorized transport was not part of the need for change. Thus, the 2020 Land Management Plan desired recreation opportunity spectrum classes do not vary broadly from the existing settings.

An objector suggests additions, deletions, and modifications of specific plan components for timber harvest, road construction, and recreation uses such as mountain biking to ensure the recreation opportunity spectrum plan components are consistent with the “1986 ROS Red Book”. However, the “Red Book’s” introduction states it is not a policy document and acknowledges that recreation opportunity spectrum continues to evolve and requires creative application. While it continues to offer technical guidance to land managers, FSM 2300, Recreation, Wilderness, and Related Resource Management, published April 23, 2020, outlines recreation-related policy.

While terminology has been updated in the 2020 manual, many of the measures associated with the previous descriptors remain. For example: “evidence of humans” is captured using such thing as maintenance levels of roads and trails, the development scale of recreation sites, the occurrence and type of facilities and structure present (water supply, sanitation, signing, interpretation, bridges) and whether motorized vehicles are present. Many of these measures are the same as those presented in the 1982 ROS Users Guide (page 22). They have been updated to link with contemporary corporate data and tools. (See also my next response regarding FSM 2310.)

The degree of “naturalness” is still represented in the 2020 manual where it describes the different settings as “predominately natural or natural-appearing. It is also represented by the related use of the Scenery Management System, which measures the degree of deviation from the scenic character using ecological concepts as opposed to the general term “naturalness”. And while “non-recreation uses” is not a term included in the 1982 Users Guide or the amended FSM 2310, the definitions in the 2020 manual update still describe similar activities such as “occasional administrative use” in semi-primitive nonmotorized settings or “evidence of human activities” in roaded natural settings.

Desired recreation opportunity spectrum classes are derived through an integrated planning process as required in FSH 1909.12, sec. 23.23a. As outlined in FSM 2310.2 recreation-related policy “The overarching objective of sustainable recreation planning is to inform decisions that result in sustainable recreation outcomes. To be sustainable, recreation settings, opportunities, and benefits must: 1. Be compatible with other multiple uses;...”. As explained in the response to comments, “The recreation opportunity spectrum is a tool for expressing the recreation opportunities provided by an area. The recreation opportunity spectrum is not an appropriate tool to achieve management goals for other types of management, such as wildlife habitat or timber harvest limits...” (final EIS appendix F).

While an objector is concerned that “without changes to [recreation opportunity spectrum] class management direction, semi-primitive [recreation opportunity spectrum] settings would be subject to unconstrained land clearing from timber harvest and road construction”, that is not true given the integrated plan content found throughout the plan. In addition to the resource-specific plan components, this includes limitations on harvest and road construction associated with backcountry areas and designated areas such as the Continental Divide National Scenic Trail where this recreation setting is assigned.

In regard to scenic resources, the Forest utilized the scenery management system process to establish scenic integrity objectives as guided by the Landscape Aesthetics Handbook (Ag Handbook 701 – Landscape Aesthetics), Although the objector asserts the scenic integrity objective in semi-primitive nonmotorized recreation settings must be high because a figure in the handbook describes moderate and low scenic integrity as “inconsistent” and

“unacceptable” (ibid), that figure doesn’t define all the manual and handbook direction related to integrating the scenery management system and recreation opportunity spectrum classes. Rather appendix F of the Ag Handbook offers suggestions, not requirements for possible ways to crosswalk recreation opportunity spectrum with the scenery management system. Forest Service Manual 2311, exhibit 01 indicates the “typical” scenic integrity objectives for semi-primitive nonmotorized settings is high, but does not require the plan to assign those scenic integrity objectives. In addition, appendix F of the landscape handbook acknowledges that although there is some overlap in the recreation opportunity spectrum and scenery management system, each serves a related, but different, purpose and each may be more constraining or less constraining depending on the objectives applied to a unique area.

The planning handbook at FSH 1909.12 section 23.23f indicates viewsheds are specific elements to be considered when developing plan components within the scenery management system, because they describe areas seen from certain view locations such as roads, trails, or campgrounds. Public input is used to identify desired attributes of scenic character, critical viewsheds, and concern levels of the plan area in the context of the surrounding lands.

The final EIS, section 3.20.2, describes the methodology and analysis process the Forest used to determine the scenic integrity objectives, including prioritizing viewsheds and critical viewing platforms (travelways and viewpoints) with public input. Scenic classes were developed through a geographic information system visibility and modeling process, then scenic integrity objectives, from very high to very low, for each alternative were developed based upon the scenic classes along with other resource and Forest Service mission issues. Scenery plan components require that management actions meet the assigned scenic integrity objective for viewsheds from the critical viewing platforms, at all viewing distances, in all viewing directions (e.g., FW-GDL-SCENERY-01) (final EIS appendix F, page 89). Guideline FW-GDL-SCENERY-04 prescribes the timeframe in which project design must achieve the scenic integrity objective, recognizing that precipitation levels vary from season to season and so normal regrowth of herbaceous vegetation may take a few years to buffer visible remains of management actions, such as burn piles in the immediate foreground of viewing platforms across all recreation opportunity spectrum classes.

While some objectors would prefer a primitive recreation opportunity spectrum setting was assigned in recommended wilderness, the final EIS indicates “recommended wilderness areas would be managed as semi-primitive-non-motorized rather than primitive recreation opportunity spectrum because of the need to manage and enhance conditions. For example, many of these recommended wilderness areas currently have a higher level of trail development and management structures (bridges, signs, etc.) than a desired condition for primitive recreational opportunity spectrum” (final EIS section 3.22.2). It’s important to note that assigned recreation opportunity spectrum classes is just a portion of the integrated plan content guiding management of recommended wilderness areas. Regardless of the assigned setting, the desired condition FW-DC-RWA-02 is for the area to provide outstanding opportunities for solitude or primitive and unconfined recreation. Standards, guidelines, and suitability plan components provide specific constraints on activities that may preclude achievement of this desired condition. While FSM 2310 indicates “many primitive settings coincide with designated wilderness areas” and “additional primitive settings may also occur outside of wilderness areas”, it does not mandate where the setting is assigned. Forest Supervisor Erickson has the discretion to describe the desired conditions associated with the Forest’s recreation settings, consistent with manual and handbook direction, and may be “more restrictive” than national direction if she chooses. She also has the discretion to assign the recreation settings for the reasons described in the final EIS.

Conclusion

I find that Forest Supervisor Erickson used the recreation opportunity spectrum and scenery management system as guided by the planning handbook (FSH 1909.12 chapter 20) and recreation policy (FSM 2310) to develop plan components for sustainable recreation.

Population Growth and Increased Recreation Demand

Objectors assert the plan does not provide for sustainable recreation. They contend plan components, including monitoring, do not adequately plan for population growth, increasing recreation pressure, use conflicts, and potential impacts on wildlife and other resources.

Objectors' Proposed Remedies

- Suggestions for plan components to establish baseline data on current impacts to wildlife from all types of recreation, plan components to regularly monitor and evaluate recreational use and impacts, in order to determine a "sustainable" level of recreational use, and plan components to prohibit recreational uses where they are negatively impacting/displacing wildlife.
- Scale back the recreation emphasis area footprint to cover smaller areas. Provide details on what sort of development may occur and how such development will be regulated and mitigated to avoid turning national forests into motorized theme parks.
- Manage for all stressors and protection of congressionally designated wilderness as well as management of area recommended for wilderness.
- Recreation opportunities must become the first priority for land management plans now that the quality of the human environment has been significantly impacted by a crippling pandemic.
- Recommend additional areas for wilderness.

Response

Both the objections and discussions at the resolution meeting highlighted participants' concerns about increasing recreation demands. Some saw a need for additional motor vehicle access and developed recreation facilities, particularly in light of the increased recreation use last summer during the height of the COVID-19 pandemic. Others repeatedly spoke to their desire for a "higher bar" of protection for wildlife in the form of additional reductions in recreation access and more areas recommended for wilderness as "the [Forest] has basically become overrun with people going in the backcountry".

Increasing recreation pressure and demand is described in the 2017 Final Assessment of Existing Conditions (page 30) and both the Preliminary Need to Change the Existing Custer and Gallatin Forest Plans (February 2017) and the final EIS (section 1.5) indicate the need to address gaps in current plan direction because "population growth near the national forest has increased demands for additional recreation opportunities and access to the national forest. Population growth and recreation use conflicts are addressed at sections 1.5, 3.10.2, 3.11, 3.16, 3.18, 3.21, 3.21, and 3.22. The final EIS addresses the effects of increasing recreation use on wildlife in sections 3.10.2, 3.11, and 3.16.

For example, section 3.11.2 of the final EIS notes that the growing populations around the Forest are expected to create new and increasing demands for recreation access. Section 3.19.1 indicates the focus of outdoor recreation management on the Forest is to provide a range of environmentally sustainable opportunities in natural settings in order to meet the needs and desires of visitors. Accordingly, the 2020 Land Management Plan includes an integrated set of plan components to address increasing recreation demands such as desired condition FW-DC-REC-03 that states "Recreation opportunities are adaptable to changing trends of desired recreation opportunities and increasing demands and uses of the Custer Gallatin...". The plan uses the recreation opportunity spectrum as the framework for integrating recreation setting components (such as access, facilities, and scenic character in the final

EIS section 3.19) with other resource values (such as wildlife, botany, and water in the final EIS sections 3.10, 3.9, and 3.4) as the spatial expression of sustainable recreation. Section 3.22.5 acknowledges visitation may outpace capacity for some of areas of the Forest, thus the plan includes goals to express an intent to work with partners to provide additional capacity, offering possibilities to support increasing recreation demand that are not currently known.

In addition to specific plan components such as FW-DC-REC-03 and others like FW-DC-REC-04, FW-DC-REC-06, FW-GO-REC-1, and FS-GO-REC-02 that use the term “sustainable recreation”, there are numerous other plan components, including standards and guidelines as required by the rule, which address recreation settings, opportunities, access, and scenic character. These include recreation plan components such as FW-DC-REC-05, FW-GDL-RECDEV-01, and FW-GDL-RECSUP-01, as well as those associated with other resources such as FW-STD-WTR-01, FW-STD-PRISK-01, FW-GDL-WL-03, FW-STD-WL-02, FW-STD-WLGB-01, FW-GDL-FAC-01, and land allocation recreation activity suitability. It is the full suite of components across multiple resources that integrate sustainable recreation management in the plan. The plan also includes objectives to increase and enhance recreational opportunities, such as “improving accessible design of recreation sites, adding shoreline access day use sites, converting unsustainable dispersed campsites to more highly developed campgrounds, adding loop trail connections, and acquiring new road or trail rights-of-way for access to public lands” (draft record of decision, page 16).

While many objectors would prefer Forest Supervisor Erickson recommended more areas for wilderness designation to protect wildlife, she indicates she selected Alternate F based in part on achieving a balance between population and resource use, which will permit high standards of living and a wide sharing of life’s amenities. Her decision includes variations in recreation activity suitability plan components across broad land allocations (e.g., backcountry areas, recommended wilderness areas, and recreation emphasis areas) to provide a range of recreation opportunities and minimize use conflicts, while providing for wildlife diversity (final EIS section 3.11 and section 3.10).

Also see the issue summaries for Species Diversity, including Recreation Impacts on Wildlife, Designated Areas and Plan Allocations, and others here under Sustainable Recreation.

Conclusion

My review indicates the Forest appropriately identified the desired recreation opportunity spectrum settings and associated plan components in the form of integrated desired conditions, objectives, standards, and guidelines to provide for sustainable recreation. I agree with objectors’ observation that the pandemic conditions led to an unprecedented use of Federal and State lands for outdoor recreation purposes, but I find Forest Supervisor Erickson has developed a plan with an expectation of increasing recreation use over time and the final EIS includes a thorough consideration of effects on the public, wildlife, and other resources.

Effects of Dispersed Camping

Some objectors contend that the plan does not adequately address potential environmental impacts of dispersed camping. Other objectors contend that the final EIS overstates the environmental impacts of dispersed camping and the plan is not responsive to growing recreation demand.

Objector’s Suggested Remedies

- The preferred alternative must address the inadequate number of dispersed camping spots, particularly given the increased recreation demand due to the Covid pandemic.

- The final EIS must recognize the negative impacts on the natural environment from dispersed camping spots is relatively insignificant when compared to the natural level of environmental impacts and can be reasonable level in most locations.
- The agency's strategy to close dispersed camping spots using vegetation, resource management, and travel management plans is not aligned with the public need for these recreational opportunities. The preferred alternative must address this significant environmental justice issue
- Suggested guidelines describing how the Forest will manage and mitigate the impacts to soil, water quality and vegetation from dispersed camping.
- More emphasis needs to be placed on keeping this impact away from the riparian zone and reduced to a manageable level (e.g., a carrying capacity for numbers of vehicles and people).
- Outline minimal mitigations to the impacts to the West Fork Rock Creek municipal watershed such as providing toilets for dispersed campers and requiring that all dogs be on leashes and owners must remove dog feces. And continual testing of water quality should be a requirement for the agency.

Response

As indicated in the Population Growth and Increased Recreation Demand issue summary, increasing recreation demand informed the need to change the plan through revision. Thus in response to the increase in dispersed camping when developed sites reach capacity, the plan includes a desired condition that dispersed recreation opportunities are available across the Forest for a wide variety of users where compatible with environmental resources, cultural resources, recreation settings, and social interactions such as user conflicts and crowding (FW-DC-RECDISP-01). This complements the desired condition for recreation uses and developments to have minimal impacts on ecological integrity, at-risk species, water quality, and aquatic species at FW-DC-REC 05. The plan also includes objectives to remove or relocate some existing recreation facilities out of riparian areas (FW-OBJ-REC-01) and to convert concentrated dispersed recreation camping areas to higher developed recreation sites in the Main Fork Rock Creek and Hebgen Lakeshore Recreation Emphasis Areas (AB-OBJ-RCREA-01 and MG-OBJ-HLREA-01). These objectives are intended to provide sustainable recreational opportunities and settings while balancing the increasing demand for dispersed camping and the protection of Forest resources. In addition, the monitoring program includes questions and indicators related to both providing recreation opportunities as well as addressing related resource impacts (e.g., MON-REC-01, MON-REC-04, and MON-REC-06).

The effects analysis discusses how plan components address the potential risk to various resources such as water and soils, vegetation, and wildlife in multiple locations of the final EIS (e.g., sections 3.4.3, 3.6.3, and 3.10.2). Section 3.11.2 identifies the presence of environmental justice communities in the social analysis area and notes no adverse effects to these communities are expected as a result of the plan.

Suggested remedies for installing toilets or regulating public use through dog leashing orders are site-specific actions that could be taken during plan implementation to contribute to achieving desired conditions. As noted in the final EIS, draft record of decision, and elsewhere in this response, the plan does not authorize any site-specific action such as closing an area or prohibiting motor vehicle access to dispersed camping areas. Rather, it guides future project and activity decisionmaking to provide recreation opportunities while minimizing resource impacts.

See the plan component sufficiency and general monitoring issues summaries for additional information regarding some of the objectors' suggested remedies for this issue.

Conclusion

I find Forest Supervisor Erickson has provided plan components for sustainable recreation management of dispersed camping on the Forest.

Emerging Recreation Technologies

Objectors allege that the plan fails to consider potential impacts of emerging recreational technologies on wildlife or other resources.

Objectors' Suggested Remedies

- The Forest Service should ban the use of emerging recreational technologies until such time as it can thoroughly assess the potential impacts of new technologies on wildlife, forest users, and resources.
- Plan components should be added to ensure that emerging recreational technologies will not be allowed until it can be shown that they will not negatively impact wildlife and other resources of the Forest. If the Forest Service believes that adequate components exist in the 2020 Forest Plan in this regard, it should clearly identify those components and explain how the Forest Service will evaluate and restrict damaging new recreational technologies that adversely affect wildlife.
- Plan language in the desired conditions and goal for emerging recreational technologies (FW-DC-RECTECH and FW-GO-RECTECH) be strengthened to include assessments of those new technologies in terms of potential impacts to the environment and monitoring to make sure that predicted and acceptable impacts are not being exceeded.
- The monitoring plan should be updated to include a clear requirement that impacts from recreational uses on soil, aquatic resources and wildlife populations and distributions will be included.
- Limit technologies to designated areas where monitoring and enforcement can take place makes sense.

Background

The planning regulations establish an adaptive management planning cycle (CFR 219.2 and 219.5(a)). The intent of this framework is to create a responsive planning process that informs integrated resource management and allows the Forest Service to *adapt to changing conditions*, including climate change, and improve management based on new information and monitoring.

The planning regulations at 219.12(d) require a biennial *evaluation of new information* gathered through the plan monitoring program and relevant information from the broader-scale monitoring strategy, and the Forest shall issue a written report of the evaluation and make it available to the public.

Response

The plan and final EIS acknowledge new recreational products are likely to emerge over the lifetime of the plan. Some will be prohibited under existing regulations, other new uses may be unspoken to by current direction, while others may fit within existing definitions and be manageable under current direction or with minimal adaptations (plan, page 102). For example, e-bikes are a new recreation technology that fit the Forest Service regulatory definition of motor vehicle at 36 CFR 212.1. Sections 3.19.5, 3.19.7, 3.22.1, 3.23.1, 3.23.3 in the final EIS address impacts of emerging recreational technologies or new uses, in addition to various wildlife impacts in section 3.10.2. The intent of the recreational technology plan guidance is to address emerging recreation technology broadly, rather than identify specific technologies (final EIS appendix F, page 79).

At the resolution meeting objectors talked about their concern the plan only has "one desired condition and goal and no enforceable standards" for emerging recreation technology. They recognize we can't predict all new uses, nor can we have a plan component to address every unknown eventuality but seek a "solid plan to address those unknowns" and emphasized the importance of monitoring. Some thought it would helpful to layout "a process for what happens when those uses emerge and are being used on the Forest". They referenced their proposed remedy for a standard that says, "use of emerging recreational technologies that are not specifically addressed by current direction are prohibited unless explicitly integrated through a public planning process."

While much of the discussion was from objectors concerned about unknown uses that would *not* be constrained by current plan standards, guidelines, or suitability, others talked about the need for direction to evaluate emerging technology in timely manner when it is currently constrained by plan direction. My understanding of their concern is that changes in motorized or mechanized recreation technology may minimize the effects that led to conclusions they should not be suitable in some areas. Thus, the plan should guide a timely evaluation of whether site-specific travel plan designations should be adjusted.

As indicated in the Plan Component Sufficiency issue summary, each plan component has a specific definition under current regulations, and all are “enforceable”. In addition, the plan includes integrated components across all resource and allocation settings provide for ecological sustainability. Although the emerging technology section doesn’t have standards, guidelines, or suitability plan components there are many throughout the plan that address sustainable recreation.

While I appreciate a desire for a timely evaluation of emerging technologies, the plan cannot require evaluations in a standard or guidelines for every potential new use (see Plan Component Sufficiency issue summary). However, as one objector mentioned at the meeting, monitoring can be used to inform whether changes in plan direction are needed in response to emerging technology. The monitoring program is an integral part of the adaptive management cycle that enables the national forest to identify and respond to changing conditions, changing public desires, and new information, such as that obtained through research and scientific findings. The monitoring program in chapter 4 of the plan includes several questions related to sustainable recreation including the potential effects of emerging recreation uses or new technology (e.g., MON-WL- 03, and MON-REC-02).

Conclusion

I find the 2020 Land Management Plan includes plan components and monitoring to address emerging recreation technology. As a public use cannot be regulated without a forest order issued per 36 CFR 261, supported with site-specific NEPA analysis, it is not possible for the plan to ban all uses until they can be assessed and authorized. However, activities that damage or remove natural features, at-risk plants, or cultural resources or damage roads and trails are prohibited per 36 CFR 261.9 and 261.12, respectively. If there was evidence a new recreation technology was having adverse effects, the responsible official could issue a temporary order per 36 CFR 220.6(d)(1) banning the use to provide short-term resource protection or to protect public health and safety until site-specific decisionmaking could be completed to regulate the use on a long-term basis.

Recreational Pack Goat Use

Objectors contend that restrictions on pack goat use are not based on the best available scientific information and assert the responsible official did not fully consider impacts to pack goat users.

Objectors’ Proposed Remedies

- Remove false information regarding disease transmission to bighorn sheep from pack goats.
- Limiting the date of use to October 31 is not preferred because the hunting season ends on November 29.
- Eliminate seasonal restrictions on the use of pack goats or modify the dates.
- Limiting pack goats to 4 per person and 12 per party needs to be increased to 6 per person because it takes a minimum of 6 pack goats to carry an elk in one load.
- Waive the proposed restrictions on pack goats that have been tested negative.
- Prohibit use of pack goats less than 2 years of age.
- Health certificates should not be required for state resident pack goats because CVIs are already required by the USDA for all out-of-state pack goats, and the requirement is burdensome for local regular users.

- Do not require a special use permit in the Madison, Henrys Lake, and Gallatin Mountains; Absaroka Beartooth Mountains; or Pryor Mountains Geographic Areas. This restriction should only occur in areas that are frequently used by bighorn sheep.
- In areas unoccupied by bighorns, there should be no pack goat restrictions and no permits necessary.
- Supplement the EIS to address the plan component effects on pack goat users, and the risk of disease transmission between pack goats (not just all domestic goats, but specifically pack goats) and wild sheep.
- Do not exclude pack goats from areas where bighorns are introduced in the future.

Response

Public comment on the proposed plan identified substantial declines in bighorn sheep populations and distribution, including extirpation from parts of the Forest. To address commenter concerns about potential disease transmission from domestic sheep and goats to bighorn sheep, the alternatives in the final EIS vary in their approach to permitted domestic sheep and goat grazing, to recreational goat packing, and to agency use of domestic sheep and goats for weed control (final EIS section 2.4.1). Many of the components guiding pack goat use in the 2020 Land Management Plan (e.g., FW-SUIT-REC-01 and FW-STD-RECOG-02) were suggested by commenters and are consistent with best management practices recommended by the North American Packgoat Association (final EIS appendix F).

All alternatives include desired conditions for habitat that supports robust bighorn sheep populations that can, if necessary, serve as source populations for augmentation elsewhere (FW-DC-WLBHS-01), and that bighorn sheep do not intermingle with, or contract contagious disease from, domestic livestock (FW-DC-WLBHS-02). However, other plan components such as requirements for outfitter guide special use permits for recreational pack goat use vary by alternatives.

Comment and scientific information provided by the public during the draft EIS comment period demonstrates pack goats are used differently than domestic grazing animals raised for livestock production, which helped inform both the plan components in the plan, as well as expanded discussion of effects to bighorn sheep in the environmental impact statement (final EIS appendix F). While some objectors at the resolution meeting said there was little or no risk to bighorn sheep from pack goat use, the preponderance of evidence confirmed the possibility of transfer of pathogens between domestic and wild animals, although the probability of such transfer depends on a wide assortment of variables. The final environmental impact statement addresses the limits of available science, as well as considerable differences in public opinion.

The affected environment and key stressors sections present an overview of sheep and goat studies (final EIS section 3.10.4, pages 500 to 504), and cites several sources, including a document with an extensive review of scientific literature and available data on bighorn sheep populations in the western United States. This study states that contact with domestic sheep and goats was the source of most of the disease resulting in major die-offs of bighorn sheep (Western Association of Fish and Wildlife Agencies (WAFWA) 2012). Another primary source is the 2010 Bighorn Sheep Conservation Strategy developed by Montana Fish Wildlife and Parks, which contains recommendations for domestic sheep and goat management in wild sheep habitat, many of which were incorporated into all plan alternatives. The latter document does include managing animals used for packing. Proposed plan components were informed by recommendations from the Wild Sheep Working Group including guidance that wild sheep managers should take appropriate steps to minimize, mitigate, or eliminate the opportunities for disease transmission through commingling of wild sheep with domestic sheep and goats (Montana Fish Wildlife and Parks 2010).

The effects analysis addresses the fact that disease risk increases at higher bighorn sheep densities and that mixing of herds within or across national forest boundaries can introduce disease, or augment herds with more susceptible individuals. The environmental impact statement concludes that the bighorn sheep direction in the selected

alternative is expected to address this primary threat to native bighorn sheep as documented by the best available scientific information, minimize the risk of disease transmission between domestic livestock and wild sheep, and strike a balance between optimizing conditions for wildlife and supporting multiple uses in a responsible way (final EIS section 3.10.4, page 522). The effects of plan direction on pack goat recreationists is included in the final EIS section 3.19.5.

Following the review of comments received for the draft environmental impact statement, the effects analysis for bighorn sheep now differentiates between management for domestic herd animals (sheep and goats) permitted on the national forest for livestock production or weed treatment, versus domestic species used by recreationists as pack animals (i.e., pack goats). The former is covered in the section of effects from permitted livestock grazing (final EIS section 3.10.4, page 517) and the latter is covered in the section on effects from recreation management (final EIS section 3.10.4, pages 518 to 521).

While objectors would prefer the season of use was extended into November to align with hunting season dates, the seasonal restriction beginning October 31 is based on the rutting season for bighorn sheep, which is when wild rams are most likely to wander and potentially come into contact with domestic livestock. And although an objector at the resolution meeting questioned the need to extend the seasonal prohibition beyond when rutting season ends in January, the final EIS indicates the season of use has been identified to avoid both rutting and lambing (final EIS section 3.10.4, page 520). These dates are also consistent with management direction for the adjacent Shoshone National Forest, allowing for ease of cross-boundary recreation use.

The limits on numbers of goats (maximum of 4 goats per person and 12 per party) were based on similar direction from the Shoshone National Forest. While the final EIS indicates there is currently no scientific evidence that either supports or contradicts a particular number of goats per person or per party, the science does support the logic that limiting the number of pack goats would allow greater control because fewer animals are easier to manage.

Forest Supervisor Erickson considered both wildlife and recreation concerns to determine the plan should align the maximum number of goats per party to minimize trail congestion and to be consistent with the neighboring Shoshone National Forest. However, she decided to allow four goats per person in response to comment and scientific information that pack goats are herd animals, socially bonded to humans making them potentially easier to control than other livestock. I asked objectors and interested persons at the resolution meeting about whether they thought cross-boundary consistency with the Shoshone National Forest would make it easier for pack goat users to comply with Forest orders. They pointed out that all hunters must be familiar with hunting regulations that vary across state lines, thus a variation in allowed number of goats or seasons of use would be similarly accommodated. They explained that for most recreation trips, they may take only 4 goats per person. However, when hunting elk, "six goats is the magic number for packing out a bull elk" given the boned-out meat can weigh up to 250 pounds.

Some objectors questioned why requirements for special use permits apply in areas without bighorn sheep habitat or in areas rarely visited by bighorn sheep. Objectors may have interpreted the plan to require special use permits for all pack goat users. However, the plan would only require special use permits for outfitters and guides (FW-STD-RECOG-01 and 02). The general public would be guided by FW-SUIT-REC-01 and 02 which would not require special use permits for recreational use by the general public.

The plan provides measures to minimize risk of contact between domestic sheep or goats and bighorn sheep, with most restrictions applied to areas and situations where that risk is greatest (final EIS section 3.10.4, pages 509 to 510). The operation of pack goats under special use permits is allowed in geographic areas not currently occupied by bighorn provided measures effectively minimizing disease transmission exist. As discussed in final EIS section 3.10.4 (pages 520 and 521), future requests for special use permits in unoccupied areas (i.e. the Bridger, Bangtail, Crazy Mountains; Ashland; and Sioux Geographic Areas) would be evaluated to determine potential risk of disease

transmission by considering such factors as whether bighorns have naturally recolonized these areas, bighorns have been sighted in these areas but did not stay, or whether the areas are suitable and desirable for near future translocations to establish bighorn sheep in the area. There are no restrictions on public recreational use of pack goats in these geographic areas until these areas became occupied by bighorn sheep (FW-SUIT-REC-01).

In geographic areas where bighorns are already established (the Madison, Henrys Lake, and Gallatin Mountains; Absaroka Beartooth Mountains; and Pryor Mountains Geographic Areas), standard FW-STD-RECOG-02 would require special use permits for outfitters and guides to use domestic goats as pack animals throughout the geographic areas even though bighorn sheep do not currently occupy the entire geographic areas. This standard describes specific conditions for outfitter and guide special use permits to minimize potential for contact with bighorn sheep if encountered in the wild, while still allowing for responsible recreational and commercial pursuits on public lands (final EIS, page 520-521). For the same reasons, plan component FW-SUIT-REC-02 requires similar measures in these geographic areas for the recreating public.

Some objectors interpreted plan components FW-SUIT-REC-01 and FW-STD-RECOG-01 to mean that if an unoccupied geographic area (the Bridger, Bangtail, Crazy Mountains; Ashland; and Sioux Geographic Areas) became occupied by bighorn sheep, then pack goats would no longer be allowed in the newly occupied area. The plan is not clear on direction that guides pack goat use in a newly occupied geographic area as it doesn't include the specificity of the plan components for currently occupied areas (FW-SUIT-REC-02 and FW-STD-RECOG-02).

Conclusion

I find Forest Supervisor Erickson was responsive to public comment and interest in recreational pack goat use, while providing plan components that minimize the risk of disease transmission to bighorn sheep as informed by what she determined was the best available scientific information. I appreciate the offer made by the North American Pack Goat Association during the resolution meeting to assist with the risk assessments if needed.

However, I am instructing Forest Supervisor Erickson to clarify plan components FW-SUIT-REC-01 and FW-STD-RECOG-01 regarding direction for pack goat use if an area became newly occupied by bighorn sheep in the Bridger, Bangtail, Crazy Mountains; Ashland; and Sioux Geographic Areas.

In addition, given the resolution meeting discussions regarding pack goat use for hunting, and that the final EIS is unclear whether four or six goats per person is necessary to reduce risks of disease, I'm instructing Forest Supervisor Erickson to clarify the analysis and evaluate if a change in goats per person is warranted.

National Recreation Opportunity Spectrum Guidance

An objector asserts the formulation and issuance of the 2018 National Recreation Opportunity Spectrum Inventory Mapping Protocol and FSM 2310 (2300-2020-1) are not in compliance with the public participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. 1612(a), 36 CFR 216). They allege the protocol is inconsistent with the 36 CFR 219 forest planning regulations and the Planning Rule programmatic EIS, indicating the 1986 Recreation Opportunity Spectrum Book ("ROS Red Book") is the best available scientific information.

Remedies

- FSM 2310 policy should be reissued following 36 CFR 216 public involvement processes to define the ROS Classes as desired conditions, to include recreation opportunity spectrum class characteristics descriptors that address, in part, "evidence of humans," "non-recreation uses," and "naturalness" characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes.

- Sustainable recreation planning directives must be consistent with the 1986 “ROS Red Book” guidance and related research, which informed the 2012 Planning Rule. Forest Service directives must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making.

Response

The objector provides a number of objections specific to various portions of Forest Service Manual 2310. Addressing specific concerns with manual direction is outside the scope of my review. However, I will note there is no requirement for the agency, including the Custer Gallatin National Forest, to be consistent with technical guidance such as the 1982 Recreation Opportunity Spectrum Users Guide and 1986 “ROS Red Book”. Forest Service policy, practice, and procedure are codified in the agency’s directives system. The system serves as the primary basis for the internal management and control of all programs and the primary source of administrative direction to Forest Service employees.

The standard for whether public notice and comment are required under 36 CFR 216 is whether a directive formulates standards, criteria, and guidelines applicable to Forest Service programs. As described in the digest, the 2020 manual changes updated and/or replaced obsolete direction with direction on data and tools that have been in place for more than 20 years. The content of FSM 2310 is consistent with the planning regulations at 36 CFR 219 and implementing directives. (See preceding response for additional details.)

Conclusion

As indicated by my review in other sections of this response, I find Forest Supervisor Erickson provided plan components for sustainable recreation consistent with the planning regulations and policy found in FSM 2310 and FSH 1909.12.

Ecological Integrity

Old Growth

Objectors contend that the plan direction and analysis for old growth are inadequate.

Objectors’ Proposed Remedies

- Include a 20-inch diameter at breast height rule to make it easier to recognize trees important to the landscape. Age should not be a factor, size is enough to see value in a tree for carbon sequestration and the ability to withstand fire. Even diseased old trees should be left to become snags and vital habitat. These trees should be defined as over 120 years old and should be documented and inventoried on the forest for future protection.
- Supplement the EIS to disclose the amount of current and historical old growth and includes a strict monitoring program to monitor population trends of old growth dependent species.

Background

The planning regulations at 36 CFR 219.9(a)(1) require plan components to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore their structure, function, composition, and connectivity.

Response

Although an objector suggests a 20-inch diameter at breast height standard, size alone does not always meet the criteria for old growth and such a standard would not adequately address ecological integrity. There are plan

components to protect large live trees as discussed below, but based on consideration of scientific information the Northern Region forests' old growth stands are defined by specific structural attributes and other characteristics as described in the Forest Service publication, Old Growth Forest Types of the Northern Region (Green et al. 2011), with correction notices dated 2005, 2007, and 2008 (plan appendix A, page 24).

In general, old growth stands are in the late stages of stand development and are distinguished by old trees and related structural attributes. These old growth stands are typically distinguished from earlier developmental stages by combinations of characteristics such as tree age, tree size, number of large old trees per acre, and stand density expressed as basal area. Specific values for these attributes vary by local ecological type and forest type (plan appendix A page 24). Tables 43 to 45 in the final EIS (section 3.6.2, pages 229 to 230) display the minimum criteria for old growth across the range of potential vegetation types on the Forest. Old trees (more than approximately 150 years old, depending on the old growth type) regardless of their size offer important ecological functions (plan appendix A, page 25) and size is only one criterion used to define old growth types.

That said, there are plan components in place to retain old growth. Desired condition FW-DC-VEGF-09 directs management to maintain and increase old growth over time. Guideline FW-GDL-VEGF-01 ensures that all management actions in old growth are undertaken with the express purpose of maintaining or restoring old growth (with narrow exceptions for human safety and protection of infrastructure) while guideline FW-GDL-VEGF-02 would further protect old growth from road construction or other developments. In addition, plan components protect large live trees on the landscape and large tree structure in order to provide structural diversity, wildlife habitat, future snags, and potential future late-seral forest conditions (FW-DC-VEGF-07, FW-GDL-VEGF-05) as well as current and desired conditions outlined in the final EIS section 3.6.2 (pages 222 to 223).

Objectors suggested additional metrics related to old growth such as the historic, present, and future amount at various spatial and temporal scales. Because the definition of old growth requires such fine-scale data, it was not possible to accurately model either the natural range of variation or future trajectory of old growth (final EIS appendix F, page 110; final EIS section 3.6.3, page 231). However, the historic condition of the large size class condition, a subset of which would have been old growth, is estimated and disclosed (final EIS section 3.6.3, pages 255 to 256, and 260). The final EIS discloses existing levels of old growth by cover type and broad potential vegetation type at the forestwide scale and describes why this is appropriate given available data (section 3.6.2 pp. 230 to 231). Section 3.6.3 in the final EIS describes why it is not possible to predict future old growth levels with the degree of precision requested by objectors, but notes that the plan is expected to result in an increase in the amount of old growth on the Forest (page 260). The final EIS provides a modeling analysis and results related to late successional forest (large size classes). The analysis discloses predicted acres in the large size class condition over time and predicts an increasing trend in all alternatives and in all potential vegetation types (section 3.6.3, pages 255 to 256 and 260; appendix B page 158). Appendix B of the final EIS describes the methods used to model future vegetation conditions and their limitations.

Objectors also requested a more detailed analysis of how old growth levels will affect old growth dependent wildlife. The final EIS (section 3.10.5, page 565) discusses species that utilize coniferous forests. Some wildlife species tend to use old growth forest disproportionately to its availability, however there are no old growth-obligate species on the Forest. Analysis in sections 3.6.3 and 3.10.5 describe how plan components designed to maintain or increase old growth on the Forest will benefit wildlife species that may use old growth, as will additional plan components designed to maintain key habitat elements such as large trees.

Lastly, objectors assert that the plan provides inadequate protection of old growth lodgepole largely because the plan exempts lodgepole from FW-GDL-VEGF-01. As discussed in the final EIS (section 3.6.3, pages 261 to 264), old growth lodgepole pine is abundant and highly vulnerable to large-scale loss from mountain pine beetle. Exempting lodgepole from FW-GDL-VEGF-01 would allow for stand-level management that has been shown to increase

resiliency of lodgepole pine at larger scales. Moreover, old growth lodgepole pine is not exempt from protection by plan components: the amount of lodgepole pine old growth will be maintained or increased as stated in desired condition FW-DC-VEGF-09.

At the resolution meeting, one objector noted a perceived contradiction between conclusions in the final EIS that management can be beneficial to lodgepole pine because conditions have become overly homogenous and plan direction that is “desiring homogeneity in lodgepole stands” and to “use clear-cutting to achieve that condition”. I could not find any plan direction that encourages either homogeneity or clearcutting in lodgepole pine, and my review of the final EIS analysis suggests that the objector may be confusing a desire for landscape-scale heterogeneity that can increase resilience with statements that individual lodgepole pine stands are often structurally and compositionally homogenous.

Objectors also expressed concern that the plan does not describe a reference condition or natural range of variation for lodgepole pine old growth and does not provide a specific desired condition for this old growth type. Green et al. (2011) provides typical reference conditions for all old growth types in the Northern Region (final EIS section 3.6.2, page 230). As mentioned earlier, because the definition of old growth requires such fine-scale data, it was not possible to accurately model the natural range of variation of old growth, including that for lodgepole pine (final EIS appendix F page 110). Desired condition FW-DC-VEGF-09 does mention lodgepole pine when describing desired conditions for old growth by broad potential vegetation type. This level of detail is appropriate given the aforementioned data and modeling limitations.

The final EIS contains a thorough discussion of how the plan will support lodgepole pine old growth in section 3.6.3. The analysis addresses objectors’ concerns about potential treatments in lodgepole pine old growth (page 264), effects of insects and disease (page 262), and succession (page 261). Analysis is based on the best available scientific information, and includes numerous citations to support the conclusion that by promoting vegetation that is resilient to climate change and other stressors, the plan will maintain or increase lodgepole pine old growth over time as per desired condition FW-DC-VEGF-09.

Conclusion

I find the plan includes sufficient plan direction to maintain and protect existing old growth forest both at the stand and landscape level, including lodgepole pine old growth. The plan limits vegetation treatment activities within old growth forest, and also includes direction to retain large trees, snags, and downed wood to provide key habitat elements for wildlife associated with mature forest conditions. Analysis in the final EIS shows that the lodgepole pine exemption in guideline FW-GDL-VEGF-01 is appropriate given the current extent of lodgepole pine old growth, the fact that it is an early seral species, and potential for treatments to increase heterogeneity and resiliency on the landscape.

Aquatic Integrity

Objectors contend that the forest plan does not provide adequate protection for water quality and aquatic resources. They suggest additional plan components are needed for specific watersheds or to mitigate the impacts of climate change, recreation, timber harvesting, the transportation system, energy and mineral development, and grazing.

Objectors’ Suggested Remedies

- Implement the protections described in alternative C to strengthen protections for Hyalite, South Cottonwood, and Bozeman Creek watersheds.
- Adopt Amendment 19 from the previous Flathead Forest Plan and use the moving window method to inventory road densities throughout the forest and close roads that violate Amendment 19.

- Include a forestwide guideline requiring baseline groundwater and surface water testing prior to permitting mining or oil and gas activities as part of the Application for Permit to Drill (APD) or application to permit mining environmental analysis.
- Additional guideline suggestions for livestock grazing and energy and mineral development in riparian areas, streams, rivers, wetlands, springs, and seeps.

Background

36 CFR 219.8(a)(2) requires the plan to include plan components to address ecological sustainability for water quality and water resources in the plan area. It also requires plan components to maintain or restore the ecological integrity of riparian areas in the plan area. Plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the riparian management zones or the site-specific delineated riparian areas (36 CFR 219(a)(3)).

Response

Water quality and quantity are addressed through forestwide desired conditions, objectives, standards, and guidelines in the Watershed, Riparian Management Zone, and Conservation Watershed Network sections (plan, pages 21 to 29) and through plan standards and guidelines in the timber (e.g., FW-STD-TIM-02), infrastructure (e.g., FW-DC-RT-01, FW-STD-RT-01, 03, 04, and 05, and FW-GDL-RT-01, 03-11), minerals (e.g., FW-STD-EMIN-07 and FW-GDL-EMIN-02), grazing (e.g., FW-DC-GRAZ-03, FW-GO-GRAZ-01, FW-STD-GRAZ-01, FW-GDL-GRAZ-01, 02, and 05), and recreation (e.g., FW-DC-REC-05, FW-OBJ-REC-01, and FW-GDL-RECSUP-01) sections of the plan. These plan components, together with relevant law, regulation, and protections for wilderness areas, inventoried roadless areas, recommended wilderness areas, and back country areas, ensure ecological integrity of watersheds and riparian areas will be maintained or enhanced (final EIS section 3.4.3, pages 102 to 119)). In addition to the land management plan direction, energy and mineral development activities (prospecting, exploration, and extraction) must be conducted in compliance with 36 CFR 228, which requires that “operations shall be conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources”.

As indicated in the watershed section of response to comments (final EIS appendix F, page 119), the riparian management zone plan components are more stringent and more protective of riparian areas than the current plans, helping to buffer against potential effects of climate change. The plan envisions maintaining or increasing beaver presence to help ameliorate effects of climate change by increasing water quantity and quality on the landscape (FW-DC-WTR-09). In addition, the conservation watershed network includes over 80 watersheds that are the most important to aquatic biota conservation and likely some of the most resilient to effects of climate change (final EIS section 3.4.3, pages 106 and 111).

One objector suggested a guideline to require baseline water testing to maintain water quality and quantity. However, as indicated by the rule definition of a guideline (36 CFR 219.7(e)(iv)), Forest Service Handbook 1909.12, section 22.14 states guidelines (and standards) should not direct or compel processes such as analysis, assessment, consultation, inventory, planning, or monitoring. A guideline that requires baseline testing prior to authorizing an activity, does not “place design or operational constraints on projects and activities, or prohibit the Forest Service from authorizing certain types of projects or activities to help achieve or maintain desired conditions or to avoid undesirable effects”. Also see my response to the Plan Component Sufficiency issue summary.

The monitoring plan includes a component (MON-WTR-01) designed to monitor the physical and biological integrity of aquatic systems. With over a decade of consistently collected data and improvements in data analysis, PacFish InFish Biological Opinion (PIBO) monitoring data can now be used to compare managed and reference watersheds on the scale of individual national forests. PIBO monitoring provides rigorously collected local data that can be

statistically compared to reference conditions in the same geophysical province. Additional reference conditions information is measured and/or modeled at the project scale (final EIS appendix F, page 127). In addition, the Forest will continue to work with the Montana Department of Environmental Quality to provide water quality monitoring data, and aquatic invertebrates (focal species) will be monitored as an indicator of the ecological condition of waterbodies and overall watershed integrity (plan chapter 4, page 185).

Other objectors identified concerns with road densities and specific infrastructure plan components, alleging the final EIS fails to quantify expected sediment reductions, doesn't provide sufficient detail regarding number of roads that need sediment reduction, or demonstrate in the final EIS that an "enhanced" control mechanism will achieve sediment reductions.

Although the objector seeks quantified sediment information, it is impossible to measure current, site-specific sediment delivery at the scale of the land management plan on the ecologically and geomorphologically diverse Custer Gallatin National Forest (final EIS appendix F, page 127). Nor would sediment quantification provide meaningful information regarding the effects of the land management plan as there are many other site-specific factors that affect aquatic and riparian integrity such as the patterns of sediment, nutrient, and wood routing and transport, large woody debris recruitment, pool frequency and residual depth, width-to-depth ratios, stream shading and temperature, bank stability, etc. (FW-DC-WTR-06 and 11). (Also see response to Programmatic NEPA Review issue summary.)

The land management plan does include standards for grizzly bear secure habitat (FW-STD-WLGB-01) that address objectors' concerns about quantifying and limiting road density. Secure habitat is calculated using a moving windows analysis based on open or gated motorized access routes (roads and trails) (plan appendix F, page 244) similar to the 1986 Flathead National Forest Land and Resource Management Plan, as amended by Amendment 19. Road construction is not permitted in designated wilderness and inventoried roadless areas by law and regulation, respectively. Thus, standards to limit road construction or road densities in these areas to protect aquatic resources are not necessary in the land management plan.

As described in the final EIS, section 3.4.3 (pages 103 to 119), a substantial change between the 2020 Land Management Plan and the 1986 and 1987 plans is the incorporation of forestwide plan components that together, provide more detail and clarity regarding the conditions and management of watersheds, drinking water, aquatics, and riparian areas that would contribute to the overall goal of maintaining the integrity and resilience of the watersheds on the Forest. The conservation watershed network (appendix C of the plan) provides a network of watersheds designed to emphasize conservation of westslope cutthroat trout, Yellowstone cutthroat trout, and other aquatic biota by protecting and restoring habitat conditions, processes, and landforms that provide quality habitat. Although the presence of westslope cutthroat trout (a Forest species of conservation concern) was increasing under the 1986 and 1987 plans, stream conditions are expected to improve for a broader range of species as has occurred under a similar riparian area policy implemented in the Columbia River Basin since the 1990s. The greater level of protection for aquatic and riparian areas (including wetlands and other lentic water bodies) is expected to improve habitat conditions and provide the ecological conditions to contribute to the recovery of western glacier stonefly, contribute to maintaining viable populations of species of conservation concern within their range, and support the persistence of other native species in the plan area (draft record of decision, pages 21 to 22).

Together with restoration objectives such as FW-OBJ-REC-01, the plan provides improved riparian protection more restrictive than the previous forest plans, which will help reduce sediment for streams impaired by sediment. The final environmental impact statement acknowledges there may be localized impacts and sedimentation from management activities. However, the plan components cited above are intended to address the management

activities that pose the greatest risk with site-specific constraints to minimize the risk of increasing management-induced sediment.

Conclusion

I find the final EIS and planning record demonstrates the 2020 Land Management Plan provides an integrated suite of plan components for aquatic resources as required by the planning regulations at 36 CFR 219.8 and 219.9. These plan components are more protective than the 1986 Gallatin and 1987 Custer Forest Plans, addressing the risks and stressors objectors are concerned about such as impacts from climate change and forest management activities.

Soils

Objectors contend the plan does not adequately protect soil resources and state that the responsible official should commit to an updated soil survey.

Objectors' Suggested Remedies

- Assess the impacts of livestock grazing to soils in all grazing allotments. In the interim, standards should be applied to reduce livestock grazing in sensitive areas such as riparian corridors, wetland areas, and woody draws. The 15 percent detrimental soil condition standard should be applied to management of livestock grazing. Incorporate specific monitoring and management approaches to address soil degradation by livestock.
- Suggestions for adaptive management include yearly monitoring of sensitive areas with reduced or removed livestock grazing if detrimental soil conditions exist.
- Commit to and ensure there will be an updated soil survey of the entire Forest.
- Suggested additions and modifications to existing components.

Response

Desired conditions FW-DC-SOIL-01 through 03 direct management to conserve soil function and long-term productivity. Standards and guideline in the soils section of the plan are designed to minimize detrimental impacts from management activities (FW-STD-SOIL-01, FW-GDL-SOIL-01 through 08). The final EIS describes in detail how these components are expected to maintain and improve soil productivity (section 3.3.3). Plan appendix A provides additional detail on management approaches that can be used to implement the plan direction (pages 4 to 11).

An objector noted that several plan components and some introductory text changed between the draft and final EIS and requested that language from the draft plan be restored. The final EIS describes changes to the plan components for soils (section 3.3.1, page 65). Standard FW-STD-SOIL-01 was reworded to match the regional soil standards (Northern Region Supplement to FSM 2550). Several components were removed due to redundancy with other plan components that remain and will serve a similar purpose. Guideline FW-GDL-SOIL-02 was rewritten for clarity and FW-GDL-SOIL-01 was both updated and clarified. However, I did not find an explanation for the change in guideline FW-GDL-SOIL-02. While the introductory text of the draft plan provided additional explanation to provide context for public comment and review, some of that information was removed from the final plan in order to provide concise plan direction for implementation.

Objectors contend that the plan does not address detrimental soil disturbance caused by livestock grazing. The definitions of detrimental soil disturbance, activity caused soil disturbance, and activity area are based on Forest Service Manual Supplement No. 2550-2014-1 and can be found in the plan glossary. As noted in appendix A of the final EIS (page 5), livestock grazing is considered a management activity and FW-STD-SOIL-01 applies to detrimental soil disturbance within the activity area of grazing allotments. My response to the Inadequate Baseline Assessment and Insufficient Plan Components issue summaries for livestock grazing contains additional detail on how plan components support the ecological integrity of rangelands.

Objectors also proposed several addition plan components or wording changes to existing components, and I took a close look at these suggestions. Most of the proposed changes focused on maintaining productive soils in grassland ecosystems, but I found that analysis in the final EIS (sections 3.3.3, 3.6.3, and 3.14.3) demonstrates that existing plan components are adequate to maintain soil productivity. Although many components do not explicitly mention soils, components for other resource areas are designed to promote native vegetation communities that maintain important ecosystem functions, including soil stabilization and carbon storage (e.g. FW-DC-VEGNF-01 through 04, FW-DC-RMZ-01, FW-GDL-RMZ-01, FW-DC-CARB-01, FW-DC-INV-01). As noted above, there are also components such as FW-STD-SOIL-01 that apply forestwide and are not limited to a single management activity or ecosystem type. The plan also includes components designed to minimize any impacts from recreation (FW-DC-REC-05, FW-OBJ-REC-01, and FW-GDL-RECDEV-01), which one objector brought up at the resolution meeting. Analysis in the final EIS explains that while there might be site-specific impacts from recreation, overall impact is likely small due to the small scale of areas affected relative to the size of the forest (section 3.3.3, page 69; section 3.6.3, page 269). One objector stated that the final plan should commit to a forestwide soil survey, however plan components can neither make commitments to act nor compel management actions (FSH 1909.12, section 22.1).

Objectors also contend that the plan should include additional monitoring to address soil degradation. The plan monitoring program includes two monitoring questions that specifically address soil resources (MON-SOIL-01 and 02) as well as other components designed to monitor the ecological integrity of non-forested ecosystems more generally (MON-VEGNF-01). I'd also like to note that the Forest can conduct additional monitoring that is not described in the monitoring plan. Plan appendix A describes potential monitoring approaches that could be used at the project level, and allotment management plans also include monitoring that would address the objectors' concerns about the effects of livestock grazing.

During the resolution meeting, objectors emphasized the importance of maintaining healthy soils to achieve long-term ecological integrity. I found that the plan components described above demonstrate a commitment to maintaining or improving the Forest's soil resources. The final EIS also speaks to the importance of soil, stating that "nearly all goods and services provided to the public on national forest lands are in one way or another dependent on soil productivity. Maintaining that productivity is essential to preserving the Custer Gallatin's ability to provide resource benefits to the public." (section 3.3.1).

Conclusion

I find that Forest Supervisor Erickson has complied with the National Forest Management Act and planning regulations at 36 CFR 219.8 and 219.3 for soil resources. My review of the final EIS and plan indicates the plan includes numerous components designed to maintain productive soils in both forests and rangelands. However, I am instructing Forest Supervisor Erickson to explain the rationale for changing the maximum slope specified in FW-GDL-SOIL-02.

Invasive Species

Plan Component Sufficiency

Objectors contend plan components are insufficient to prevent continued spread of invasive species, particularly related to livestock grazing. In addition, objectors assert the final EIS does not adequately analyze management impacts to soil and native plant communities.

Objectors Proposed Remedies:

- Supplement the EIS to address the impact of noxious weeds on the forest and the impact of the management activities on the spread of noxious weeds.

- Consider an alternative that include land management standards that will prevent new infestations by addressing the causes of weed infestations.
- Prior to authorizing management activities that will spread invasive species and reduce native plant vigor such as widespread livestock grazing, the Forest should perform a forest wide invasive species assessment. Interim standards including a reduction in animal unit months, stubble height requirements, and utilization thresholds should be put in place until all site-specific NEPA analyses can be completed.
- Options for controlling invasives also include a long-term reduction or removal of animal unit months and a change in season of use.
- Include a guideline to exclude livestock for a minimum period of three growing seasons following surface disturbing activities.

Background

The planning regulations at 36 CFR 219.8(a)(1)(iv) require plan components to maintain or restore ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, taking into account stressors such as invasive species. In addition, 36 CFR 219.10(a)(8) requires plan components for integrated resource management considering stressors such as invasive species.

Executive Order 13112 of February 3, 1999 (Invasive Species), called upon executive departments and agencies to take steps to prevent the introduction and spread of invasive species, and to support efforts to eradicate and control invasive species that are established. As amended by Executive Order 13751, it directs actions to continue coordinated Federal prevention and control efforts related to invasive species.

Forest Service Manual 2900 guidance ensures that forest management activities are designed to minimize or eliminate the possibility of establishment or spread of invasive species on National Forest System lands or to adjacent areas.

The planning regulations at CFR 219.2(b)(2) states that plans should not repeat laws, regulations, or program management policies, practices, and procedures that are in the Forest Service Directive System.

Response

As acknowledged in the draft record of decision (page 42), Executive Order 13751, which amends Executive Order 13112, directs Federal agencies to prevent the introduction of invasive species and to detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner. It requires agencies to monitor invasive species populations accurately and reliably; to provide for restoration of native species and habitat conditions in ecosystems that have been invaded; to conduct research on invasive species and develop technologies to prevent introduction; to provide for environmentally sound control of invasive species; and to promote public education on invasive species and the means to address them.

As such, Forest Service Manual 2900, Invasive Species Management, sets forth Forest Service policy, responsibilities, and direction for the prevention, detection, control, and restoration of effects from aquatic and terrestrial invasive species (including vertebrates, invertebrates, plants, and pathogens). Additionally, Forest Service Manual 2200 sets forth Forest Service policy, responsibilities, and direction for range management, which includes management of invasive plant species.

As described in the final EIS (section 3.9.1, page 310), both the Custer National Forest and Gallatin National Forest have completed forestwide NEPA decisions that outline protection and prevention measures for the management of invasive plant species (2006 Custer National Forest Noxious Weed Management Environmental Impact Statement and Record of Decision and the 2005 Gallatin National Forest Noxious and Invasive Weed Treatment Project Environmental Impact Statement and Record of Decision).

The plan includes components to execute an integrated pest management approach to prevent and/or decrease existing weed infestations (FW-DC-INV-01, FW-GO-INV-01, FW-OBJ-INV-01, FW-GDL-WLSG-05) as well as preventative actions that reduce the risk or likelihood of invasive species introductions through project design (FW-STD-INV-03 and 04, FW-STD-WTR-03). In addition, standards FW-STD-INV-01 and 02 constrain invasive species control measures to ensure they are integrated with the desired conditions for other resources, while FW-GDL-INV-01 emphasizes the role of native plant communities in preventing noxious weed invasion following soil disturbance. Plan direction protects watershed, soil, riparian, and aquatic conditions in ways that will reduce management-related disturbances that might introduce new populations of invasive species or increase existing ones (e.g. FW-STD-INV-01 and 04, FW-STD-WTR 03). The monitoring plan includes indicators associated with invasive species and treatment effectiveness (MON-INV-01 and 02). The regulation and policy described in the introductory text of the invasive species provides additional management direction that complements the plan direction and does not need to be repeated as plan components. Plan appendix A describes potential management approaches, including use of the Northern Region weeds risk assessment when considering proposed activities such as timber harvest or the development of a grazing plan.

The final EIS acknowledges that livestock can spread invasive species but describes how integrated plan direction is designed to promote native plant communities that are more resistant to invasion (section 3.9.3, page 332). The final EIS also addresses objectors' concerns related to the effects of invasive species management on soils (section 3.3.3, page 71) and potential effects on native plant communities as a result of invasive species management (section 3.5.2, page 136). Analysis in the final EIS draws on information from past surveys of invasive species on the Forest and describes how surveys typically occur at the project level (section 3.9.1, page 311). A forestwide survey is neither practicable, nor necessary to inform plan components designed to support ecological integrity.

Conclusion

I find that the 2020 land management plan provides integrated plan content to limit the introduction and spread of invasive species as required by the planning regulations at 36 CFR 219.8 and 219.10. See the livestock grazing issues summary regarding the application of interim standards and/or the need for a reduction in animal unit months.

I also wanted to thank the objector who said they help with invasive weed control in the Absaroka Beartooth Mountains Wilderness Area and other areas on the Forest, and their offer to continue efforts to eradicate weed infestations in the future.

Grazing as a Weed Control Measure

An objector contends the Forest Service has not properly assessed the impact of using sheep and goats as a weed control measure on wildlife and vegetation

Objectors' Proposed Remedy

Disallow targeted grazing on the forest, and incorporate specific, enforceable plan components.

Response

At the resolution meeting objectors discussed their concerns regarding the scientific uncertainty regarding the use of sheep and goats and asserted the final EIS didn't adequately address the potential effects of "intensive grazing [that] can prepare the area for more weed infestation". When I asked what was missing, they indicted the Forest needs to "follow the science and minimize impacts when...treating invasive species, and this use doesn't provide that".

The final EIS clearly notes the programmatic nature of the analysis and that the plan does not authorize site-specific action such as additional targeted grazing (final EIS section 1.1). The plan includes desired conditions for ecological

conditions related to invasive species in multiple sections, with invasive species-specific standards and guidelines as needed to constrain tools that may pose a risk to one or more resources. As targeted grazing is one of the integrated pest management tools described in Forest Service policy (FSM 2900), the plan includes standards to address a known potential risk of that activity to grizzly bears and bighorn sheep (FW-STD-WLB-07 and FW-STD-GRZ-03). The potential for intensive grazing, additional weed introduction, and the need to minimize effects to other resources during future authorizations of targeted grazing will be addressed at the project-specific scale and be guided by all plan components.

I will note that site-specific use of targeted grazing for invasive weed treatment was analyzed and is allowed through the existing Custer and Gallatin invasive weed decisions (USDA Forest Service Gallatin National Forest 2005 Final EIS Noxious Invasive Weed Treatment Project and USDA Forest Service Custer NF, 2006 Weed Management final EIS). As indicated on pages 47 to 48 of the draft record of decisions, resource management plans such as these will be reviewed after plan approval and updated if needed.

Conclusion

I find the final EIS adequately addressed the effects of the plan at a programmatic scale to guide future authorizations of targeted grazing.

Air Quality

An objector alleges that the air quality analysis is inadequate because it does not disclose the impact of emissions associated with livestock grazing, motorized recreation, logging equipment, and administrative vehicles.

Objectors' Suggested Remedy

Conduct a thorough analysis of all emissions on the Forest rather than assuming all are negligible aside from wildfire smoke. This analysis must consider nitrous oxide and methane emissions from livestock grazing and it must look at direct, indirect, and cumulative impacts of these emissions.

Background

See the Programmatic NEPA Review issue summary for additional background information.

Response

The final EIS explains that the analysis focuses on how the plan alternatives would affect smoke production because smoke is by far the greatest contributor to air quality and visibility (section 3.2.1, pages 49 and 51). The final EIS acknowledges other sources of emissions noted by objectors but does not provide a detailed analysis of effects because the impact of these sources is so minor compared to that of smoke. Furthermore, the 2020 Land Management Plan does not make any commitment or authorize any actions on the ground, and a detailed analysis of emissions associated with possible management actions would be highly speculative. The draft record of decision states that "more detailed air quality impact analyses will be made at subsequent levels of planning and analysis where emissions can be more accurately quantified, reasonably forecasted, and where local impacts can be assessed" (page 40).

Conclusion

I find that Forest Supervisor Erickson appropriately focused her analysis on the most significant factor affecting air quality on the forest and included a level of detail that is appropriate for a programmatic analysis.

Species Diversity

Background

The planning regulations require plan components to maintain or restore ecosystem integrity and ecosystem diversity to provide for the persistence of all native species within the plan area (36 CFR 219.9). Ecosystem integrity is maintained if the dominant ecological characteristics remain within the natural range of variation, thus providing ecological conditions that support native species that have evolved under those conditions.

When developing plan components, the responsible official must take into account plants, wildlife and fish, and related uses, that contribute to local, regional, and national economies in a sustainable manner (36 CFR 219.8(b)(3)). They must also provide integrated resource management to provide for ecosystem services and multiple use considering fish and wildlife species and habitat, and habitat connectivity (36 CFR 219.10 (a)). When developing plan components, the responsible official must consider habitat for species “commonly enjoyed and used by the public for hunting, fishing, trapping, gathering, observing, subsistence, and other activities” as described at 36 CFR 219.10(a)(5).

The planning regulations outline an approach for maintaining ecosystem integrity using a combination of ecosystem-level (coarse-filter) and species-specific (fine-filter) plan components (36 CFR 219.9). The ecosystem components ensure that the broad habitat types and characteristics that support the majority of native species are maintained. The responsible official must add species-specific plan components when additional direction is needed to ensure the long-term persistence of a specific species.

As stated in the Federal Register (volume 77 number 68, page 21212): “The premise behind the coarse-filter approach is that native species evolved and adapted within the limits established by natural landforms, vegetation, and disturbance patterns prior to extensive human alteration. Maintaining or restoring ecological conditions similar to those under which native species have evolved therefore offers the best assurance against losses of biological diversity and maintains habitats for the vast majority of species in an area, subject to factors outside of the Agency’s control, such as climate change. The final rule recognizes the importance of maintaining the biological diversity of each national forest and grassland, and the integrity of the compositional, structural, and functional components comprising the ecosystems on each NFS unit. The coarse-filter requirements of the rule are set out as requirements to develop plan components designed to maintain or restore ecological conditions for ecosystem integrity and ecosystem diversity in the plan area. Based upon the current science of conservation biology, by working toward the goals of ecosystem integrity and ecosystem diversity with connected habitats that can absorb disturbance, the Department expects that over time, management would maintain and restore ecological conditions which provide for diversity of plant and animal communities and support the abundance, distribution, and long-term persistence of native species. These ecological conditions should be sufficient to sustain viable populations of native plant and animal species considered to be common or secure within the plan area. These coarse-filter requirements are also expected to support the persistence of many species currently considered imperiled or vulnerable across their ranges or within the plan area.”

Also see background information for the Programmatic NEPA review issues summary.

Persistence of Native Species

Objectors contend that the plan does not provide the conditions necessary for long-term persistence of native species and should do more to protect wildlife.

Objector’s Proposed Remedies

- Select and strengthen alternative D

- More land should be set aside for the wilderness study area.
- Many more wildlife corridors should be added to help mitigate needless wildlife deaths.
- The focus should be on protecting the core habitat which is experiencing increased human impacts that threaten its integrity long term.
- Provide additional protection for wildlife in the Porcupine-Buffalo Horn Backcountry Area.
- Add a desired condition for backcountry areas forest wide, or specifically for the West Pine and Buffalo Horn Backcountry Areas: "Wildlife habitat for big game, grizzly bears and other native species provides foraging, security and migration corridors to allow wildlife to coexist with human use of the area."
- Address stronger wildlife protections such as hunting closures, safe wildlife crossing structures, and decommissioning of some roads.
- Develop a true wildlife alternative that promotes wildlife on these public lands. This alternative would maintain exactly half of all watersheds across the forest for wildlife conservation.

Response

While many objections expressed concern about specific wildlife species such as bison or grizzly bear, I also heard the plan should strengthen protections to benefit wildlife (e.g., migratory birds) more generally from some objectors. This perspective was particularly evident during the resolution meetings, with many objectors emphasizing the importance of the Forest's conservation role in maintaining high-quality wildlife habitat as part of the Greater Yellowstone Ecosystem. The forest does play a unique role in supporting many wildlife species due to its ecological diversity and location, and this is acknowledged in the "Distinctive Roles and Contributions" section of the plan. Given the high level of interest in this issue, I'd like to respond here to the more general concerns about wildlife. Additional detail about plan direction for several individual species is provided in responses that follow.

Forest Supervisor Erickson took a "coarse-filter and fine-filter" approach to provide ecosystem integrity, as required by the planning regulations at 36 CFR 219.9 and described in the Terrestrial Vegetation and Wildlife Diversity sections of the final EIS. Ecosystem (coarse filter) plan components in the plan address key ecosystem characteristics, including composition, structure, function, and connectivity. They are designed to maintain or restore ecological integrity, provide the ecological conditions to both maintain the diversity of plant and animal communities, and support the persistence of most native species in the plan area (through the final EIS, e.g. section 3.6, pages 161 to 234; section 3.7, pages 273 to 298; section 3.10, pages 335 to 594).

The ecological needs of at-risk species were evaluated to determine whether the ecosystem plan components would be sufficient to provide the ecological conditions to contribute to recovery or conserve ESA-identified species and maintain viable populations of species of conservation concern. If not, species-specific plan components were included in the plan where needed. The Forest also included species-specific plan components to address the habitat conditions for species "commonly enjoyed and used by the public for hunting, fishing, trapping, gathering, observing, subsistence, and other activities" as described at 36 CFR 219.10(a)(5). For example, FW-WL-DC-08 provides for habitat needs specific to bats, while FW-WL-GDL-03 and 04 provide additional protections for the western toad. And although vegetation management plan components such as those for snag retention, coarse woody debris, or riparian habitat don't name specific wildlife species, they contribute to the integrated plan content designed to maintain or restore the ecosystem integrity and diversity of the plan area per 36 CFR 219.9.

The plan also promotes wildlife conservation by including components that foster habitat connectivity and by delineating key linkage areas. Key linkage areas are a plan allocation with plan components that limit new barriers and periodically limit disturbance to allow for movement of wide-ranging species between ecosystems (FW-DC-WL-05 through 07; FW-STD-WL-02; FW-GDL-WL-01 through 05; and FW-SUIT-WL-01).

In addition to key linkage areas, designated areas and plan allocations of note that provide large, less developed areas of wildlife habitat and connectivity include designated wilderness, inventoried roadless areas, recommended

wilderness, and backcountry areas. Recommended wilderness areas would be managed to maintain wilderness character, while backcountry areas would be largely undeveloped or lightly developed and maintained in a generally natural condition. These allocations provide broad areas of habitat with minimal disturbance for wildlife across two-thirds of the Forest. The benefits to wildlife are described in the wildlife diversity section of the final EIS (section 3.10 and e.g., the “Effects from Plan Allocations” heading in the grizzly bear section, pages 440 to 441).

In their comment on the draft EIS, some objectors proposed an alternative that “exactly one-half of each watershed across the forest should be managed only for wildlife, with no vegetation treatments or roads allowed for any reason (no exceptions)”. The Forest considered this alternative but did not consider it in detail for several reasons, one of which is that a mosaic of areas designated for wildlife habitats tied to half of each watershed would not necessarily be sufficient to provide for the ecosystem components and linkages required by all species (final EIS section 2.5.10). Their objection clarified they meant “half of all the watersheds across the Forest” should be designated for wildlife conservation, rather than bisecting each individual watershed. However, as discussed in the issue summaries throughout this section, that is not necessary to provide for species diversity on the Forest. In addition, as discussed in the Timber and Designated Area and Plan Allocation issue summaries, over two-thirds of the Forest is within allocations that limit vegetation management. Thus, aspects of the proposed alternative fall within the range of the effects disclosed in alternatives considered in detail.

The final EIS includes an affected environment (existing conditions) section for each wildlife species or group of species that provides a review of the best available scientific information regarding habitat needs and any relevant stressors. This information helped determine the plan direction needed to provide for the persistence of all native species in the plan area.

Some objectors asked why specific references were not included as best available scientific information in the analysis. All references submitted during public comment periods were reviewed to determine if they fit the definition of best available scientific information at 36 CFR 219.3 and could add value to the analysis (planning record documents: 20200708PreAssessmentCitationCatalog, 20200708DraftAssessmentCitationCatalog, 20200623PACitationCatalog, 20200708DEISPublicCitationCatalog), and many were subsequently cited in the final EIS. Others were either not cited because they were determined to not be the best available scientific information (not accurate, reliable, or relevant), or the topics and issues were covered by other best available scientific information already cited. The final EIS includes an affected environment (existing conditions) section for each wildlife species or group of species that provides a review of the best available scientific information regarding habitat needs and any relevant stressors. This information helped determine the plan direction needed to provide for the persistence of all native species in the plan area.

Conclusion

Upon reviewing the effects analyses for terrestrial vegetation, wildlife diversity, and other sections in the final EIS, I find that Forest Supervisor Erickson complied with 36 CFR 219.9 and 36 CFR 219.10 in providing plan components that provide the ecological conditions to support the persistence of native species on the Forest. Collectively, the plan components and land allocations in the plan are designed to maintain or move habitat conditions toward the natural range of variation to which wildlife have adapted, while providing large areas with limited human disturbance.

While objectors at the resolution meeting repeatedly asserted that Forest Supervisor Erickson must recommend the maximum amount of area for wilderness designation to protect wildlife, as indicated in the other issue summaries throughout this response the plan includes integrated plan components at the forestwide, geographic area, designated area and land allocation scale to address risks to various resources, including wildlife species. Analysis throughout the project record supports her conclusion that the plan provides “the best mix of resource utilization, active and passive management, and motorized and non-motorized recreation uses *along with the safeguards*

provided by standards and guidelines for maintaining water quality, scenery, and wildlife habitat (draft record of decision, page 35) [emphasis added here].

Recreation Impacts

Objectors contend that the revised forest plan does not do enough to mitigate the impacts of recreation on wildlife. Some assert backcountry and recreation emphasis area land allocations do not provide sufficient protection for wildlife and that additional constraints on the amount and location of mountain biking should be included in the plan.

Objectors' Suggested Remedies

- Include a backcountry area desired condition: Wildlife habitat for big game, grizzly bears and other native species provides foraging, security, and migration corridors to allow wildlife to coexist with human use of the area.
- Include an additional desired condition statement: Recreation use effects on plants, soil quality, wildlife habitat, and watershed condition are recognized, and appropriate mitigation measures are enacted when necessary.
- Use the Craighead Report as a guide to evaluate the impacts of wildlife from recreation and backcountry uses in the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area and follow all laws and planning regulations.
- Take a closer look at the literature describing the impacts of mountain biking on wildlife and on the landscape. Provide some projections as to what exploding mountain bike use may look like across the Custer Gallatin over the life of the land management plan. Provide a means of monitoring the impacts of mountain biking in sensitive areas such as Porcupine and Buffalo Horn. Recommend full Wilderness status for remaining roadless wildlands in order to provide habitat for wildlife, to protect watersheds, to take advantage of nature's carbon storage capabilities, to protect the forests, and to provide the choice of recreation without mechanized interference.

Response

The objections and resolution meeting discussions clearly demonstrate the high value many objectors hold for wildlife and wildlife habitat on the Forest. They expressed concern about increasing recreation pressures as both Montana's population and the popularity of outdoor recreation increase, particularly during the pandemic. I've addressed this to some extent in the sustainable recreation issue summaries and will address species-specific objections in following summaries. For this response, I will focus on general recreation/wildlife objections.

Addressing population growth and additional demand for recreation opportunities was listed as a need to change the 1986 and 1987 land management plans (final EIS section 1.5). As noted in the preceding issue summary (Persistence of Native Species), the plan recognizes the distinct role and contribution of the Forest in supporting many native wildlife species, including several at-risk species such as grizzly bear. As such, the plan takes a proactive approach to conservation by including land allocations such as key linkage areas and plan components designed to minimize impacts on wildlife and promote habitat conditions that support most native species, in consideration of increasing recreation effects. Some objectors would nevertheless like to see additional restrictions in the plan, particularly with respect to recreation.

The effects of recreation on wildlife are analyzed for each species or species group in the wildlife diversity section of the final EIS (section 3.10). The effects analysis and the plan components highlight the importance of recreation resources on the Forest (FW-DC-REC-01 to 03), while also including plan direction that recreation uses and developments have minimal impacts on ecological integrity, at-risk species, water quality, and aquatic species (FW-DC-REC-05). The plan includes several forestwide components that address impacts to wildlife from construction and maintenance of recreation facilities such as trails, campgrounds, and picnic areas (FW-GDL-WLSG-04, FW-DC-

REC-05, and FW-DC-RECDEV-09), with an objective to remove or relocate some existing recreation facilities out of riparian areas (FW-DC-RECDEV-07 and 09, FW-GDL-RECDEV-01). The plan also includes desired conditions for recreation facilities to have minimal impacts on ecological integrity and diversity and be compatible with natural resources (FW-DC-REC-05, FW-DC-RECDEV-09), including new developed sites designed to replace dispersed use sites that are degrading riparian resources (FW-DC-RECDEV-07). There are also species-specific plan components (FW-GDL-WLBAT-03, FW-GDL-WLSG-04, and FW-STD-WLGB-05) that address potential impacts of recreation on certain wildlife species and a monitoring component (MON-WL-03) to track wildlife-human conflicts.

Plan land allocations are another tool for mitigating recreation impacts on wildlife. Plan allocations such as designated wilderness (30 percent of the Forest), recommended wilderness areas (4 percent of the Forest), backcountry areas (6.5 percent of the Forest), and key linkage areas affect the types and levels of public recreation use by limiting access or by limiting the types of recreation use or developments allowed. There are forestwide plan components to address connectivity (FW-DC-WL-05 and 06) and recreation impacts in key linkage areas (FW-DC-WL-07, FW-STD-WL-02, FW-GDL-WL-02 to 05) (final EIS 3.10.2 page 437).

Some objectors were particularly concerned about recreation impacts on wildlife in the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area due to the network of existing trails. In addition to the statutory and regulatory management limitations of the Montana Wilderness Study Act of 1977 and the 2001 Roadless Area Conservation Rule (final EIS section 3.21.3 pages 262 to 272), plan components associated with the recommended wilderness, backcountry area, and key linkage area land allocations address recreation impacts to wildlife.

Although an objector requested additional backcountry area desired conditions to specifically address the wildlife values of each area, the wildlife diversity section of the final EIS (section 3.10) describes many forestwide desired conditions that already cover the intent of the suggested desired condition (e.g., FW-DC-WL 02-09; FW-DC-WLBHS 01-02; FW-DC-WLBI 01-02; FW-DC-WLLX-01; FW-DC-WLSG-01; FW-DC-WLGB-01 to 03). Thus, I don't find additional desired conditions are needed.

Many objectors felt that the plan and final EIS did not adequately address the effects of mountain biking. The effects of mountain biking and of the plan components that limit the amount and location where it can occur are discussed in the wildlife diversity section of the final EIS (section 3.10 and 3.10.2). The final EIS acknowledges that mountain bike use, like many other forms of recreation, is increasing in many parts of the Forest, including areas currently occupied by grizzly bears. The plan encourages bear awareness information to reduce bear-human conflicts (FW-DC-WLGB-03). Mountain bike use is not allowed in designated wilderness and would not be suitable in recommended wilderness (FW-SUIT-RWA-02), which would limit potential for bear-biker conflicts in most of the area currently occupied by grizzly bear. In backcountry areas and key linkage areas, where suitable, mountain bike use would be suitable only on approved system routes (e.g., MG-SUIT-CHBCA-01, MG-SUIT-LHBCA-01, MG-SUIT-BHBCA-01, MG-SUIT-WPBCA-01, FW-SUIT-WL-01), which would limit use of user-created routes in those areas, minimizing effects of mountain biking to all wildlife species.

The grizzly bear section of the final EIS provides the most robust discussion on the impacts of mountain biking and cites a literature review that looked at effects on multiple wildlife species. I found that the discussion of effects on wildlife more generally was somewhat limited, however. I heard from some objectors at the objection resolution meeting who stated that mountain biking has a negative effect on wildlife, while other objectors questioned what evidence the Forest used in determining that restrictions on mountain biking are needed to protect wildlife. I am therefore instructing Forest Supervisor Erickson to review the literature provided by objectors and clarify what is known about how mountain biking affects wildlife species found on the Forest.

Conclusion

I want to acknowledge that objectors may disagree on how best to manage recreation in order to achieve social and economic benefits while also maintaining or improving wildlife habitat. I believe that the analysis in the final EIS shows these values are not incompatible. Plan allocations are designed to provide large areas across almost two-thirds of the 3-million-acre Forest relatively free from human disturbance, yet the plan also provides a broad spectrum of different recreation opportunities. It is clear to me that Forest Supervisor Erickson has designed a plan that is responsive to public desires for both wildlife protection and recreation opportunities, and her decision is well-reasoned.

I find that the 2020 Land Management Plan provides management direction for recreation and wildlife that will support native wildlife species while maintaining opportunities for mountain biking and other types of recreation per the Forest Service multiple use mission. However, I am instructing Forest Supervisor Erickson to provide some additional discussion to clarify what is known about the effects of mountain biking on wildlife.

Connectivity

Some objectors contend the plan does not adequately maintain or promote habitat connectivity, while others contend that restrictions on mechanized recreation in key linkage areas are unnecessary. Objectors suggested several changes to plan components for wildlife and key linkage areas.

Objectors' Proposed Remedies

- Amend FW-GDL-WL 03 to read: "To maintain wildlife habitat connectivity, new recreation development designed for the purpose of increasing recreation use should not be allowed within key linkage areas unless previously authorized by the Gallatin Travel Plan. New recreation developments may be constructed to address on-going or imminent ecological resource concerns within the key linkage area, including but not limited to, degradation of wildlife habitat connectivity."
- Recommend the Gallatin key linkage area in the Nichols Creek and Limestone Creek areas for wilderness designation to maintain key wildlife migration routes.
- Recommending Cowboy Heaven for Wilderness would provide a critical and safe corridor for wildlife to travel between two existing Wilderness areas (Beartrap Canyon and the Spanish Peaks)
- Measurable, enforceable standards should be created to protect linkage corridors.
- Allow continued access for mountain biking in key linkage areas
- The utmost protection should be given to the Bridger and Gallatin Key Linkage Areas. Additional plan components prohibiting any recreation events, new motorized or non-motorized trails, and timber harvest should be added to the 2020 Forest Plan for Key Linkage Areas.
- Convert guideline FW-GLD-WL-05 to a standard as it is the only one that has clear direction.

Background

The planning regulations require ecosystem plan components to maintain or restore connectivity, which is one element of ecosystem integrity (36 CFR 219.9).

Response

The plan combines several different approaches to promote habitat connectivity, including forestwide plan components, land allocations, and direction specific to key linkage areas. Section 3.10.6 of the final EIS describes in detail how plan components associated with water and aquatic resources, riparian management zones, and forested and non-forested vegetation all contain direction to maintain or restore ecological characteristics, which in turn provide habitat connectivity. The plan also includes numerous components that focus on habitat conditions to support wildlife, as well as specific desired conditions for habitat connectivity and wildlife movement (FW-DC-WL-

05, 06). The plan contains multiple goals (FW-GO-WL-02, 03, 05) to work across administrative boundaries to maintain or restore habitat connectivity for wildlife, acknowledging that a broader landscape perspective is vitally important for animal movement and genetic interchange that contributes to biological diversity and ecological integrity. To achieve these desired conditions and goals, the plan includes a guideline to minimize barriers to wildlife movement (FW-GDL-WL-01).

In addition to forestwide plan components described above, the plan includes key linkage areas with associated plan components designed to support wildlife movement. The key linkage areas are located near the national forest boundary where wildlife movement is desirable for genetic exchange between blocks of public land, but where such movement may be restricted by permanent development such as highways, railroads, agricultural lands, and residential areas. The locations identified as key linkage areas include the north end of the Gallatin Range and the west side of the Bridger Mountain Range. These areas provide good habitat connectivity value for forested habitat associates (final EIS section 3.10.2, pages 372 to 373). Several objectors requested continued access for mountain biking in key linkage areas. Although mountain biking is suitable in key linkage areas on approved system trails (FW-SUIT-WL-01), objectors note that there are non-system trails which are used infrequently but provide a unique opportunity for challenging cross-country travel. The suitability component is consistent with similar components designed to limit the influence of mountain biking in backcountry areas (e.g., SX-SUIT-CBBCA-01, PR-SUIT-PBCA-01). Appendix F in the final EIS explains that "In backcountry areas (and key linkage areas) where mountain biking would be suitable only on approved system mountain biking routes, site-specific analysis subsequent to plan approval would be undertaken to comply with plan suitability, and could further identify and delineate the trail opportunities and uses in these areas." Because these suitability components were added between draft and final, I am instructing Forest Supervisor Erickson to clarify her rationale for adding these components and ensure that effects on recreation are considered.

The plan components associated with the land allocations of recommended wilderness, backcountry areas, and key linkage areas provide well-connected landscapes in low development management regimes over the life of the plan. Analysis in the final EIS clearly shows how the plan contains a holistic, integrated, and ecological approach that would effectively address the larger-scale issues associated with wildlife habitat connectivity (final EIS section 3.10.6, pages 593 to 594). I took a close look at objectors proposed changes to plan components or land allocations but found that existing plan direction already provides ample consideration for connectivity on the Forest.

At the objection resolution meeting, I heard from several objectors who clarified that some of their concern about maintaining connectivity stems from concern that allocations such as backcountry areas will not preserve wildlife habitat or allow for connectivity to key linkage areas, with the Bridger range mentioned specifically. In my response in the Recreation Impacts issue summary, I noted that plan components for backcountry areas can protect wildlife by limiting impacts from recreation. The final EIS analyzed the effects on allocations including backcountry areas and key linkage areas. While I recognize that some objectors would prefer to see more restrictions for these allocations out of an abundance of caution, the final EIS demonstrates that the existing plan components will provide for general wildlife habitat and connectivity as well as the needs of specific species such as grizzly bear (sections 3.10.2, 3.10.4, and 3.10.6). See my response to the amount and location of recommended wilderness issue summary for more on how other land allocations support ecological integrity.

Conclusion

I find that Forest Supervisor Erickson complied with 36 CFR 219.9 in providing plan components that maintain or restore connectivity. The plan also includes components that will promote collaboration between agencies, tribes, and other land managers to promote connectivity and genetic interchange across a broader landscape. However, I am instructing Forest Supervisor Erickson to clarify her rationale for determining that mountain biking in key linkage areas is only suitable on approved system trails.

Elk and Big Game

Objectors allege that the final EIS does not adequately disclose how vegetation management and associated road construction will affect both game and nongame wildlife species. Objectors further contend the analysis is not based on the best available scientific information.

Objectors' Suggested Remedies

- Describe effects of future proposed projects on wildlife.
- Assess impacts from single layer canopy habitats.

Response

Land management plans do not authorize project or activities, nor do they commit the Forest Service to action. While various activities, such as prescribed burning or road construction, are allowed when conducted consistent with applicable plan components, the location, activities, degree of intensity, and timing of management activities guided by the plan is unknown at this time. Thus, the final EIS provides a programmatic analysis of expected effects from implementing the plan as *guidance* for project decision making, and the site-specific effects are addressed at that level subsequent to plan approval.

That said, the final EIS does contain analysis that addresses objectors' concerns regarding big game habitat at a programmatic level. The effects analysis for big game is in the general wildlife section (section 3.10.4) and discloses general effects from terrestrial vegetation management (pages 533 to 534), fire and fuels management (pages 534 to 535), timber management (pages 534 to 535), and associated road construction (page 535). As noted in the final EIS, the plan includes a guideline that specifically addresses big game habitat security and road construction (FW-GDL-WLBG-03). This guideline would also benefit other species such as grizzly bears (final EIS section 3.10.3, page 422). The final EIS also explains that new roads needed for timber harvest would generally be temporary roads located and constructed to facilitate removal and restoration following the intended use (FW-GDL-RT 01), which would help maintain habitat security for big game and other species over time (section 3.10.4, page 535). Lastly, the final EIS provides clear rationale for the thresholds used when analyzing the existing condition for secure habitat and hiding and thermal cover (section 3.10.4, pages 529 to 530).

Plan components are designed to provide for a wide diversity of foraging options for big game species and forested habitats that provide for their cover, shelter, and security. Terrestrial vegetation management, including timber harvest projects, must be consistent with plan direction for forested vegetation management (FW-DC-VEGF-01, 03, 04, and 05; FW-OBJ-VEGF-01; FW-GDL-VEGF-01 to 05), which would generally result in forested habitat conditions within the natural range of variation for species composition, tree size class, forest density, and patch sizes (final EIS section 3.6.3, pages 265 to 266; section 3.10.3, pages 533 to 535). These requirements would help maintain or move the Forest toward habitat conditions under which big game and other native species have evolved. Timber harvest solely for the purpose of timber production may occur only on those lands classified as suitable for timber production, which represent 19 percent of the Forest (FW-STD-TIM-01). Plan components for wildlife would limit potential negative effects of timber management on habitat connectivity in key linkage areas (FW-GDL-WL-02 and 05) and on hiding cover, winter ranges, reproductive areas, and secure habitat for big game (FW-GDL-WLBG-01 through 03; final EIS section 3.10.4, pages 534 to 535). Plan direction for big game species includes a goal to collaborate with partners (including the states) to develop management strategies to maintain suitable habitat conditions and big game populations and distribution (FW-GO-WLBG-01).

Conclusion

I find the final EIS provides adequate discussion of potential effects to elk and other big game species at the programmatic scale. Although ecosystem plan components are expected to provide for the needs of big game

species by managing for the natural range of variation, Forest Supervisor Erickson included additional species-specific plan components to address key habitat elements as species commonly enjoyed and used by the public per 36 CFR 219.10(a)(5). Analysis examines the effects of vegetation treatments and road construction on wildlife in a level of detail appropriate for a programmatic analysis, supported by scientific information as cited in the final EIS.

Bighorn Sheep

Objectors contend the plan components do not adequately address threats posed by cattle, mountain goats, and vegetation management, or domestic sheep and goats on non-Forest Service lands.

Response

The final EIS identifies respiratory disease epidemics as the primary threat to bighorn sheep populations on the forest (section 3.10.4, page 503). Plan direction is modeled on the recommendations of the Wild Sheep Working Group, which emphasizes appropriate steps to minimize, mitigate, or eliminate opportunities for disease transmission through commingling of wild sheep with domestic sheep and goats (Fish Wildlife and Parks, Wildlife Division (2010). Montana bighorn sheep conservation strategy, pages 44 to 45). Effects of plan components to maintain separation between bighorn sheep and domestic sheep and goats is described in section 3.10.4 (pages 499 to 523). In addition, the plan includes components for general wildlife to maintain a complete suite of native species, provide habitat conditions within the natural range of variation, provide habitat security, maintain habitat connectivity, provide structural and functional diversity, limit disturbances, and maintain low risk of disease transmission (FW-DC-WL-01, 03 through 07, and 09) (final EIS section 3.10, page 505). Regarding potential interaction of bighorn sheep with domestic sheep and goats on adjacent lands, there are goals to engage in partnerships to conduct research, inventories, monitoring, and expand data collection (FW-GO-WL-04), as well as to collaborate with State agencies, Tribes, livestock producers, and recreationists to develop protocols to minimize disease transmission (FW-GO-WLBHS-01).

The distribution of domestic sheep and goats adjacent to the plan area is described in the bighorn sheep cumulative effects section (final EIS section 3.10.4, pages 521 to 522). This analysis indicates there are no domestic sheep allotments in areas of the Beaverhead-Deerlodge and Shoshone National Forests that are adjacent to areas occupied by bighorn sheep on the Custer Gallatin. In addition, the Beaverhead-Deerlodge plan (2009) includes a standard to close domestic sheep allotments that become vacant in the Gravelly Range and the Shoshone plan (2015) does not allow domestic sheep or goats in areas of core bighorn sheep habitat. This section also describes policy and direction on adjacent Bureau of Land Management lands and Yellowstone National Park. The Bureau of Land Management policy is to achieve effective separation of authorized domestic sheep or goats from wild sheep and to minimize the risk of contact between the species and grazing of domestic livestock. Use of domestic goats as pack animals is prohibited in Yellowstone National Park. As stated in the final EIS, the policies on adjacent federal lands are consistent with direction in the 2020 Land Management Plan and help to reduce the likelihood that bighorn sheep will contact domestic animals.

The final EIS also addresses effects of vegetation management activities such as timber harvest, prescribed burns, or other vegetation manipulations (section 3.10.4, pages 510 to 521). The plan includes components to improve habitat through use of fire and mechanical treatments by emphasizing certain types of vegetative cover, maintaining or restoring forage conditions for bighorn sheep, creating more open conditions, limiting encroachment of conifers and maintaining grasslands (FW-DC-VEGNF-04; FW-GDL-WLBG-01; FW-DC-FIRE 01; FW-GDL-FIRE-01; FW-OBJ-FIRE-02). The plan also includes direction to limit invasive plant species on a landscape dominated by native plant species (FW-DC-INV-01; FW-STD-INV-01 to 04; FW-GDL-INV-01), and includes measures to minimize risk of noxious weed introduction or spread. Improving habitat is expected to sustain or improve the health of bighorn sheep populations and create potential for range expansion. Since there are no active domestic sheep allotments on

the Forest, or on lands adjacent to areas on the Forest occupied by bighorn sheep, the improved habitat conditions are not expected to increase interactions with domestic sheep and goats.

Lastly, the final EIS addresses potential competition for resources from cattle and mountain goats in section 3.10.4 (pages 517 to 521). It describes how the plan incorporates components for permitted grazing to maintain vegetation within, or move vegetation toward, desired ecological conditions (FW-DC-GRAZ-01, FW-GDL-GRAZ-03 and 10), which would benefit bighorn sheep by limiting livestock grazing impacts on wild sheep forage. Plan components for grazing are designed to minimize negative impacts on both riparian and upland habitats (FW-STD-GRAZ-01, FW-GDL-GRAZ-01, 02, 04, and 05), meet big game forage needs (FW-GDL-GRAZ-03), and minimize collision hazards and barriers to wildlife movement (FW-GDL-GRAZ-07). The final EIS addresses possible impacts from non-native mountain goats but cites evidence from several scientific studies suggesting that mountain goats are likely not a threat due to differences in habitat selection and foraging behavior between the species (section 3.10.4, page 503).

Conclusion

I find that the plan will maintain important habitat elements for bighorn sheep and provides plan components specifically aimed at reducing risk of disease transmission from domestic sheep or goats, which is the primary threat to bighorn sheep populations. The extensive effects analysis in the final EIS is based on the best available scientific information and supports the conclusion that plan direction will help ensure long-term persistence of bighorn sheep on the Forest.

Bison

Background

As described in the background at the beginning of this species diversity section, the planning regulations require plan components to maintain or restore ecosystem integrity and ecosystem diversity to provide for the persistence of all native species within the plan area (36 CFR 219.9). This includes bison.

When developing plan components, the responsible official must also consider habitat for species “commonly enjoyed and used by the public for hunting, fishing, trapping, gathering, observing, subsistence, and other activities” as described at 36 CFR 219.10(a)(5).

Bison have historically been widespread across the Forest (final EIS section 3.10.4, pages 541 to 542), but the current bison population is primarily located in Yellowstone National Park and migrates to lower elevation habitats on the Forest when winter snows become too deep (Land Management Plan, page 58; final EIS section 3.10.4, pages 539).

Plan Component Sufficiency

Objectors contend that the revised plan does not provide for a self-sustaining population of bison in the plan area and request additional plan components to facilitate bison expansion.

Objectors’ Suggested Remedies

- Develop and adopt additional plan components that take specific steps forward in establishing a year-round bison herd on the Forest. Such components should include specific objectives and standards for working with landowners and Fish Wildlife and Parks over the next 3 years to facilitate bison expansion in the Taylor Fork on the northwest side, and areas to the north of Yellowstone National Park.
- Reflect the needs of native species who require "grassbanks" to survive disturbances on National Forest habitat and the ecosystem of which it is but one part. National Forest "grassbanks" must be prioritized for the

persistence and viability of native species. The final alternative must remove the desired condition, goal, and objective reserving "grassbanks" for ranchers.

- Include standards for securing habitat for American bison to roam. American bison should be returned to their natural habitat in the Forest.
- Ban cattle and dairy cows from these lands.
- Prohibit traps to capture migratory bison on our National Forests.
- Reconsider how the Forest can rely upon the ecology of bison and fire in providing for the diversity of plant and animal communities and persistence of native species the National Forest planning regulations require.

Response

Many objectors clearly place a high value on bison and assert the plan doesn't include sufficient "habitat standards to secure the long-term future for bison". Both in writing and at the resolution meeting, objectors and interested persons expressed their concern the plan doesn't address the importance of bison as the national mammal or pay tribute to its importance for tribal subsistence and cultural practices. I clearly heard they would like the plan to provide habitat for a year-round population of bison on National Forest System lands, with plan components to constrain any management activities that may impede bison movement regardless of tolerance zones in the Interagency Bison Management Plan.

The objections to the plan direction for bison were closely linked to the objections regarding the identification of bison as a species of conservation concern. Objections regarding whether or not to identify bison as a species of conservation of concern have been sent to the Chief for review. I will only address the sufficiency of the plan components and the monitoring program to provide for the species persistence in the plan area in this response. However, regardless of whether bison meet the Agency criteria to be identified as a Forest Service species of conservation of concern, I found the planning record demonstrates Forest Supervisor Erickson was responsive to public engagement and included plan components reflecting the importance of bison to the public, Tribes, and as part of the Greater Yellowstone Ecosystem.

The plan and draft record of decision acknowledge the key ecological and social values of bison on the Forest (plan page 58; draft record of decision page 17). The bison section of the final EIS provides additional detail on the importance of bison and recognizes their ecological role as a "keystone species" in prairie/grassland ecosystems (final EIS section 3.10.4, page 540). The selected alternative includes desired conditions for bison security and habitat (FW-DC-WLBI 01-04), a proactive objective for bison habitat improvement projects (FW-OBJ-WLBI 01), and guidelines that promote expansion by designing projects to improve habitat, resolve bison-livestock conflicts, and insure undesirable barriers to movement are not created (FW-GDL-WLBI 01 through 03; final EIS section 3.10.4, page 559). The selected alternative includes a proactive desired condition for a year-round self-sustaining population of bison on the Forest in conjunction with bison herds in Yellowstone National Park, as well as higher objectives for bison habitat improvement projects. There is also a goal to work with partners to expand the science of bison ecology, foster awareness of the important biological, ecological and cultural roles of bison on the landscape, reduce conflict with livestock, and cooperatively develop adaptive strategies to manage bison and their habitats (FW-GO-WLBI-01). The plan also includes general wildlife plan components that would be applicable to bison and provide for their persistence, including desired condition FW-DC-WL-01 to have "a complete suite of native species [...] with sufficient numbers and distribution to be adaptable to changing conditions for long-term persistence" and several guidelines pertaining to movement and connectivity (FW-GDL-WL-01, 02, 04, and 05). Analysis in the final EIS (section 3.10.4) is thorough and demonstrates how this suite of plan components provides for the habitat needs and connectivity necessary to promote a self-sustaining population of bison on the Forest.

At the resolution meeting, several objectors reiterated their concern that desired condition FW-DC-WLBI 01-04 for a self-sustaining population of bison was weakened with the addition of the phrase "in conjunction with Yellowstone

National Park” between draft and final EIS. As objectors have noted, bison are migratory and capable of traveling long distances to access seasonal habitat. This addition to the desired condition is compatible with desired conditions for connectivity and genetic diversity, both of which can help increase resilience and allow for adaptation to changing conditions (FW-DC-WLBI-02), which objectors are also concerned about. While this change in wording may not have been considered a “notable change” disclosed with other changes made between draft and final EIS, I am instructing Forest Supervisor Erickson to clarify her rationale for the wording change.

Many objectors argued that the plan should include “enforceable standards” for bison, that the goals, desired conditions, or guidelines are insufficient to “accomplish having a year-round herd on the forest” or “allow buffalo to roam freely” as participants discussed at the resolution meeting. Some suggested plan components that, as written, would compel management. For example, a suggested remedy was to include a standard that states “manage for viable, self-sustaining native bison populations in the planning area”. As I discussed in detail in the plan component sufficiency issue summary on page 9 of this response, a plan cannot commit the Forest Service to take action. Rather standards provide operational or design constraints on projects and activities or prohibit the Forest Service from authorizing certain types of projects or activities. They limit management actions to address a resource risk or stressor to help achieve or maintain desired conditions, to avoid undesirable effects, or to meet applicable legal requirements. They cannot compel action to “achieve” a desired condition.

Objectors also assert the desired conditions “are unenforceable and entirely discretionary”. However, as also discussed in the plan component sufficiency issue summary, under the current planning regulations, project and activity decisionmaking must be consistent with *all* plan components, including desired conditions. Desired conditions describe those habitat characteristics toward which management will be directed. My review of the full suite of integrated plan content, both the ecosystem plan components that provide for wildlife habitat and landscape connectivity, together with bison-specific plan components, describe habitat characteristics that support bison persistence on the Forest, and provide project design constraints to proactively support bison expansion.

Another concern I read in objections and heard clearly at the resolution meeting is the objectors and interested persons want to ensure that bison can access suitable habitat beyond the “bison tolerance zones” of the Interagency Bison Management Plan. They expressed concern that the management plan is outdated, has been challenged in court, and artificially restricts bison access to suitable habitat. They clearly communicated a need for bison expansion beyond the tolerance zones to support a bison population of sufficient size and genetic diversity to be self-sustaining.

The plan refers to these “tolerance zones” as “management zones”, and the locations are presented in figure 34 of the final EIS (section 3.10.4, page 543). The plan includes numerous components that apply forestwide and will support bison expansion on Forest both within and beyond the management zones (FW-DC-WLBI 01, 02, and 04; FW-GO-WLBI 01; FW-GDL-WLBI 01 through 03; FW-OBJ-WLBI 01). Guidelines FW-WLBI-GDL-01 through 03 also seek to promote bison expansion, but they do so by focusing habitat improvement and conflict management in areas where bison have demonstrated a natural tendency to move onto National Forest System lands. This targeted approach is designed to ensure efficient use of resources by focusing management actions in areas where they will have the greatest impact (final EIS section 3.10.4, pages 549-550). Guideline FW-WLBI-GDL-03 uses the grizzly bear primary conservation area as a boundary because it encapsulates existing bison tolerance zones as well as most of the Custer Gallatin National Forest lands within the estimated pre-European settlement distribution of Yellowstone bison, which would promote bison expansion beyond the tolerance zones into areas with suitable habitat and increased protections (final EIS section 3.10.4, pages 550-551). There is nothing in the plan that would restrict expansion beyond the management zones or the grizzly bear primary conservation area.

The plan also addresses concerns about connectivity, and includes two desired conditions for bison access to and migration between suitable habitats (FW-DC-WLBI-01 and 02), an objective that could include connecting suitable

bison habitat (FW-OBJ-WLBI-01), and a guideline that restricts management actions that create a barrier to bison movement (FW-GDL-WLBI-03). In addition to the bison-specific plan components, the plan contains components that provide for habitat connectivity and movement for wildlife (FW-DC-WL 05, 06, FW-GDL-WL 01), with a focus on wide-ranging species such as bison (FW-DC-WL-07, FW-GDL-WL-01, 02, and 04, 05). These connectivity components should help provide movement corridors that allow for potential shifts in migration patterns as a consequence of climate change. See also my responses in the connectivity and climate change issue summaries.

Some objectors argued that the plan should prohibit bison trapping because it would limit expansion and distribution of the bison population. Forest Service authority over trapping on National Forest System lands is twofold. First, as discussed in the final EIS (section 2.5.10, page 34), the State of Montana regulates which species can be trapped, but “the national forest has the authority to restrict trapping on National Forest System lands” if needed to do so if it conflicts with Federal law or land and resource management responsibilities. This same section explains, “Custer Gallatin staff is unaware of any scientific evidence indicating that impacts from hunting and trapping would warrant this restriction.” The second Forest Service action that could involve bison trapping is issuance of a special use permit for the activity. Although such permits have been approved in the past (Wildlife Assessment Report, page 126), no current permit for bison trapping is in effect. Any new permit would need to be consistent with all applicable plan components (36 CFR 219.15(d)), including bison-specific plan components that address providing for a self-sustaining population, movement, and connectivity of suitable habitat for bison.

Finally, I’d like to address concerns about potential conflicts between bison and cattle. I heard from several objectors who felt that the plan should close permitted cattle grazing allotments to address bison-livestock conflicts. I also heard from objectors who expressed concern that the plan will harm livestock producers because it allows for expansion of bison and thus increases the risk of brucellosis transmission to cattle. The plan and final EIS analysis address both of these concerns, and Forest Supervisor Erickson analyzed alternatives with different plan components for bison and livestock to address this difference in stakeholder preferences. To promote bison expansion, the selected alternative includes a guideline that within bison management zones, actions taken to resolve bison-livestock conflicts should favor bison (FW-GDL-WLBI 01), a goal to work with partners to reduce conflict between bison and livestock (FW-GO-WLBI-01), and a goal to evaluate livestock allotments that become vacant for a variety of resource options, including potential closure to benefit other resources (FW-GO-GRAZ 02). The plan also includes components in the grizzly bear and livestock grazing sections that will reduce competition for forage (FW-STD-GRAZ 02 and 03), minimize barriers to movement caused by livestock fencing (FW-GDL-GRAZ-07), and limit the number and acreage of livestock allotments within the grizzly bear recovery zone (FW-STD-WLGB-06), which as discussed above has high potential for bison expansion (final EIS section 3.10.4, pages 556-557). These components help to maintain separation between cattle and bison, and the final EIS explains that there has never been a confirmed case of brucellosis transmission from bison to cattle due to management actions that provide effective separation between the species (section 3.10.4, page 551). Plan appendix A describes possible management actions that could be used to reduce the risk of disease transmission if bison expansion results in close proximity to active cattle grazing allotments (page 41).

Conclusion

After reviewing the plan and final EIS, I find Forest Supervisor Erickson has included plan components as required by the planning regulations to maintain or restore ecosystem integrity and ecosystem diversity to provide for the persistence of bison as a native species within the plan area. I find she has been responsive to the broad interest in this species by including bison-specific plan components to guide a proactive approach to bison habitat management beyond just the required ecosystem level plan components.

Specific to the most common objection points, I find the plan components are enforceable, provide for a self-sustaining population of bison in the plan area, and allow for expansion beyond the bison management zones. I find

the plan provides for bison movement and connectivity with both bison-specific components and general wildlife plan components. Lastly, I find that the plan addresses bison-livestock conflict, including providing for future consideration of allotment closure if such an action is needed. However, I am instructing Forest Supervisor Erickson to clarify why desired condition FW-DC-WLBI -04 was modified between draft and final EIS.

Some objectors perceive the plan is treating bison as if they are a species of conservation concern without formally identifying them as such, which they assert is contrary to the Forest Service's at-risk species policy. However, the planning regulations require the consideration of wildlife beyond just the diversity provisions at 36 CFR 219.9(b). Accordingly, I find the inclusion of bison-specific plan components, together with the full integrated plan content, demonstrates Forest Supervisor Erickson has also complied with the requirement for integrated resource management of multiple uses considering wildlife, connectivity, and habitat conditions for a species highly valued by the public described at 36 CFR 219.10.

Regarding the objectors' contention that guideline FW-GDL-WLBI-03 inappropriately ties bison management to grizzly bear management and thus limits bison expansion to only the grizzly bear primary conservation area, I find that no change is needed to the plan component. The explanation for the specification of the grizzly bear primary conservation area in the final EIS explains the guideline restricting barriers to bison movement is intended to provide additional project constraints in the area most likely to see bison expansion. Projects in other areas must still be consistent with other plan components pertaining to bison movement, including desired condition FW-DC-WLBI-01. Although the final EIS provides an explanation for specifying the grizzly bear primary conservation area in FW-GDL-WLBI-03, confusion or misinterpretation of the plan combining grizzly bear policy and bison policy may have been avoided if the detailed explanation had occurred in the bison section rather than the grizzly bear food source section. Therefore, I am instructing Forest Supervisor Erickson to either move the detailed explanation from the grizzly bear section (page 435) to the bison section (page 541) or provide cross-reference in the bison section.

Monitoring Sufficiency

An objector contends that the monitoring question and indicators for bison are inadequate.

Objectors' Proposed Remedy

Objector proposed several addition monitoring questions and indicators.

Response

The plan's monitoring program includes a monitoring question (MON-WL-07) designed to address several bison plan components (FW-DC-WLBI-02, FW-DC-WLBI-03, and FW-OBJ-WLBI-01). The monitoring question asks: "What management actions have occurred to improve / facilitate bison movements and avoidance of human/bison conflicts?" This monitoring question asks about management actions, so the monitoring plan categorizes the indicators for this question as implementation indicators rather than outcome indicators. For example, the indicator "Number and types, locations of actions that improve or facilitate opening corridors for bison movement" tracks relevant management actions that would result in progress towards achieving FW-DC-WLBI-02 and FW-OBJ-WLBI-01.

The objector notes that this monitoring question does not track the effectiveness of plan components or provide "meaningful data". While it is true that the monitoring question does not directly address the effectiveness of FW-DC-WLBI-02, which is designed to promote suitable habitat and connectivity, the planning rule does not require effectiveness monitoring for every plan component. The Responsible Official has the discretion to determine what information needs to be tracked for any given plan component (plan chapter 4, pages 183-184). Implementation monitoring can provide valuable information about the rate of progress towards achieving objectives or desired conditions.

As noted in my response in the Monitoring issue summary, the monitoring plan is not intended to depict all monitoring that will occur on the Forest. Additional project-specific monitoring may be designed to assess the effectiveness individual management actions aimed at improving habitat or connectivity.

Conclusion

I find that the monitoring question for bison includes appropriate indicators that can be used to assess progress towards desired conditions and objectives by tracking relevant management actions. Although the monitoring question fulfills planning rule requirements, there is one point that should be clarified. The second indicator (number of bison/human conflicts) of MON-WL-07 tracks the outcome of plan components, so I am instructing Forest Supervisor Erickson to add a new heading to clarify that it is an outcome indicator.

Wolverine

Objectors contend that the plan does not provide the conditions and protections needed to conserve wolverine, and that the final EIS does not adequately disclose effects for this species.

Objector's Proposed Remedies

- Work with scientists to develop and apply more rigorous models of wolverine maternal and foraging habitat (based on habitat selection within individual home ranges).
- Create opportunity for winter closure areas in vital maternal and foraging habitat during the denning season to be warranted as part of future travel planning through:
 - Revising FW-DC-WLWV-01: Forest and alpine habitat characterized by persistent snow cover and cooler temperatures provide high quality reproductive habitat, denning and foraging opportunities for wolverines. High elevation habitat and associated micro-climates provide refugia and habitat connectivity for wolverines in the face of changing climates and increasing winter recreational use.
 - Strengthening FW-GDL-WLWV by not precluding other forms of recreation management that might enhance secure habitat for wolverines during the reproductive denning season (i.e. allow the opportunity for evaluating the merits of winter closure areas in a future travel management planning effort).
- Develop and adopt meaningful standards to manage wolverine and not simply rely on vague, unenforceable desired conditions and guidelines. This would include standards designed to protect denning habitat, protect wolverine from trapping, restrictions on travel planning, standards to preserve connectivity, and other standards designed to protect wolverine from human disturbance. In addition, the Forest Service should work with the U.S. Fish and Wildlife Service and other experts to prepare a wolverine conservation assessment and strategy, enter into conservation agreements with the agencies, and then develop region-wide management direction for wolverine including a Northern Rockies wolverine management direction that amends all forest plans within occupied wolverine habitat.
- Identify and protect existing "linkage zones" between subpopulations of wolverines within and adjacent to the Forest, especially when those areas overlap with public lands (federal or state). Identify corridors or linkage zones between subpopulations in Montana and the contiguous United States and populations to the north in Canada.

Background

The plan and final EIS were developed while wolverine was proposed for listing as a threatened species under the Endangered Species Act. As a result, the plan addresses the planning regulations requirement to "contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area" (36 CFR 219.9(b)). Because wolverine was proposed for listing, it could not be identified as a species of conservation concern (SCC). A

species of conservation concern is a species, *other than federally recognized threatened, endangered, proposed, or candidate species*, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area (36 CFR 219.9(c)) [*emphasis added here*].

On October 13, 2020, the Fish and Wildlife Service withdrew the proposed rule to list the distinct population segment of the North American wolverine (*Gulo gulo luscus*) occurring in the contiguous United States as a threatened species under the Endangered Species Act of 1973, as amended.

Due to the change in status, I have reviewed the recent science and information about wolverine population and habitat on the Custer Gallatin National Forest. I have determined that the best available scientific information does not support a finding there is substantial concern about the species capability to persist over the long term in the plan area. While I did not identify wolverine as a species of conservation concern, the planning regulations still require plan components to maintain the diversity of plant and animal communities and the persistence of native species in the plan area (36 CFR 219.9).

Response

The plan includes components designed to provide for the ecological conditions necessary for wolverine conservation and address relevant threats. Wildlife ecosystem-level components in the plan emphasize habitat conditions within a natural range of variation to which native wildlife have evolved (FW-DC-WL-03, 08), provide for habitat connectivity (FW-DC-WL-05, 06), provide security and refuge (FW-DC-WL-04) by limiting human obstacles and disturbance (FW-GDL-WL-01, FW-STD-WL-01), and support landscapes that are resilient to natural and human-caused environmental disturbances and change (FW-DC-WL-01) (final EIS section 3.10.2, page 464). FW-DC-WL-02 also describes a desired condition that habitat contribute to species recovery needs and that population trends of listed species are stable or increasing across their range. In addition, forestwide vegetation desired conditions (FW-DC-VEGF-01, 02, 03, 04, and 07; FW-DC-VEGNF-01 and 04) support natural diversity and distribution of native plant species to which wolverines have adapted over time, including the amount and distribution of alpine habitats. These components would contribute to the resilience and adaptive capacity of forest and alpine habitats to respond to a range of disturbances, which would conserve wolverine habitat and support long-term persistence of the species on the Forest (final EIS section 3.10.2, pages 466 to 469; biological assessment, pages 157 to 158).

The final EIS estimates that 95 percent of maternal wolverine habitat and 89 percent of primary wolverine habitat is within either designated wilderness or inventoried roadless areas (section 3.10.2, page 462). The combination of designated wilderness, wilderness study area, inventoried roadless area, recommended wilderness, backcountry areas, and key linkage areas would limit permanent habitat modifications and high levels of human disturbance in a large proportion of the Forest containing wolverine habitat, through plan components such as FW-STD-RWA-01 to 06, FW-SUIT-RWA-02, and FW-DC-BCA-01 to 05. The proposed plan also includes a desired condition that habitat connectivity for wolverines is provided in the face of changing climates (FW-DC-WLWV-01) as well as an allocation for key linkage areas for wildlife, with associated plan components to minimize permanent developments and limit human disturbance to facilitate movement of wildlife (FW-DC-WL-07, FW-GDL-WL 02-05) (final EIS section 3.10.2, page 464). The final EIS concluded that the plan would maintain reasonably well-connected habitats within the forest boundary to facilitate wolverine movement (final EIS section 3.10.2, pages 470 to 471).

The effects of recreation were a primary concern for some objectors. The wolverine listing proposal found it unlikely that large areas of wolverine habitat experience high levels of recreation in most of the contiguous United States (USFWS, 2013) and thus did not consider it a threat to the species (final EIS appendix G, page 117). Nevertheless, plan direction would limit new winter activities operating under special use permits or on designated winter routes in maternal wolverine habitat (FW-GDL-WLWV-01). Examples of these activities include special use permits for ski areas, outfitting and guiding, or creating new designated routes for skiing, snowmobiling, and fat-tire biking (final

EIS appendix F page 207). The final EIS notes that while winter recreation is a key stressor, wolverines react more strongly to motorized and dispersed recreation than to non-motorized and trail-associated use (final EIS appendix F, page 205). The biological assessment (final EIS appendix G, page 161) found that at current levels, dispersed recreational activities do not threaten the continued existence of wolverine on the landscape. The portions of the plan area where backcountry recreation occurs represent only a small portion of key wolverine seasonal habitat and the plan includes restrictions on motorized recreation in most of these areas.

During the resolution meetings, several objectors explained that they were particularly concerned about the rise of non-motorized backcountry recreation such as skiing. One objector described an increase in the number of backcountry skiers he encounters in the Bridger range, and another pointed to a report about the effects of increasing recreation in the Tetons. One objector suggested backcountry recreation should be concentrated to minimize disturbance, which the plan does strive to do through the creation of recreation emphasis areas. The plan components described in the preceding paragraph, together with the land allocations where certain modes of transport are not suitable that make access more difficult, will help mitigate effects from increasing recreation throughout much of the available wolverine habitat. The planning record demonstrates the Forest reviewed the best available scientific information, including the study discussed at the resolution meeting (final EIS section 3.10.2 – wolverine). For more on the effects of increasing recreation, see my response in the sustainable recreation issues summaries.

Trapping is another potential threat noted by objectors. The final EIS acknowledged past impacts to wolverine populations associated with unregulated fur trapping and predator control but noted that legal fur trapping for wolverines was halted in 2012 (appendix F, page 205; final EIS section 3.10.2, pages 472 to 473). Since the trapping season for wolverines was closed in 2012, there has been only one record of an incidental (unintended) trapping of a wolverine on the Forest that resulted in a wolverine mortality (final EIS appendix G, page 165; final EIS section 3.10.2, pages 472 to 473). The final EIS acknowledges that wolverines may be vulnerable to capture in traps set for other fur bearers but concludes that fur trapping in general would present a negligible effect to wolverine populations in the plan area. Thus, there are no plan components specifically related to trapping and wolverine.

The analysis addressed the potential impacts of timber and fuels management activities, including on lower elevation habitats used by wolverine, based on a review of available scientific literature (e.g., Inman et al. 2011, Fisher et al. 2013, Montana Fish Wildlife and Parks 2013, Luce 2018) and concluded that these management actions are unlikely to represent a threat (final EIS appendix G, pages 157 to 158). The final EIS (section 3.10.2, page 467) acknowledges that some fuel management within the wildland-urban interface may result in a departure from natural fire regimes but concludes that there is little overlap between wolverine primary range and the wildland-urban interface. Therefore, management actions would be rare in habitats occupied by resident wolverines and would likely occur at a very small scale relative to a wolverine's home range. The final EIS (section 3.10.2, page 469) also concluded that while timber harvest could affect dispersal habitat for wolverines through habitat alterations and possible disturbance effects, this activity is unlikely to have a notable impact on vegetation that contributes to persistent spring snow cover in maternal or primary wolverine habitat, and is unlikely to occur in areas where disturbance-associated factors would have a notable impact on wolverines.

Objectors suggested various plan component additions or modifications to protect wolverine from human disturbance. I took a close look at these suggestions but found that that additional components are not necessary given existing components and the large proportion of habitat protected by various land allocations and designations.

Climate change is noted as a primary threat to wolverine (Montana Fish Wildlife and Parks 2013), and the effects of climate change on wolverine are addressed in detail (final EIS section 3.10.2, pages 462, 467). The plan contains a desired condition for carbon storage and sequestration sustained by biologically diverse and resilient vegetation

conditions that are adapted to natural disturbance processes and changing climates (FW-DC-CARB-01). Plan components emphasize resilience in desired conditions and include standards and guidelines as proactive measures to improve ecosystem resilience relative to predicted changing climates. Collectively, these components would ensure that potential impacts of climate change are considerations for projects that could affect wolverine habitat (final EIS appendix G, page 159).

Some objectors took issue with the scientific information and modeling methods used in the wolverine analysis. The science used to map wolverine habitat was based on the modeling described by Copeland et al. (2010) and Inman et al. (2013) (final EIS appendix G, page 155). Results from these two models were a good match to known wolverine distribution, and therefore were used to quantify and evaluate wolverine habitat in the plan area (final EIS section 3.10.2, page 460). Objectors requested new research, and while analysis in the final EIS was limited to existing information, the plan includes a goal to engaging in partnerships with multiple entities in order to facilitate ecological research, improve or coordinate inventories or monitoring, and expand data and knowledge collection where needed (FW-GO-WL-04). Additionally, the Forest has goals for the cooperation and collaboration with other entities and groups to achieve recovery of listed species and provide connectivity across administrative boundaries (FW-GO-WL-01 and 02).

Conclusion

I find that the 2020 Land Management Plan includes plan components that provide for key ecosystem characteristics necessary for wolverine persistence and minimize potential threats. The final EIS and supporting documents are based on the best available scientific information and demonstrate that the combination of ecosystem-level and species-specific plan components meet the requirement to maintain or restore ecological integrity of wolverine habitat. The analysis is thorough and addresses all of the objectors' concerns.

Shrubland Habitat and Sage-Grouse

Objectors contend that the plan does not provide adequate protection for sage-grouse or other wildlife species associated with grassland and shrubland habitats, and that the analysis of management impacts on sagebrush communities is inadequate.

Objectors' Proposed Remedies

- Ban the construction of any new utilities, facilities, livestock infrastructure, or mining developments within priority habitat.
- Livestock grazing in priority habitat should be disallowed and these lands should be used to study the benefits of livestock removal on sagebrush habitat.
- Emphasize grassland and shrubland bird habitat under desired conditions and guidelines either under the Grassland, Shrubland, Woodland, Riparian, Alpine and Sparse Vegetation (VEGNF) or Wildlife (WL) sections of the plan with suggested plan components.
- Include an additional standard for administering and managing grazing allotments that requires annual monitoring for compliance with allotment management plans, stocking rates and forage utilization standards and periodically monitoring for changes in soil and vegetation condition and trend in key areas.

Response

The plan includes a suite of plan components related to vegetation composition, structure, and function that would contribute to plant diversity and ecological integrity of shrublands on the Forest (FW-DC-VEGNF-01, 03, 04; FW-OBJ-VEGNF-01) (final EIS section 3.10.5, page 564). These components would benefit sage-grouse and other bird species as well as native ungulates that may forage in these ecosystems.

Appendix C (table 21) of the final EIS describes all the plan components designed to maintain or restore sage-grouse habitat. Prescribed fire could be used to reduce conifer encroachment (FW-GDL-WLSG-05) but could only be used in sage-grouse habitat if habitat losses could be mitigated elsewhere or to achieve a net conservation benefit to sage-grouse. Plan direction for fire and sage-grouse habitat would result in wildfire management tactics that would minimize loss of sagebrush cover in general and in priority sage-grouse habitat, to the extent possible given human safety considerations (FW-GDL-FIRE 01 and FW-GDL-WLSG 02) (final EIS section 6.3.2 pages 210-215).

The final EIS includes an extensive description of the various sagebrush habitats in the planning area (section 3.6.2, pages 210 to 215) and effects of vegetation management (section 3.6.3, page 249). Analysis is based on a review of the best available scientific information regarding sagebrush habitat and conditions, including impacts from fire to the various types of sagebrush habitat in the plan area. Information in the final EIS supports the conclusion that plan direction will contribute to maintaining or restoring sagebrush ecosystems and ecotones (section 3.6.3, page 254; section 3.10.3, pages 484 to 485).

Objectors requested a component to ban the construction of any new utilities, facilities, livestock infrastructure, or mining developments within priority sage-grouse habitat. The effects analysis describes the effects the installation, maintenance and use of facilities including trails has to sage-grouse (section 3.10.3, page 488), thus numerous plan components are designed to mitigate these potential threats. For example, plan components require new energy and mineral development be located outside of sage-grouse priority habitat, subject to valid and existing rights (FW-GDL-WLSG-07). There are also several forest wide components that address construction and maintenance of recreation facilities such as trails, campgrounds, and picnic areas (FW-GDL-WLSG-04, FW-DC-REC-05, and FW-DC-RECDEV-09). Guidelines specify that new facilities should not be constructed in priority or general sage-grouse habitat unless the development results in a net conservation gain to the species and its habitat. Forestwide desired conditions for recreation facilities to have minimal impacts on ecological integrity and diversity would also benefit sage-grouse (FW-DC-REC-05; FW-DC-RECDEV-09) (final EIS section 3.10.3, page 488).

The plan and final EIS also address potential grazing impacts on sage-grouse and other wildlife species. For example, the plan restricts livestock grazing and new infrastructure developments to minimize impacts on shrublands and woody draws (FW-GDL-VEGNF-01,03, and 05-08; FW-GO-GRAZ-01; FW-GDL-GRAZ-04, 05; FW-STD-GRAZ-01) (final EIS section 3.10.5, page 564). Several guidelines are designed to maintain or improve riparian habitat in grazing allotments such as (FW-GDL-GRAZ-01 to 03, and 05). New or revised allotment management plans would need to incorporate adaptive management strategies to address the needs of both domestic livestock and wildlife and move towards desired conditions for vegetation and riparian resources (FW-GDL-GRAZ-10). Other guidelines are designed to avoid or reduce the impact of grazing and range management infrastructure on wildlife (FW-GDL-GRAZ-04, 07, 08) including a guideline specifically designed to protect sage-grouse habitat (FW-GDL-WLSG 06) (final EIS section 3.10.3, page 487). The response to comments describes why recommendations to add sage-grouse plan components that are more restrictive or highly prescriptive were not adopted in the plan (final EIS appendix F, pages 198 to 202). Also see the issue summary regarding sufficiency of plan components.

Conclusion

I find that Forest Supervisor Erickson has developed a plan that will maintain or restore ecological conditions on the Forest to contribute to maintaining a viable population of sage-grouse within their range, while also providing for other multiple uses such as grazing. Plan components developed for sage-grouse complement a much broader suite of plan components designed to promote shrubland vegetation communities that are within the natural range of variation and thus support numerous other wildlife species. Analysis in the final EIS is thorough and considers the best available scientific information.

At-risk Plant Species

Objectors contend the plan does not adequately address the impacts of livestock grazing on at-risk plant species.

Objectors' Proposed Remedy

Exclude livestock grazing from areas with known occurrences of at-risk plant species and continue monitoring for new occurrences. If an exclosure is not a viable option, then grazing allotments or pastures containing at-risk plant species should be rested.

Background

Forest Service Manual 2200 establishes that part of the objective of the range management program is to integrate management of range vegetation with other resource programs to achieve multiple use objectives contained in Forest land and resource management plans (FSM 2202). Additionally, FSM 2203 includes policy directing range management programs to enhance or maintain the habitat of threatened, endangered, or sensitive species of plants and animals.

Response

The effects of permitted livestock grazing on at-risk plant species are discussed in section 3.5.3 of the final EIS (pages 149, 156 to 157). The plan includes standards and guidelines to guide allotment management decisionmaking so that vegetation conditions within allotments move towards desired conditions. As a result, grasslands, shrublands, wetland and riparian, and sparsely vegetated habitat guilds are expected to be maintained and to continue providing ecological conditions that support at-risk plant species in livestock allotments. FW-GDL-GRAZ-01, FW-GDL-GRAZ-02, FW-GDL-GRAZ-04, and FW-GDL-GRAZ-05 provide additional protections for riparian and hardwood ecosystems that will protect at-risk species. FW-DC-PRISK-01 and FW-STD-PRISK-01 help to prevent adverse effects from livestock management.

These components complement desired conditions for habitat types that may be impacted by grazing, which are generally contained in the nonforest vegetation section of the plan. Appendix C of the final EIS contains the ecosystem (guild) affiliation of each species of conservation concern and associated plan components designed to protect those species. Monitoring components for at-risk plant species (MON-PRISK-01) and non-forested vegetation (MON-VEGNF-01) are designed to track habitat conditions and allow for adaptive management.

Conclusion

I find that the 2020 Land Management Plan includes plan components to implement permitted grazing while protecting at-risk plant species as required by the planning regulations and aligned with Forest Service Manual 2200. See the livestock grazing issues summaries for additional discussion regarding when and how plan direction will be implemented.

Grizzly Bears

Background

Grizzly bears on the Custer Gallatin National Forest are part of the Greater Yellowstone Ecosystem population that occurs in parts of Montana, Idaho, and Wyoming. In 1975, the grizzly bear was listed as a threatened species under the Endangered Species Act of 1973 (as amended) in the lower 48 states. The Greater Yellowstone grizzly bear population met demographic recovery targets by 1998 and has generally met or exceeded most recovery targets since. As a result, Federal and State agencies developed a conservation strategy for managing Yellowstone grizzlies in 2003, which was updated in 2007, and again in 2016 (Yellowstone Ecosystem Subcommittee 2016). The U.S. Fish and Wildlife Service identified Greater Yellowstone Ecosystem grizzlies as a distinct population segment, and

delisted (removed from the endangered species list) the distinct population segment in July 2017. In September 2018, a District Court ruling vacated the Fish and Wildlife Service delisting rule, restoring Endangered Species Act protection for the Yellowstone grizzly bear population. However, the District Court ruling acknowledged a 2011 Ninth Circuit Court of Appeals decision which validated that the conservation strategy, when incorporated into legally binding land management plan direction, provides adequate regulatory mechanisms to maintain a recovered population of grizzly bears.

Adequacy of Plan Direction to Contribute to Recovery

Objectors contend the plan does not provide adequate protection for the grizzly bear to ensure its continued survival and recovery. Specific concerns include livestock grazing, roads, non-motorized recreation, and developed recreation.

Objectors' Proposed Remedies

The following remedies are a representative sample of changes proposed by objectors:

- Add forestwide management directives for how livestock permittees can operate in grizzly habitat. Standards should include specific, enforceable measures to reduce livestock-grizzly conflict.
- Do not allow the lethal removal of grizzly bears due to grizzly-livestock conflict.
- Apply all standards developed to protect grizzly bears in the primary conservation area to the demographic monitoring area as well.
- Develop and apply standards that adequately address impacts of non-motorized activities on grizzly bears, notably the impacts of mountain biking.
- Develop and apply standards that adequately address the impacts of backcountry trail and campsite infrastructure on grizzly bears.
- Promulgate rules, regulations, procedures, and related standards that adequately address and remedy hazards posed by big game hunters to grizzly bears on the Forest.
- Modify all standards for defining secure grizzly bear habitat so as to account for the many substantial changes in levels and types of human activities as well as distributions and productivity of grizzly bear habitats that have occurred since 1998.
- Expand FW-GDL-WL-03 to include no increase in road infrastructure and explicitly limit any increase in motorized access routes for any purpose in key linkage areas.
- Relocate the Big Sky Snowmobile Trail to the Highway 191 corridor to remove it from grizzly bear habitats.

Background

Per the planning regulations at 36 CFR 219.9(b), land management plans must “provide the ecological conditions necessary to contribute to the recovery of federally listed threatened and endangered species”.

Per the Endangered Species Act, Federal agencies are required to ensure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat (section 7(a)(2)). Future ground-disturbing activities authorized consistent with the forest plan could not occur without further site-specific analysis, section 7 consultation, and project decision documents.

Response

As discussed in chapter 2 of the plan (page 18), the 2012 Planning Rule adopts a complementary ecosystem and species-specific approach to provide for ecological integrity and ensure long-term persistence of native species in the plan area. My response to the Persistence of Native Species issue summary describes how Forest Supervisor

Erickson implemented this approach using a combination of plan components and land allocations to provide for wildlife habitat and connectivity. This response will therefore focus on how the plan addresses habitat needs and threats that are specific to grizzly bear.

The plan adopts habitat standards from the 2016 Conservation Strategy for the Grizzly Bear in the Greater Yellowstone Ecosystem (2016), which is based on the best available scientific information. These standards were developed with the overall goal of maintaining or improving habitat conditions relative to those present in 1998. The U.S. Fish and Wildlife Service selected 1998 as a baseline year because it was demonstrated that habitat conditions (such as amounts of secure habitat, number and capacity of developed sites, and number and acreage of domestic livestock allotments) in 1998 were compatible with an increasing grizzly bear population throughout the 1990s (final EIS section 3.10.2, page 419). The final EIS describes how these grizzly bear-specific habitat components complement more general vegetation and wildlife components to provide for the habitat needs of grizzly bear (section 3.10.2, pages 418 to 423).

Some objectors contend that the plan does not provide adequate protections for grizzly bears and their habitat outside of the primary conservation area/recovery zone (these terms describe the same area). While many of the grizzly bear plan components are specific to the recovery zone, the final EIS explains that other plan components and land allocations limit the potential for reductions in secure habitat outside of the recovery zone (section 3.10.2, pages 421 to 422). For example, 44 percent of the National Forest System lands outside the recovery zone in the Absaroka Beartooth Mountains and the Madison, Henrys Lake, and Gallatin Mountains geographic areas are within designated wilderness where no further reductions in secure habitat could occur under established wilderness management laws. Another 33 percent of those lands are within a wilderness study area or inventoried roadless area, which will limit road construction and certain land uses and thus protect secure habitat. In addition, the plan includes components to reduce the potential for conflict with humans outside the recovery zone (final EIS section 3.10.2, pages 431 and 433-434). These components are designed to protect grizzly bear while also considering human uses, which is consistent with the grizzly bear recovery plan (final EIS section 3.10.2, page 419).

Some objectors questioned the definition of secure habitat, however I found that the final EIS cites peer-reviewed scientific publications supporting the definition of secure habitat adopted from the grizzly bear conservation strategy (section 3.10.2, pages 401 to 403). Objectors also expressed concern that illegal roads are not included in calculations of secure habitat. The biological assessment analyzed the potential effects of illegal motorized incursions and concluded that “illegal motorized use would have insignificant effects on grizzly bears” (page 151) because illegal incursions are rare and are most likely to occur outside of the recovery zone where motorized access is more readily available.

An objector contends that the Forest disregards recent research about human impacts on grizzly bears and should not rely on habitat criteria from the 2007 Supplement to the US Fish and Wildlife Service Grizzly Bear Recovery plan¹. The final EIS provides rationale for incorporating direction from the Grizzly Bear Conservation Strategy, which draws from the Recovery Plan, explaining that this strategy is based on the best available scientific information for managing grizzly bears and their habitats in the Greater Yellowstone Ecosystem (section 3.10.2, page 392). The final EIS also acknowledges that “interactions with people are by far the leading factor affecting the Greater Yellowstone Ecosystem grizzly bear population” (section 3.10.2, page 414), and describes how the plan includes numerous components designed to minimize potential negative effects from grizzly bear-human interactions (pages 418 to 436). The analysis cites many peer-reviewed publications to support conclusions that these plan components will contribute to grizzly bear recovery.

¹ https://ecos.fws.gov/docs/recovery_plan/070313_1.pdf

Section 3.10.2 in the final EIS addresses objectors' concerns about specific stressors affecting grizzly bear, and describes how the plan effectively minimizes risks associated with motorized access (pages 422 to 423), developed sites (pages 423 to 431), livestock grazing (pages 432 to 434), recreation events (pages 440 and 443), over-snow vehicles (pages 441 to 442), and non-motorized uses (pages 441 to 443). The analysis appropriately focuses on key stressors with the greatest potential to affect grizzly bears, but also discusses consequences of plan direction from other resource areas (section 3.10.2, pages 438 to 445). The cumulative effects analysis acknowledges that management of private land outside the Forest boundary could have an adverse effect on grizzly bears, but describes how management direction for Federal and State lands surrounding the Forest helps to maintain secure habitat and opportunities for dispersal (final EIS, pages 445 to 446; appendix G, page 149). The plan includes a goal (FW-GO-WLGB-01) to work with Federal, State, Tribal, and other willing partners to provide for dispersal between grizzly bear ecosystems and increase the genetic diversity of bears inhabiting the Forest.

At the objection resolution meeting I asked for some help identifying what protections seemed to be missing from the plan and ways to address any gaps while also accommodating other multiple uses such as grazing and recreation. Many objectors view wilderness as the best possible protection and would therefore like to see additional areas recommended as wilderness, however I found that analysis in section 3.10.2 of the final EIS describes how other land allocations and designations can support grizzly bear recovery by providing secure habitat and mitigating known threats (see also my response to the Amount and Location of Recommended Wilderness issue summary). I also heard some specific concerns and proposals for addressing them. For example, one objector noted that providing secure habitat may not reduce lethal encounters with hunters and suggested that hunter education could help. Another objector pointed out that increasing the number of allowable pack goats per person could reduce conflicts between hunters and grizzly bears by facilitating efficient game removal. As I've noted above, the plan has several components designed to reduce the potential for wildlife-human conflicts, including a desired condition for bear awareness information (FW-DC-WLGB-03). The state of Montana also has hunter education programs focused on minimizing conflict with grizzly bears (final EIS section 3.10.2, page 445). Although I found that changes to the plan are not necessary to address this concern, I appreciate the discussion about this and other issues. I considered all the proposed remedies and found that many of the suggestions were similar to existing plan direction or proposed additional restrictions where analysis in the final EIS shows existing plan direction is sufficient to contribute to grizzly bear recovery and conservation.

Objectors shared different perspectives on how mountain biking affects grizzly bears. I heard from some that mountain biking reduces secure habitat and has a greater potential to result in conflict relative to other recreation activities, while others noted that mountain biking is not considered one of the primary threats to grizzly bear. The final EIS acknowledges both points of view, pointing to literature suggesting that biking can affect wildlife but also citing evidence that surprise encounters between bikers and grizzly bears are rare and have not resulted in any subsequent bear management actions on the Forest (Frey 2020; final EIS section 3.10.2, page 444). The plan does restrict mountain biking in designated and recommended wilderness (FW-SUIT-RWA-02) and limits biking to designated trails in backcountry areas and key linkage areas (e.g. MG-SUIT-CHBCA 01, MG-SUIT-LHBCA 01, MG-SUIT-BHBCA 01, MG-SUIT-WPBCA 01, FW-SUIT-WL 01), which will reduce the already limited potential for bear-biker conflicts.

Finally, I'd like to address concerns about the standard for developed sites (FW-STD-WLBI-04) that was updated between the draft and final EIS to reflect the most current recommendation from the Greater Yellowstone Ecosystem Technical Committee charged with addressing increased visitor use within the Greater Yellowstone Ecosystem. Forest Supervisor Erickson explains in the draft record of decision that she decided to adopt the modified standard because it allowed her to evaluate the impacts of that modification and because analysis ultimately showed that it would contribute to grizzly bear recovery by concentrating human use in areas where grizzly bears have become accustomed to such conditions (draft record of decision page 18; final EIS section 3.10.2

pages 423 to 431). The final EIS thoroughly addresses the rationale for and effects from changes in the developed site standard and the new “footprint approach” to analyzing developed site impacts (section 3.10.2).

Some objectors contend that the Forest should not have adopted draft standards from the revised Conservation Strategy because it is not yet final. It was not necessary for the Forest Service to wait until changes were approved before adopting the draft standard. As noted above, the final EIS provides clear rationale for the standard and notes that the change will have a positive effect by addressing an emerging stressor. It also notes that the modified standard is consistent with the intent of the original developed site direction and shows that the new “footprint approach” to analyzing developed site impacts resulted in negligible changes to the 1998 secure habitat baseline (section 3.10.2, pages 404-405).

Conclusion

Upon review of the plan, final EIS, biological assessment and draft record of decision, I find that Forest Supervisor Erickson complied with the planning regulations and the Endangered Species Act (16 U.S.C. 1536) by developing a plan that will provide the ecological conditions to contribute to the recovery of grizzly bear. The final EIS identified an analysis area that was commensurate with species life history, movement patterns, and habitat needs as identified in the best available scientific information, and recognized surrounding national forests role in contributing to grizzly bear recovery. The analysis addresses habitat needs and key stressors and provides ample support for its conclusion that the plan will improve grizzly bear management and ensure that the Forest continues to provide secure habitat and contribute to grizzly bear recovery.

I am instructing Forest Supervisor Erickson to clarify in the final record of decision that if plan component changes are needed to address any substantive changes made to the final grizzly bear conservation strategy, then subsequent National Environmental Policy Act and National Forest Management Act procedures will be undertaken at that time.

Connectivity

Objectors contend the plan and analysis do not adequately address connectivity between the Greater Yellowstone Ecosystem and other grizzly bear ecosystems.

Objectors’ Proposed Remedy

Evaluate the plan's contribution to the recovery of a grizzly bear metapopulation.

Response

As noted in my response in the Connectivity issue summary, the plan provides an integrated approach to managing for connectivity that will benefit a variety of wildlife species. The plan identifies key linkage areas in locations that are likely important to connectivity (final EIS section 3.10.2, pages 436 to 438) and includes plan components to limit new developments, impose timing restrictions on major disturbance factors, and preclude new overnight recreation events within key linkage areas (FW-STD-WL 02, FW-GDL-WL 02-05; final EIS section 3.10.2, page 437). Current best available scientific information supports the key linkage areas identified in the plan as likely travel routes for grizzly bears (Walker and Craighead 1997, Cushman et al. 2009); final EIS section 3.10.2, page 437).

An objector took issue with the boundary of the recovery zone and contends that it is inadequate to ensure recovery of grizzly bears, due in part to concerns over connectivity with the Northern Continental Divide Ecosystem. The Yellowstone Recovery Zone is identified in the 1993 Grizzly Bear Recovery Plan (U.S. Department of the Interior 1993). The Fish and Wildlife Service is responsible for recovery plans, and recovery zone designation or alteration is not within the scope or authority of this land management plan. However, the plan includes several components

specifically designed to facilitate movement between the Greater Yellowstone Ecosystem and other grizzly bear ecosystems (e.g., FW-DC-WLGB-02 and FW-GO-WLGB-01).

Objectors requested that the plan and cumulative effects analysis consider the Bitterroot Ecosystem and Northern Continental Divide Ecosystem. The final EIS provides a thorough discussion of how the plan will help support connectivity between the Greater Yellowstone Ecosystem and the Northern Continental Divide Ecosystem (section 3.10.2, pages 436 to 438). The Bridger and Bangtail mountain ranges are identified in the Northern Continental Divide Ecosystem Grizzly Bear Conservation Strategy (Northern Continental Divide Ecosystem Subcommittee 2018) as Management Zone 2, which indicates areas to be managed for opportunistic movement of grizzly bears between ecosystems (final EIS section 3.10.2, page 413). The Bridger, Bangtail, and Crazy Mountains Geographic Area is not currently occupied by grizzly bears and is outside of the Greater Yellowstone Ecosystem grizzly bear distinct population segment (U.S. Department of the Interior 2016). However, the Bridger, Bangtail, and Crazy Mountains Geographic Area has good potential to provide habitat connectivity for grizzly bears to move between the Greater Yellowstone Ecosystem and the Northern Continental Divide Ecosystem because plan allocations of recommended wilderness and backcountry areas in juxtaposition with designated wilderness units and key linkage areas create a well-connected system of low development areas within the Custer Gallatin to promote dispersal between the Greater Yellowstone Ecosystem grizzly bear recovery zone and other grizzly bear ecosystems. Furthermore, the plan includes ecosystem plan components for managing vegetation toward conditions within the natural range of variation (FW-DC/STD/GDL-VEGF; FW-DC-VEGNF), including conditions related to patch size for forested habitats (FW-DC-VEGF-06), which would contribute to maintenance or restoration of habitat connectivity, providing both foraging options and security cover for movement of grizzly bears (final EIS section 3.10.2, page 438).

Although the plan and final EIS do not explicitly mention the Bitterroot Ecosystem, plan direction speaks to connectivity with “other grizzly bear ecosystems”, which would include the Bitterroot (FW-DC-WLGB-02, FW-GO-WLGB-01). The final EIS analysis focuses on connectivity between the Greater Yellowstone Ecosystem and the Northern Continental Divide Ecosystem, which are the two largest grizzly populations in the continental United States, but notes that “Dispersal of bears between the Greater Yellowstone Ecosystem and Northern Continental Divide Ecosystem could also contribute to genetic diversity in other smaller grizzly bear populations over time as bears expand their range.” (final EIS section 3.10.2, page 436).

The cumulative effects section of the final EIS provides a thorough discussion of relevant management direction on surrounding federal, state, and private land, and notes that it is generally compatible with direction in the revised Custer Gallatin Land Management Plan designed to support grizzly bear recovery (final EIS section 3.10.2, page 445).

Conclusion

I find that plan components and land allocations will support demographic connectivity between the Greater Yellowstone Ecosystem and other grizzly bear recovery zones. The connectivity analysis in the final EIS is thorough and is based on the best available scientific information on potential dispersal pathways.

Monitoring

An objector contends that additional monitoring questions and indicators should be added and the language of some components should be clarified to provide a more complete picture of how management affects grizzly bears.

Remedy

- Add a monitoring question on the number and location of conflicts between native predators and livestock and what steps were taken to resolve the conflict.
- Apply indicators from MON-WL-10 in the demographic monitoring area and connectivity areas.

Response

Three monitoring components included in the plan address grizzly bear monitoring both inside and outside of the primary conservation area (MON-WL-03, 10 and 11). Implementation indicators for MON-WL-03 include the number and location of citations related to attractants; number, location, cause, and resolution of wildlife/human conflicts; and the number of outreach contacts. This monitoring plan component addresses not only the number of conflicts and resolutions, but the efforts made by the Forest to actively reduce the potential for conflict.

Bear-human conflict is included in the glossary and the definition includes conflicts with livestock, so the objector's proposed monitoring question to track "the number and location of conflicts between native predators and livestock and resolution steps taken" is included in the existing monitoring question. Application of this monitoring indicator will occur forestwide, both inside and outside of the primary conservation area.

As the objector noted, implementation indicators for MON-WL-10 are specifically related to actions inside the recovery zone, reported by bear management unit. This represents an ongoing monitoring effort related to existing standards from the 1987 Gallatin Forest Plan and existing travel plans, and the indicators fulfill monitoring requirements for grizzly bears inside the recovery zone in order to ensure the recovery of grizzly bears within the planning area and beyond. MON-WL-11 addresses management actions outside the recovery zone. This component is also linked to ongoing monitoring efforts that are based on the conservation strategy, which focuses on a single indicator for secure habitat in bear analysis units outside of the recovery zone.

The objectors contend that monitoring must occur for grizzly bears outside of primary conservation area in order to ensure the recovery of grizzly bears within the planning area and beyond. These data are reported in the Interagency Grizzly Bear Study Team 2-year interval Annual Report. Outside the recovery zone, secure habitat is measured by proximity to motorized routes and monitored for changes over time.

The Forest noted that the monitoring plan was designed to be cost effective and can be implemented during rising and falling budget cycles and is not intended to depict all monitoring, inventorying, and data-gathering activities undertaken on the national forest, nor is it intended to limit monitoring to just the questions and indicators listed (draft record of decision, page 25).

Conclusion

I find that Forest Supervisor Erickson has included monitoring questions that are specifically designed to monitor grizzly bear secure habitat and key stressors both with and outside of the grizzly bear recovery zone.

Lynx

Objectors contend that plan direction for lynx is not based on the best available scientific information and does not provide the ecological conditions necessary to contribute to lynx recovery.

Objectors' Proposed Remedies

- The protections for lynx habitat should include suitable habitat whether or not it is yet occupied.
- The forest service needs to go to the Lynx Critical Habitat Map and not have land categories like recreation emphasis and backcountry that compromise the long-term sustainability of the Canada Lynx.

Background

Per the planning regulations at 36 CFR 219.9(b), land management plans must "provide the ecological conditions necessary to contribute to the recovery of federally listed threatened and endangered species".

In March 2000, Canada lynx was listed as a threatened species under the Endangered Species Act due to the lack of adequate regulatory mechanisms, specifically the lack of guidance for conservation of lynx and snowshoe hare in

Forest Service land management plans and Bureau of Land Management land use plans. Since its approval in March of 2007, the Northern Rockies Lynx Management Direction has provided consistent management direction for lynx habitat on National Forest System lands. The purpose of the Northern Rockies Lynx Management Direction is to provide management direction to conserve lynx habitat and promote recovery by reducing or eliminating negative effects of land management activities on National Forest System lands. The Northern Rockies Lynx Management Direction is also designed to complement the multiple-use directive for the Forest Service. The direction includes both protective and proactive measures to maintain and improve or restore lynx habitat (final EIS section 3.14.8, page 371).

In 2016, a peer-reviewed species status assessment for the lynx was completed (Bell et al. 2016) to assist recovery planning, classification decisions, and other required determinations. In 2017, the Fish and Wildlife Service completed a 5-year review, informed by the species status assessment, that concluded the Canada lynx may no longer warrant protection under the Endangered Species Act and should be considered for delisting due to recovery (U.S. Department of the Interior 2017). The Fish and Wildlife Service stated that the habitat management direction put in place by the Forest Service and Bureau of Land Management subsequent to the Endangered Species Act listing substantially addressed the threats to lynx. The Northern Rockies Lynx Management Direction has been retained in the plan, including all standards, guidelines, and objectives.

Response

The Northern Rockies Lynx Management Direction applies to all National Forest System lands that are designated occupied by Canada lynx. The direction must be considered when planning and designing management activities in potential lynx habitat in those areas of the Forest designated unoccupied by lynx (final EIS section 3.10.2, page 365). The biological assessment discusses potential implications of this distinction and notes that "...unoccupied areas are expected to receive only transitory use by lynx, [therefore] temporary reductions in snowshoe hare habitat are expected to have insignificant effects for lynx moving through these areas" (final EIS Appendix G, page 76).

Some objectors argued that there should not be any overlap between lynx critical habitat and recreation emphasis areas or backcountry areas. Potential effects from land use allocations including backcountry areas and recreation emphasis areas are discussed in the final EIS (section 3.10.2, pages 380 to 383) and in the biological assessment (final EIS appendix G, pages 67 to 71). Collectively, allocations of recommended wilderness areas, backcountry areas, and key linkage areas would impose land use restrictions that help maintain habitat conditions for lynx by limiting the management actions that could occur, as well as limiting permanent developments and motorized and mechanized access to these areas. Backcountry areas would be maintained as generally undeveloped or lightly developed with no or few roads or other permanent human developments (e.g., FW-DC/STD/GDL/SUIT-BCA; see also components by geographic area). Backcountry areas often overlap with wilderness study area or inventoried roadless areas. Conversely, recreation emphasis areas are often adjacent to designated wilderness, recommended wilderness, backcountry area, or key linkage areas. Concentrating human use in these areas may consolidate use and associated habitat loss or fragmentation into relatively small areas, rather than spreading out impacts. This plan direction is consistent with direction brought forward from the Northern Rockies Lynx Management Direction to concentrate activities in existing developed areas, rather than developing new areas in lynx habitat (objective HU-O3). The plan also includes a desired condition for recreation emphasis areas to provide sustainable recreation opportunities that are responsive to changing recreation demands (FW-DC-REA-01), and a guideline to reduce the likelihood of establishing unplanned visitor use patterns (FW-GDL-REA-01). Direction adopted from the Northern Rockies Lynx Management Direction calls for new recreation developments to be designed to maintain effective lynx habitat and provide for lynx movement (guideline HU-G3). Collectively, this plan direction would serve to temper future impacts on surrounding lynx habitat from increasing use (final EIS Appendix G, page 68).

Objectors further contend the Forest cannot rely on the Northern Rockies Lynx Management Direction to support lynx recovery because it is not based on the best available scientific information. Forest Supervisor Erickson considered new scientific information such as (Copeland et al. 2010, Interagency Lynx Biology Team 2013, Holbrook et al. 2017a, Holbrook et al. 2017b, Hansen et al. 2018, Holbrook et al. 2018, Holbrook et al. 2019). These publications address many of the concerns of the objectors and are discussed in detail in the biological assessment (final EIS appendix G, pages 30 to 97) and in the final EIS (section 3.10.2, pages 349 to 391).

It is also important to note that the Northern Rockies Lynx Management Direction is not stand-alone management direction. The plan contains additional components and land allocations that support lynx recovery and habitat needs. Ecosystem-level plan components address vegetation composition, structure, function, and connectivity, and disturbance processes that provide habitat conditions comparable with those to which lynx have adapted. These components provide a clear trajectory for desired vegetation and are complementary to Northern Rockies Lynx Management Direction objectives that call for management actions to approximate natural processes (biological assessment, pages 44 to 50). The plan also contains components specifically designed to support lynx recovery and habitat needs (e.g., FW-DC-WL-02 and 03, FW-STD-WLLX-01 and 02), as well as components specific to connectivity for lynx (e.g., FW-DC-WLLX-01, FW-DC-WL-05 to 07, FW-GO-WL-02, 03, and 05). As I've already noted, land allocations in the plan provide further protections for lynx habitat (biological assessment, pages 50 to 53). The final EIS analyzes effects of the Northern Rockies Lynx Management Direction in the context of this additional plan direction (final EIS section 3.10.2, pages 367 to 373) and concludes that the plan is sufficient to provide the ecological conditions to contribute to the recovery of Canada lynx (page 391).

Conclusion

I find that Forest Supervisor Erickson complied with the requirement at 36 CFR 219.9 to “provide the ecological conditions necessary to contribute to the recovery of federally listed threatened and endangered species”, including Canada lynx, by including plan components that provide the necessary habitat conditions for Canada lynx recovery. Analysis in the final EIS and biological assessment demonstrates how plan components are designed to support lynx and lynx critical habitat.

The analysis is thorough and considers the best available scientific information, including many citations that are more recent than the Northern Rockies Lynx Management Direction. However, objectors provided some recent scientific information published after the draft record of decision was provided for the objection period. I am instructing Forest Supervisor Erickson to review this information and update the plan and EIS if warranted.

Climate Change

Background

The planning regulations at 36 CFR 219.8(a)(1) require plan components for ecosystem integrity taking into account system drivers such as climate change.

The planning regulations require the responsible official to identify information for a baseline assessment of baseline carbon stocks (36 CFR 219.6(b)(4)). However, they do not explicitly require plan components related to carbon.

36 CFR 219.19 provides the definition of ecological integrity as: the quality or condition of an ecosystem when its dominant ecological characteristics (for example, composition, structure, function, connectivity, and species composition and diversity) occur within the natural range of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human influence.

Plan Components and Analysis

Objectors contend the plan and final EIS do not use the best available scientific information related to climate change, and that the final EIS does not adequately describe the severity of potential climate change impacts or how climate change will affect the Forest's ability to achieve desired conditions. Some objectors also assert that the plan must do more to mitigate and adapt to climate change impacts in order to maintain ecological integrity and wildlife connectivity.

Objectors' Proposed Remedies

- The Forest needs to make extra effort to convey the risks it and the forests under its management face in a hotter, drier region that is on a course to get additionally hotter and drier as households and industries continue a dependency on energy derived from fossil fuels.
- Supplement the EIS and analyze the effects of climate change on the Forest.
- Preserving the most possible areas for wilderness designation will protect carbon sequestration on the forest and reduce intense wildfires. Climate change also intensifies the adverse impacts of roads on the landscape, reducing road densities will mitigate this affect. Landscape connectivity is also more necessary due to climate change. The cumulative effects of climate change should be considered in all decisions made on the forest.
- Return to the drawing board with a new component of climate change. You need to specifically state how actions of the Forest are going to address the threats of this climatic episode.
- Timber harvest plans should be suspended in view of climate change.

Response

The final EIS describes how managing for ecological integrity is a key strategy for addressing climate change. The planning regulations' definition of ecological integrity as the quality or condition of an ecosystem when its dominant ecological characteristics occur within the natural range of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human influence (36 CFR 219.19). The final EIS explains why natural range of variation, including the consideration of climate change, remains a valid concept that informs desired conditions (section 3.6.1, pages 165 to 166). In addition to the vegetation plan components designed to manage for natural range of variation, plan components for a variety of other resources explicitly recognize the threat of climate change and are designed to promote resilient ecosystems (e.g. FW-DC-WTR-01, FW-DC-WTR-09, FW-DC-PRISK-02, FW-DC-VEGF-03, FW-DC-VEGF-04, FW-GDL-VEGF-02, FW-GO-CARB, FW-DC-WLWV-01, and FW-DC-RECDEV-09). A goal to work with partners to understand and address the effects of climate change (FW-GO-CARB-01) was added in response to comments on the draft EIS. Climate change has also been added to the final environmental impact statement purpose and need for action (final EIS section 1.2.3, page 5). Refer also to the responses in final EIS appendix F (pages 19 to 21, 28, 104 to 105, 106) for a thorough discussion of how Forest Supervisor Erickson incorporated potential effects of climate change into plan analyses and how the plan responds to climate change concerns.

The final EIS describes potential effects of climate change on all resources mentioned by objectors, including vegetation (sections 3.6.1 and 3.6.2), fire (section 3.7.2), and associated effects on numerous different wildlife species (see for example whooping crane (pages 343 to 344), lynx (pages 353 to 354), or big game (page 533)). One objector contends the final EIS overstated the extent of plant water use efficiency gains prompted by increased carbon dioxide in the atmosphere. However, I found the final EIS explains there is uncertainty about what the net results will be given the interaction between potential gains in water use efficiency and lower soil water content (section 3.6.2, page 208). An objector also stated that the final EIS may be misleading stakeholders about the feasibility of maintaining old growth, yet the final EIS acknowledges that existing old growth is vulnerable to disturbances such as fire that are predicted to intensify with climate change (section 3.6.2, page 230). The plan

includes old growth plan components designed to factor in stressors including climate change in both describing desired conditions (FW-DC-VEGF-09) as well as protecting existing old growth (FW-GDL-VEGF-01 and 02). Management actions will be designed to maintain or increase the amount of old growth over the long term, and results from monitoring (MON-VEGF-01) will be used to ensure that old growth is indeed being maintained.

Finally, I'd like to refer objectors to the management approaches section of the plan (appendix A), which describes potential adaptation strategies that could be applied at the project scale to address climate change.

Conclusion

My review finds that Forest Supervisor Erickson adequately considered climate change in developing plan components, with a thorough review of the climate change effects on Forest resources.

Carbon Sequestration and Storage

Objectors contend that the plan does not adequately address the need to mitigate climate change through carbon storage and sequestration, and that the final EIS analysis of impacts on carbon storage is not based on the best available scientific information.

Remedies

- Review the scientific literature presented in scoping and draft plan comments regarding the benefits of soil carbon sequestration following the removal of livestock from shrubland and grassland ecosystems. This analysis must then be applied to creating interim grazing standards that reduce livestock grazing impacts on soils to improve carbon sequestration capacity.
- Include an additional goal or guideline to adapt forest and rangeland management objectives to emphasize carbon sequestration tailored to forest, grassland and shrubland soil and site capability as climate adaptation and carbon sequestration research evolves.

Response

As required by the planning regulations at 36 CFR 219.6, the Forest completed a baseline assessment of carbon stocks during the assessment phase of planning (Sandbak 2017). The final EIS shows estimates of baseline carbon stocks over a recent period from 2005 through 2013 for the Northern Region and the Custer Gallatin National Forest (final EIS section 3.8.3, pages 305 to 306). The final EIS includes a qualitative and general description of the effects of logging, thinning, and hazardous fuels reduction treatments on carbon stocks and emissions based on the best available scientific information. In addition, a new analysis was completed and added to the project record (20191205VegF_CarbonAssesment). This analysis includes an updated assessment of forest carbon in the plan areas and its role in the global carbon cycle. It also describes qualitatively how past and current management practices and environmental factors might influence carbon stocks and fluxes.

The final EIS also recognizes tradeoffs between ecosystem services provided by rangelands: "Although rangelands provide a variety of ecosystem services, such as wildlife habitat, recreation, watershed functions, carbon sequestration, and biodiversity conservation, these lands have primarily been managed for forage production and livestock grazing" (section 3.14.1, page 75). The final EIS notes that the soil carbon pool is generally considered stable (section 3.8.2, page 302) and so appropriately focuses on aboveground carbon. The Forest Carbon Assessment explains that federal management of non-forest ecosystems has a negligible impact on carbon because changes to carbon stocks in these systems are primarily driven by land-use change (20191205VegF_CarbonAssesment, page 19).

The plan includes a desired condition to sustain carbon storage and sequestration potential (FW-DC-CARB-01). Standards and guidelines for other multiple uses such as timber harvest and grazing are designed to promote

resilient vegetation communities, and therefore help to maintain carbon storage potential in both forests and rangelands (final EIS section 3.8.3, pages 305 to 306).

Conclusion

I find that Forest Supervisor Erickson complied with the planning rule direction at 36 CFR 219.6 by including a baseline assessment of carbon stocks that was subsequently updated to incorporate new information. Plan direction for carbon storage and vegetation conditions is designed to promote biologically diverse and resilient forests and rangelands that sustain carbon storage and sequestration potential. Analysis in the final EIS is based on the best available scientific information and addresses the objectors' concerns.

Designated Areas and Plan Allocations

Protection for Designated Wilderness Areas

Objectors assert that the plan does not provide adequate protection for wilderness, and that additional standards, goals, and monitoring are necessary to ensure that desired conditions are achieved.

Objectors' Proposed Remedies

- Add a standard that new trails shall not be designated or constructed in zone 1 areas of the Absaroka-Beartooth and Lee Metcalf Wilderness areas.
- The standards need to specifically include requirements of the Wilderness Act by prohibiting bicycles or other mechanized travel or activities, for example drones.
- Wilderness protections within the plan need to be more vigorous in language, more specific and enforceable. It should provide clear and measurable standards to protect, track and mitigate changes in Wilderness character.
- Include additional monitoring for soil quality, vegetation cover, native vegetation composition and water quality.
- New wilderness management plans for the Absaroka and Lee Metcalf should be drafted and appended to the final forest plan, just as the existing plans are appended to the Custer and Gallatin forest plans. Add a goal to do so within 2 years of approving the plan.

Background

The Wilderness Act describes prohibitions of certain uses which do should not be repeated in the land management plan (36 CFR 219.2(b)(2)).

The planning regulations at 36 CFR 219.10 (b)(1)(iv) requires plan components to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.

Response

The Wilderness Act in Section 4 describes what actions are prohibited and which can be authorized. The planning regulations (36 CFR 219.1(f)) require plans to "... comply with all applicable laws and regulation including... the Wilderness Act" and that "plans should not repeat laws, regulations, or program management policies, practices, and procedures" (36 CFR 219.2(b)(1)). As the proposed remedies suggested by the objectors include standards or guidelines that would restate prohibitions already found in the Wilderness Act, adding them to the plan would introduce the redundancy the planning regulations are trying to avoid.

Forest Service Handbook direction at 1909.12 section 22.1 recommends referencing the other sources of management direction rather than repeating them in the plans. The plan (page 108) references both the direction in the Wilderness Act and Forest Service Manual at 2340. The desired conditions and other plan components in the

plan were developed to provide additional direction to that referenced in the Act and manual. The standards and guideline address gaps in existing management direction without restating that direction.

The plan (pages 107-114) provides plan components for the management of designated wilderness areas and includes desired conditions delineated by three zones (pristine, primitive, and transition). The desired conditions for each zone are described in terms of four wilderness characteristics defined in the act (natural quality, opportunities for solitude and primitive unconfined recreations, undeveloped, and untrammeled). The plan also includes components which, while not restating language from the Act, support the Act by describing what is or is not suitable management activities in the designated wilderness areas. Plan components providing management direction for activities in designated wilderness can be found in special forest products (FW-STD-FP-01), airfields (FW-SUIT-AIRFIELDS-01), recreation settings (FW-DC-ROS-03), scenery (FW-GDL-SCENERY-02), and in the designated wilderness sections of the plan.

The final EIS acknowledges that there is no change in the amount of designated wilderness and the effects across the alternatives (final EIS section 3.21.2, page 259). It indicates the “suite of designated wilderness revised plan components would increase the Custer Gallatin’s ability to respond to changes or threats to wilderness character. Plan components provide opportunities for solitude and primitive recreation, maintain character, and maintain the ecological values such as protection from weeds and protection of water and wildlife” (final EIS section 3.21.2, page 259). Plan components promote ecological integrity of watersheds, allow fire to play its natural ecological role across the landscapes, address human/wildlife conflicts and reduce impacts from recreation use, and provide detailed guidance to improve resilient plant communities. This ensures the designated wilderness areas are managed in ways that are ecologically and socially sustainable for present and future generations and that plan components and individual wilderness management plans would provide for the ongoing protection and preservation of the character in designated wilderness on the Custer Gallatin National Forest (ibid).

Although objectors request wilderness management plans be appended to the 2020 Land Management Plan, current planning regulations differentiate land management plan and resource management plan development. When resource management plans such as wilderness management plans are developed, they must be consistent with the land management plan (FSH 1909.12 section 24.41). However, they are not plan content and appending to the plan is not required.

Conclusion

I find Forest Supervisor Erickson has met the requirements of the Wilderness Act, planning regulations and Forest Service Handbook direction in the development of a set of plan components to maintain the wilderness character in congressionally designated wilderness areas.

Amount and Location of Recommended Wilderness

Objectors requested more or less recommended wilderness, as well as changes to the boundaries of specific recommended wilderness areas. Reasons in support for additional recommended wilderness include maintaining the ecological and/or primitive nature of specific areas, while reasons in support of less recommended wilderness include maintaining existing recreational uses, access to exercise grazing and water rights, and/or opportunities for vegetation management and fire suppression. Some objectors contend that the rationale to not recommended various areas for wilderness designation is inadequate.

Objectors’ Proposed Remedies

- Suggestions to recommend (in full or with boundary modifications) additional areas for wilderness designation such as:
 - Pryor Mountains: Big Pryor, Punch Bowl, and a larger Lost Water Canyon / Crooked Creek Canyon

- Absaroka Beartooth Mountains: Republic Mountain, Line Creek Plateau, Burnt Mountain, Mystic, West Fork Rock Creek, Red Lodge Creek, East Rosebud to Stillwater, Upper and Lower Deer Creeks, Tie Creek, Chico Peak, Emigrant Peak, Dome Mountain, and all proposals in any alternative adjacent to the Absaroka-Beartooth Wilderness.
 - Crazy Mountains: Cave/Cascade Lakes drainages, Cottonwood Canyon to Big Timber Creek, Campfire, Lake Basin, Sweetgrass Creek, Sunlight Basin, the American Forks, wilderness inventory lands, 90,000 acres of inventoried roadless land.
 - Bridger Mountains: Blacktail Peak, North Cottonwood, Mill Creek, Corbly Creek, Bill Smith Creek, Tom Reese Creek, Evan Reese Creek, and Dry and Limestone canyons.
 - Gallatin Mountains: South Cottonwood, Hyalite Peak/Hyalite Lake, Mount Blackmore, upper portions of Hyalite, Storm Castle, Swan Creek, Sourdough, and Trail Creek basins, Hidden Lakes, West Pine, Porcupine, Buffalo Horn, Lone Indian Peak, Yankee Jim Lake, the entire WSA, combine the Gallatin Crest and Sawtooth RWAs at Sheep Mountain, the entire Gallatin Range.
 - Madison, Henrys Lake: Lionhead, Cowboy Heaven, areas adjacent to the Cabin Creek Wildlife and Recreation Management Area, area between Big Sky and the Taylor Fork; including Buck Ridge.
- Choose alternative D.
 - All remaining wilderness-quality lands should be protected as wilderness
 - All inventoried roadless areas and unroaded areas adjacent to inventoried roadless areas should be recommended wilderness.
 - The Forest Service should represent a broad, national, nonpolitical audience. If the Forest Service cannot do that, it should err on the side of limited, conservative, and gentle use of the land.
 - Supplement the EIS and include an alternative with all lands in the Northern Rockies Ecosystem as wilderness.
 - Include a stated goal of pursuing eventual acquisition of the non-public, 'checkerboard' inholdings in the south Crazy Mountains for future wilderness designation
 - Do not include recommended wilderness
 - Remove the Windy Pass area from RWA (Gallatin Mountains)
 - Don't recommend wilderness in the Crazy mountains given proximity to private lands.
 - Provide a buffer between recommended wilderness and non-national forest lands
 - Wilderness needs to be reduced for taxpayers' full multiple use of these lands.
 - Management of the forest must reflect the ratio of visitors and meet their needs in an equal manner (less than 3 percent of the visits to the forest are for wilderness recreation and 97 percent of the visits are for multiple use).

Background

The Multiple-Use Sustained-Yield Act at 16 U.S.C. 529 directs and authorizes the Secretary of Agriculture to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act.

The Wilderness Act at 16 U.S.C. 1131 directed the Secretary of Agriculture to review the wilderness potential of primitive areas identified by the Forest Service and to make wilderness recommendations for those lands within 10 years of enactment of the law. Subsequent state wilderness acts typically require the Forest Service to review the wilderness option of areas during plan revision.

The National Forest Management Act at 16 U.S.C. 1604(e)(1) requires plan revision provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-

Yield Act of 1960 [16 U.S.C. 528–531], and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness.

At 16 U.S.C. 1604(g)(3)(A) the National Forest Management Act requires consideration of the economic and environmental aspects of various systems of renewable resource management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife, and fish.

Forest Service Handbook (FSH) 1909.12, chapter 70, outlines the wilderness recommendation process. The process occurs in four primary steps: inventory, evaluation, analysis, and recommendation. Each step requires documentation and public participation. The required documentation must be made available to the public as required by section 70.61 and should be consolidated in an appendix to the applicable NEPA documents. All plan revisions or new plans must complete this process before the responsible official determines, in the plan decision document, whether to recommend lands within the plan area to Congress for wilderness designation (36 CFR 219.7 (c)(2)(v)).

Response

To begin this response, I want to acknowledge the diverse spectrum of values regarding this issue. Comments throughout the plan revision effort, the objections, and discussions at the resolution meeting demonstrate varied perspectives and passion stakeholders hold regarding the recommendation of areas for wilderness designation. Some objectors assert all areas with wilderness characteristics should be recommended for designation as critical areas for wildlife conservation, climate change refugia, or because they hold a passion for the untrammeled nature of a wilderness recreation setting. As an objector at the meeting stated, “I can only conclude that the only effective protection for our wildlands and wildlife and watersheds is wilderness”. Others said they seek recommended wilderness as the “gold standard” for the sake of wildlife or to protect the “super wild landscape even as we see population growth in the future that's going to be huge in the surrounding area”.

Other objectors point to the amount of land currently designated as wilderness to address those values and express similar passion for a broad spectrum of both motorized and mechanized recreation opportunities on the Forest. They hold values for the need to manage vegetation for wildlife habitat, to reduce risk of wildfire in light of climate change, access for firewood gathering and recreation, and to contribute to economic sustainability and prefer little or no additional recommendations. At the resolution meeting, an objector asked that as I look for opportunities to resolve objections they “would appreciate if you would be sensitive that only 19 percent of the Custer Gallatin is in an area where it's suitable for timber [production]...” and additional recommendations for wilderness further limit “those precious few acres that we have to treat”. Another cited concerns regarding the adjacency of recommended wilderness to intermixed private lands and lack of Forest Service access, particularly in the Crazy Mountains.

I also recognize that others have worked hard in local collaborative efforts to reach compromise on specific areas across the Forest that may or may not be fully reflected in Forest Supervisor Erickson’s draft record of decision.

As I indicated in the resolution meetings, my role as the reviewing officer is not to ask anyone to change their values. I appreciate that it is the expression of those values in comment, objections, and ongoing collaborative efforts that ensures Forest Supervisor Erickson has sufficient information to make an informed decision. Thus, I have endeavored to review her decision in light of what I have read and heard, and evaluate not only whether she has complied with the legal and regulatory requirements, but also that she has provided a clear and reasoned rationale for her decision.

Consistent with the Wilderness Act, the Multiple-Use Sustained-Yield Act, and the National Forest Management Act, the planning regulations at 36 CFR 219.7 require national forests to identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend any such lands

for Congress to consider for wilderness designation. FSH 1909.12, chapter 70, outlines the wilderness recommendation process in four primary steps: inventory, evaluation, analysis, and recommendation.

Consistent with the requirements in chapter 70, appendix D of the 2018 proposed action describes the identification of the wilderness inventory and then evaluates each area for wilderness characteristics using the five criteria set forth in the Wilderness Act of 1964 and FSH 1909.12, section 72.1. This appendix documents the questions and measures that the team used to address each of these five criteria to provide a consistent way to evaluate each area in the inventory for wilderness characteristics in a comparable manner. Appendix D of the final EIS describes each area recommended for wilderness in any alternative, as well as the rationale for excluding wilderness inventory polygons, or portions thereof, from further analysis in any alternative as outlined in FSH 1909.12, section 73. It also documents the public participation opportunities offered to acquire feedback and input on the inventory and evaluation of the areas considered for recommendation.

Based on the evaluation and public input, the alternatives in the final EIS analyze a wide range of recommended wilderness areas. This includes recommending from 0 to an additional 700,000 acres of land for wilderness designation (final EIS section 2 and section 2.6, table 2). Alternatives considered, but not given detailed study (final EIS section 2.5.10, pages 30 to 35) included recommending all roadless areas and all lands in the wilderness inventory for wilderness designation. Chapter 3 of the final EIS discloses the effects of plan components associated with recommended wilderness management direction specific to each of the various resources of the plan area, informing the responsible official of the management trade-offs associated with the amount and location of this plan allocation.

While the wilderness evaluation informs the responsible official of the suitability of an area for inclusion in the wilderness preservation system, the degree of wilderness characteristics does not predetermine whether an area is recommended or not. In other words, an area with high quality wilderness characteristics does not mean an area must be recommended. Nor does it mean an area with some “imprints of man’s work” cannot be recommended. Rather, the responsible official considers this information, together with the effects of the plan components that protect the suitability of the area for designation disclosed in the final EIS, and public engagement when exercising their broad discretion to recommend an area or not. Table 76 in appendix D of the final EIS provides the reasons for excluding wilderness inventory polygons, or portions thereof, from further analysis in one or more alternatives.

The draft record of decision (pages 11-16 and pages 25-27) discloses the factors Forest Supervisor Erickson considered when making her decision to recommend areas or assign other land allocations in the 2020 Land Management Plan. She explains that she “focused on those areas that represent high-quality lands that are capable of maintaining the unique social and ecological characteristics that make them eligible for wilderness designation, while minimizing the inherent tradeoffs that come with managing these areas to maintain their wilderness characteristics”. She did this either by primarily selecting areas where current uses and activities inconsistent with a wilderness designation are currently not authorized or occur rarely, where other active management needs have been identified, or by modifying boundaries to exclude areas with inconsistent activities. This includes, for example, the boundary choices for the Gallatin Crest Recommended Wilderness Area. She also largely avoided recommended wilderness in checkerboard private land ownership such as the Crazy Mountains (also see the Management of Recommended Wilderness Areas issue summary).

However, I appreciate the discussions at the resolution meeting that helped me understand where objectors seek clarity in the decision, particularly for those areas that did *not* get recommended in the draft record of decision. For example, some explained they didn’t understand the rationale describing a need for “management flexibility” or asserted the rationale to maintain existing recreation access was “opening up” an area to new, unauthorized use. Or as another said, “it appears that the current plan holds recommended wilderness to a higher standard than designated wilderness”.

Some objectors expressed concern that recommended wilderness is the only designation that can provide adequate protection for ecological resources, and without this designation the plan components are not able to adequately protect and maintain ecological integrity or provide for wildlife connectivity. Some assert recommending “only 125,675 acres of the total forest fails to adequately address environmental and social aspects of forest health and use...fails to address these effects on the ecology of the Forest and surrounding area as a whole...and jeopardizes the environmental health of Yellowstone National Park”. At the resolution meeting for example, one objector said they “feel that the best way to protect the remaining relatively intact areas in the Bridgers and the Crazies is through recommended wilderness” and seek additional explanation for how backcountry area allocations will protect “relatively intact areas” from “hugely expanding recreation access”. Other objectors mentioned similar concerns for other areas. However, regardless of whether an area is recommended for wilderness or not, the plan includes a suite of plan components and land allocations to maintain and restore ecological integrity and species diversity (final EIS section 3.6.3). This includes forestwide plan components for terrestrial and aquatic resources, as well as specific areas such as key linkage areas, research natural areas, backcountry areas, inventoried roadless areas, and the existing designated wilderness areas.

Analysis in the final EIS determined components continue to provide, and in some cases, provide increased guidance and protections, as compared to the current plans, for Watershed, Aquatic Species and Habitat, and Riparian Ecosystems (final EIS section 3.4.3, page 111); At Risk Plant Species (final EIS section 3.5.3, pages 154-155); Invasive Species (final EIS section 3.9.3, page 330); and Wildlife (final EIS section 3.10, pages 380-382, 440-441, 469-471, 512-517, 535-537, 554-556, 584-587). It’s also important to note that over 1 million acres of the Forest is currently designated as wilderness, with an additional, 844,000 acres within inventoried roadless areas, thus providing statutory and regulatory management constraints in addition to the 2020 Land Management Plan components on over 60 percent of the Forest.

Other objectors expressed concern that the plan’s designated areas and land allocations, such as recommended wilderness and backcountry areas, prevent the plan from providing for adequate access for recreation, grazing, and vegetation management and could negatively impact adjacent private lands. The draft record of decision describes how alternative F includes a range of land allocations and provides plan direction for uses that support local communities, including wood products, forage for livestock, the Stillwater Mine complex, municipal water supplies, and recreation uses (draft record of decision, page 10). Backcountry areas provide more flexibility for future vegetation management in that while not suitable for timber production, timber harvest is suitable (FW-BCA-SUIT-01). In recommended wilderness areas, low impact restoration activities are suitable such as prescribed fires, active weed management, and planting (FW-RWA-SUIT-03).

Continued livestock use is suitable where permitted prior to the area being identified as recommended wilderness (FW-RWA-SUIT-04). The final EIS analyzes how grazing would be impacted under all alternatives. The permitted use of the existing active grazing allotments would continue and motorized transport for grazing allotment administration can continue for maintenance of allotment infrastructure in allotments within recommended wilderness areas and backcountry areas (final EIS section 3.14.3).

In addition, the final EIS analyzes how recreation access would be impacted under all alternatives. Revised plan alternatives establish desired recreation opportunity spectrum classes for both summer and winter recreation settings that provide overall guidance and set expectations for the recreation settings on the Forest. Desired recreation opportunity spectrum classes would aid in managing both existing and emerging recreation uses (final EIS section 3.19, pages 221, 228-229). Also see the sustainable recreation issue summary.

Issues summaries addressing additional objections related to Hyalite-Porcupine-Buffalo Horn Wilderness Study Area and other geographic area land allocations can be found later in this response.

Conclusion

While I provided some instructions regarding the evaluation of the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area in a following issue summary, overall I find that Forest Supervisor Erickson has appropriately followed and documented the wilderness evaluation and recommendation process as outlined in the Forest Service Handbook 1909.12, Chapter 70. In addition, she considered the wide breadth of public perspectives and input by analyzing the trade-offs associated with varying land allocations in the final EIS. While I recognize many objectors would prefer either more or less wilderness recommendations, the rationale provided in her decision, as supported by the planning record, demonstrates the careful consideration she gave to accommodating the appropriate mix of multiple uses the Forest Service is mandated to provide.

Although I find Forest Supervisor Erickson has made a sound decision within her broad discretion for the areas she *is* recommending for wilderness designation, I also recognize that some objectors seek additional information why areas they highly value were *not* recommended. Therefore, I am instructing her to provide additional rationale for how she weighed the land allocation decisions.

Management of Recommended Wilderness Areas

Background

Per the planning regulations at 36 CFR 219.2 (b)(1) a land management plan provides a framework for integrated resource management and for guiding project and activity decisionmaking on a national forest, grassland, prairie, or other administrative unit. At (2) it indicates a plan does not authorize projects or activities or commit the Forest Service to take action. A plan may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur. Projects and activities must be consistent with the plan (36 CFR 219.15). A plan does not regulate uses by the public, but a project or activity decision that regulates a use by the public under 36 CFR Part 261, Subpart B, *may* be made contemporaneously with the approval of a plan, plan amendment, or plan revision [emphasis added here].

The planning regulations at 36 CFR 219.7 direct that “specific lands within a plan area will be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. The plan will also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands.”

36 CFR 219.15(e) describes consistency requirements for resource plans within the planning area. Any resource plans (for example, travel management plans) developed by the Forest Service that apply to the resources or land areas within the planning area must be consistent with the plan components. Resource plans developed prior to plan decision must be evaluated for consistency with the plan and amended if necessary.

Chapter 70 of FSH 1909.12 at section 71.4 states “when developing plan components for recommended wilderness areas, the responsible official has discretion to implement a range of management options. All plan components applicable to a recommended area must protect and maintain the social and ecological characteristics that provide the basis for wilderness recommendation” as required by 36 CFR 219.10(d)(1)(iv).

Suitability for Motorized and Mechanized Means of Transportation

Objectors contend that removing motorized and mechanized means of transportation in areas recommended for wilderness designation contradicts an August 2019 letter of direction from Regional Forest Leanne Marten. They assert this creates “defacto wilderness” circumventing Congressional authority to designate wilderness. Objectors also allege that despite the programmatic nature of the plan decision, it in fact approves the eventual site-specific prohibition.

Objectors' Proposed Remedy

Allow existing and current historic use in recommended wilderness to continue.

Response

The planning regulations include a substantive requirement to include plan components for “management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation” at 36 CFR 219.10(b)(10)(iv). They also require the responsible official to identify the suitability of lands within the plan area for various multiple uses or activities based on the desired conditions applicable to those lands (36 CFR 219.7(e)(1)(v)). Suitability identifications may be made after consideration of historic uses and of issues identified during the planning process. Allowed uses in land allocations such as the areas recommended for wilderness designation was identified as a significant issue that drove alternative development for the EIS (final EIS section 2.4.1).

The draft record of decision indicates that motorized and mechanized uses would be not be suitable in areas recommended for wilderness designation per the suitability plan component FW-SUIT-RWA-02 to preserve the wilderness characteristics, including the undeveloped nature, and opportunities for solitude and primitive recreation in recommended wilderness. This suitability component will guide future, site-specific travel management decisionmaking within recommended wilderness, but the plan approval decision does not in and of itself close the areas to motorized and mechanized transportation. Land management plans provide direction for the Forest Service, not the public, therefore, the plan alone cannot prohibit public uses such as biking or snowmobile use. Where a plan identifies an area as not suitable for an activity such as mechanized transport (e.g., mountain biking), the plan has no immediate effect on the public (FSH 1909.12 chapter 21.8). Although a project or activity decision such as designations or prohibitions for motor vehicles or mechanized use by the public under 36 CFR Part 261, Subpart B or C, may be made contemporaneously with the approval of a plan revision, Forest Supervisor Erickson did not choose to do so with this decision.

The draft record of decision describes the programmatic nature of the plan decision (page 9) and indicates site-specific NEPA decisionmaking to address travel management designation inconsistencies with the land management plan's suitability direction will be initiated as soon as practicable (page 27 and 45-46). Thus, consistent with the regulations, the plan includes the broad, programmatic decision regarding suitability in these locations, and the draft record of decision specifies that site-specific planning and environmental analysis would be conducted at a later date to regulate such use. Section 3.22.2 (effects of alternative F) describe the effects of the programmatic decision. As indicated in the Mix of Motorized, Non-Motorized, and Mechanized Transport (Mountain Biking) Recreation Opportunities issue summary, 42 and 45 percent of the forest is allocated to motorized recreation settings in summer and winter respectively.

I issued a letter in April of 2019 to clarify the National Forest Directive System is the only Forest Service policy guiding land management planning in the Northern Region. This letter stated that “Any regional memos, letters, or supplements guiding Land Management Plan revision dated before January 30, 2015 are superseded” (planning record document 20190423RfManagementRWANorthernRegion). That clarification did not dictate the decision space for management of recommended wilderness or any aspect of plan revision, it simply provided clarification that only the regulations and 2015 directives provide plan revision policy in the region. The planning regulations require plan components “to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation” (36 CFR 219.10(b)(iv)). However, as described in section 74.1 of FSH 1909.12, chapter 70, the responsible official has the discretion to meet the regulatory requirement by including plan components that continue existing uses, alter existing uses, or eliminate existing uses. As such, the final EIS evaluated a range of alternatives with plan suitability that would guide site-specific decisionmaking to either continue or eliminate existing uses.

Objectors also mentions the plan decision “does not follow the agreed upon approach” described in the 2001 Off-Highway Vehicle Record of Decision and Plan Amendment for Montana, North Dakota, and Portions of South Dakota (often referred to as the tri-state off-highway vehicle decision). That decision amended the 1986 Custer and 1987 Gallatin Land and Resource Management Plans to prohibit motorized wheeled cross-country travel, while deferring “[off-highway vehicle] use on individual roads and trails” to site-specific planning. Since that plan amendment decision in 2001, the Forest Service promulgated the 2005 Travel Management Rule requiring site-specific designation of motor vehicle use (36 CFR 212 subparts B and C) and the 2012 Planning Rule codifying the three levels of Forest Service planning as national strategic planning, national forest system unit planning (i.e., the plan revision effort), and project or activity planning (e.g., travel management decisionmaking) (36 CFR 219.2). Consistent with both the travel management rule and the tri-state off-highway vehicle decision, the Forest completed the site-specific travel management decisionmaking designating roads and trails for motor vehicle use prior to the revision effort. And as described above, this plan level decision describes broad motor vehicle use suitability but does not include the site-specific decision to change current motor vehicle designations.

Conclusion

I find Forest Supervisor Erickson acted within her discretion to include plan components indicating motorized and mechanized transport are not suitable in recommended wilderness areas to maintain and enhance their wilderness characteristics. In addition, she provided the required information about addressing the inconsistency between the current motorized and mechanized public use authorizations in recommended wilderness areas and the land management plan’s suitability determination after plan approval through future site-specific decisionmaking.

Windy Pass Cabin and Communication Sites

Objectors assert that the Windy Pass cabin should not be removed from the rental program and that the final EIS does not fully disclose the effects of this decision. Some objectors are concerned communication tower and facilities are critical for connection and should not be limited.

Objectors’ Suggested Remedies

- Keep Windy Pass Cabin open for public rental.
- Remove the restrictions on communication sites.

Response

Several objectors at the resolution meeting talked about Windy Pass Cabin as a popular destination, with public investment both in terms of monetary contributions and volunteer work. While some would prefer that all historic structures and facilities remain in recommended wilderness areas, there appears to be broad support for at least keeping the Windy Pass Cabin on the rental program.

As required by the planning regulations at 36 CFR 219.10(d)(1)(iv), the 2020 Land Management Plan includes plan components for the protection of areas recommended for wilderness designation (plan, pages 123-125). This plan direction includes desired conditions for wilderness characteristics (FW-DC-RWA-01) and opportunities for solitude and primitive recreation (FW-DC-RWA-02). To constrain management activities that could affect maintaining or achieving those desired conditions, the plan standard FW-STD-RWA-04 and suitability FW-SUIT-RWA-05, which limit developed recreation such as recreation rental cabins; and standard FW-STD-RWA-03 and suitability FW-SUIT-RWA-07, which limit commercial communication facilities.

The final EIS address the effects to recreational rental cabins in sections 3.19.4 and 3.22.2 and the effects to communication sites in section 3.22.2. However, they only disclose the change in numbers of these facilities. The effects of maintaining or closing one or more rental cabins on the recreation rental program or the effects of maintaining/reducing communication facilities are not clear.

Conclusion

While I find Forest Supervisor Erickson has included plan components within her discretion to protect and maintain the ecological and social characteristics of recommended wilderness areas that provide the basis for their suitability for wilderness designation, I am instructing her to clarify the effects of those plan components in the final EIS beyond just a change in numbers of cabins or communications sites.

Prescribed Fire and Chainsaw Use

Objectors contend that the plan needs to include clear direction on the use of chainsaws in recommended wilderness, and that the final EIS lacks clarity regarding the use of prescribed fire in recommended wilderness.

Objectors' Suggested Remedies

- Modify the first sentence of the final EIS "Effects from Fire and Fuels Management" (section 3.22.2) to state, "Under the revised plan alternatives prescribed and wildland fire may be used if needed as a restoration tool."
- Include a plan component similar to the Helena-Lewis and Clark National Forest 2020 Land Management Plan.

Response

The 2020 Land Management Plan does not limit the use of chainsaws on any area of the Forest. Identifying suitability helps determine if future projects and activities are consistent with desired conditions, but the suitability of lands need not be identified for every use or activity per 36 CFR 219.7 (e)(1)(v). In other words, unless chainsaw use for trail maintenance or restoration is explicitly not allowed by a standard or guideline, or a suitability component states it is *not* suitable, it would be allowed. The final EIS acknowledges vegetation restoration (e.g., for whitebark pine) may occur in recommended wilderness, although it indicates hand thinning would be emphasized over mechanical thinning (section 3.22.2). However, other than a plan component for wilderness study areas, the use of chainsaws for trail clearing is not mentioned in the plan or EIS.

As for the use of prescribed fire, the final EIS (section 3.22.2) acknowledges the different management strategies in the current Custer and Gallatin plans, but then describes the suitability plan component FW-SUIT-RWA-03 that indicates low impact restoration activities, such as prescribed fires, are suitable in recommended wilderness areas in all plan alternatives. Although the effects of fire and fuels management in recommended wilderness areas uses the term wildland fire, the glossary defines the two types of wildland fire as unplanned (natural or human-caused wildfire) and planned (prescribed fire). Thus, it is very clear prescribed fire may be used in recommended wilderness areas to achieve desired conditions.

Conclusion

I find the plan components for recommended wilderness areas in the 2020 Land Management Plan comply with the planning regulations. However, I recommend Forest Supervisor Erickson consider whether additional clarity regarding chainsaw use in recommended wilderness would help inform project and activity decisionmaking.

Hyalite-Porcupine-Buffalo Horn Wilderness Study Area

Generally, objectors contend that by failing to recommend the whole of the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area for wilderness designation, the Forest Service has not met its legal obligation under the Montana Wilderness Study Act of 1977 (statute). Other objectors oppose recommendation of any of the area for wilderness designation.

Background

The Hyalite-Porcupine-Buffalo Horn is a Wilderness Study Areas originally identified in the Montana Wilderness Study Act (Public Law 95-150, S393), passed by Congress in 1977. The Act states “wilderness study areas designated by this Act shall...be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.” In accordance with the Act, the areas were studied to determine “their suitability for preservation as wilderness and report these findings to the President.” The existing 1987 Gallatin Forest Plan did not identify these areas as recommended wilderness, but the Forest has continued to manage it to protect its wilderness character as it existed in 1977 and maintain its potential for inclusion in the wilderness preservation system, awaiting a Congressional decision.

Planning regulations at 36 CFR 219.10(b)(iv) require plan components for the “Protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.”

FSM 1923.03 states “Any area recommended for wilderness or wilderness study designation is not available for any use or activity that may reduce the wilderness potential of an area.”

R1 Supplement 2300-2008-1 at 2329(3)(d) provides direction related to mechanized use within the Wilderness Study Area indicating mountain bikes may be allowed on trails that had established motor-bike use in 1977, or on non-motorized trails as long as the aggregate amount of mountain bike and motorcycle use maintains the wilderness character of the Wilderness Study Area as it existed in 1977 and the area’s potential for inclusion in the National Wilderness Preservation System.

Wilderness Evaluation

Some objectors contend that the Gallatin Crest area of the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area should not be identified as recommended wilderness because the decision was based on a flawed eligibility analysis. Other objectors contend that the decision not to recommend portions of the wilderness study area as wilderness did not consider all relevant scientific information, and that plan components fail to provide guidance to maintain the potential for inclusion in the Wilderness Preservation System or protect the ecological resources in the area.

Objectors’ Proposed Remedies

- Reverse Supervisor Erickson’s decision to recommend 77,631 acres of the wilderness study area as new wilderness.
- Select alternative D.
- Recommend the full Hyalite-Porcupine-Buffalo Horn Wilderness Study Area for wilderness designation.
- The Forest Service should include Dr. Craighead’s report.

Response

Multiple objectors expressed concern about management of the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area both in their written objections and at the resolution meeting so I’d like to clarify that the plan *will not reduce the size of the wilderness study area* or “eliminate protections” required under the law. On the contrary, the plan components are designed to maintain the wilderness character as of 1977 for the area as a whole, and increase protections for the area recommended for wilderness designation compared to management direction provided in the 1987 Gallatin Forest Plan (2020 Land Management Plan, page 172 and final EIS section 3.21.3). Given Congress’ stated intent to either designate or release wilderness study areas at some point in time, the final EIS also discusses how the area would be managed per the management direction associated with assigned land allocations in the

event that Congress releases the study area from the Montana Wilderness Study Act (final EIS section 3.21.3, pages 268 to 272).

In addition, the Montana Wilderness Study Act of 1977 *does not require a responsible official to recommend a wilderness study area* for wilderness designation in the associated land management plan. Rather, it requires the Forest Service to review the area's suitability for preservation as wilderness. As such, the Forest Service studied the suitability of the area for inclusion in the wilderness preservation system in the early 1980s and recommended that it *not* be designated wilderness at that time. The checkerboard ownership pattern was largely responsible for the conclusion that the area was unsuitable for wilderness designation. Since then, nearly 37,000 acres of private land have been acquired as national forest within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area boundary (final EIS section 3.21.3, page 266). The Final Existing Designated Areas Report (planning record document 20170216FinalDesignatedAreasRpt, pages 9 to 12) describes the status, history, condition, and the current range of uses permitted within the wilderness study area as required for assessment at 36 CFR 219.6.(b)(15).

As required by the planning regulations at 36 CFR 219.7(c)(2) and FSH 1909.12 chapter 70, the area was included in the wilderness inventory and evaluated for its suitability for inclusion in the National Wilderness Preservation System a second time to determine whether to recommend any or all of the area for wilderness designation. The wilderness analysis in appendix D of the final EIS describes the current wilderness characteristics of the area (as represented in alternative D's Gallatin Recommended Wilderness Area final EIS volume 3, pages 272 to 274). The analysis acknowledges much of the area is naturally appearing, undeveloped, and provides opportunities for unconfined recreation and solitude, but also describes outstanding mineral rights, reserved rights, oil and gas leases, commercial communication facilities, recreation cabin rentals, grazing infrastructure, and motorized and mechanized recreation uses in portions of the area.

In consideration of diverse viewpoints provided through public comment, Forest Supervisor Erickson considered a range of alternatives along the spectrum of recommending most of the wilderness study area, portions of the area, or none at all (final EIS section 2.5 and section 3.21.3 pages 266 to 270, and appendix D, pages 272 to 277). Pages 291 through 297 of appendix D to the final EIS describe the reasons portions of evaluated areas were not recommended and analyzed in one or more alternatives of the NEPA analysis as required by FSH 1909.12 section 73.

Discussions at the resolution meeting clearly demonstrate some objectors hold a high value for the area and would prefer the whole of the wilderness study were recommended for wilderness discussion. However, allegations that recommending only a portion of it would be unlawful is not true. The Forest Service is not obligated under any law, regulation, or policy to recommend areas for wilderness designation. Rather, a responsible official has the discretion to consider the information in the wilderness evaluation and analysis, the land and resource management tradeoffs in the final EIS, and public input when making a decision to recommend any or all of the wilderness inventory, including wilderness study areas. Forest Supervisor Erickson describes her consideration of these factors for the areas she determined should be recommended for wilderness designation to Congress on draft record of decision page 25 through 26, with additional rationale for the backcountry area and recreation emphasis area allocations on page 15-17. She indicates she focused on those areas that represent high-quality lands that are capable of maintaining the unique social and ecological characteristics that make them eligible for wilderness designation while minimizing the inherent tradeoffs that come with managing these areas to maintain their wilderness characteristics.

Despite not recommending the whole of the wilderness study area for wilderness designation, the 2020 Land Management Plan recognizes the status of the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area as an area designated by congress in the Montana Wilderness Study Act of 1977. Plan components for the management of the Hyalite-Porcupine-Buffalo-Horn Wilderness Study Area (plan page 171 to 173) were developed to manage the area consistent with statute, planning regulation requirements at 36 CFR 219.10(b)(iv), and FSM-R1 2329. Plan standards

for the whole of the wilderness study area prohibit new or temporary roads, new energy or utility structures, new commercial communication sites, developed recreation sites, the extraction of saleable minerals and the authorization of recreation events (plan, page 172). In addition, Forest Service Manual 2329 regional supplement provides direction for managing motorized and mechanized transport in wilderness study areas, including guidance that mechanized modes of transportation are allowed on non-motorized trails, and prohibited off trails, “as long as the aggregate amount of use maintains wilderness character of the WSA as it existed in 1977”.

In the portion of the wilderness study area recommended wilderness, the plan indicates the more restrictive recommended wilderness area plan direction applies. The additional plan components, such as those that indicate motorized and mechanized transport are not suitable, constrain uses inconsistent with a wilderness designation. For the portions allocated to backcountry areas, recreation emphasis areas, or overlapping designated areas, the plan indicates wilderness study area plan direction takes precedence, as required by the statute (2020 Land Management Plan page 171-172), unless and until such time as Congress releases the area. If Congress were to designate any or all of these areas as wilderness, an administrative change to the plan would apply designated wilderness area direction consistent with that legislation (36 CFR 219.13(c)).

Some objectors assert that since only a portion of the wilderness study area is identified as recommended wilderness, the plan will not provide adequate protection for the ecological resources in this area. The draft record of decision (page 26) describes how areas that were not selected as recommended wilderness will be managed. Chapter 3 of the final plan (page 172) describes the overlapping land allocations of recommended wilderness area, backcountry area and recreation emphasis area for most of the wilderness study area, with overlapping direction for a research natural area and the inventoried roadless area designation. Where management direction overlaps, the most restrictive guidance would apply. Chapter 2 of the plan includes multiple forestwide plan components to guide management of Forest’s ecological resources. Chapter 3 of the final plan (pages 172-174) provides multiple plan components that guide management of ecological resources in the wilderness study area.

Analysis in the final EIS indicates plan components continue to provide, and in some cases, provide increased guidance and protections, as compared to the current plan, for both ecological resources and wilderness character (final EIS sections 3.21.3, 3.21.6, and 3.22.4). Section 3.10.6 (pages 584 to 587) of the final EIS describes how plan components for overlapping land allocations protect or preserve connectivity for wildlife species. More broadly, the final EIS demonstrates the 2020 Land Management Plan’s forestwide holistic approach for preserving wildlife habitat connectivity across the Forest and across resource areas (final EIS section 3.10.6, pages 566 to 599).

Some objectors assert that in the wilderness evaluation process criteria were not used properly because soundscape intrusion data collected in 2011 by Wilderness Institute field crews in the wilderness evaluation is not included. Appendix D documents that the Forest used a consistent data set throughout the wilderness evaluation process. The project record documents that the sound of aircrafts over the wilderness study area was not included in the 2012 Hyalite-Porcupine-Buffalo Horn Wilderness Character Monitoring Report as it was not repeatable, standardized survey auditory intrusions (2012 Hyalite-Porcupine-Buffalo Horn Wilderness Character Monitoring Report, page 92). The response to comments (final EIS appendix F, page 139) mentions a commenter’s concern but does not describe why the information wasn’t considered in the evaluation.

Other objections assert Forest Supervisor Erickson didn’t use the report titled Wilderness, Wildlife, and Ecological Values of the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area (Craighead 2015), thus is ignoring best available scientific information. The response to comments (final EIS appendix F, page 15) explains the study was not cited in the planning documents because the publication’s information is consistent with the analysis and with the other publications that are cited. However, objectors at the resolution meeting cited this report multiple times as evidence the whole of the wilderness study area must be recommended for wilderness, thus likely disagreeing with this response although that’s not specifically stated.

Conclusion

I find that Forest Supervisor Erickson has met the requirements of the Montana Wilderness Study Area Act of 1977, the planning regulation, and Forest Service manual and handbook with the adoption of plan components specific to the entire Hyalite-Porcupine-Buffalo Horn Wilderness Study Area. Analysis in the final EIS describes how plan components provide for protection of both wilderness characteristics and ecological values. Appendix D documents compliance with the wilderness process outlined in Forest Service Handbook 1909.12, chapter 70. The draft record of decision provides a clear explanation of the rationale for which areas were recommended as wilderness. See the Amount and Location of Recommended Wilderness Areas issue summary for additional discussion.

However, the final EIS does not indicate how information related to sounds of low flying aircraft were considered in the wilderness evaluation. Therefore, I am instructing Forest Supervisor Erickson to clarify this in the final EIS.

I am also instructing Forest Supervisor Erickson to provide additional explanation of how the information in the 2015 Craighead Report relates to the analysis in the EIS to provide clarification for objectors.

Mountain Bikes and Motorized Recreation in the Wilderness Study Area

Objectors contend that the plan inappropriately prohibits bicycles in a recommended wilderness area that is part of a wilderness study area without first proving that they cause environmental damage. Others contend allowing mountain bikes in the portions not recommended violates the Montana Wilderness Study Act as that use was not occurring in 1977.

Objectors' Proposed Remedies

- The burden of proof lies with Custer Gallatin National Forest to demonstrate the need to restrict bicycles in the proposed Gallatin Recommended Wilderness Area. In the absence of such proof, it behooves the Forest to allow continued bicycle access on trails as this landscape falls under the trust built and compromises made in the Montana Wilderness Study Area Act.
- Evaluate the Gallatin crest Trail #96 National Recreation Trail recognition and include it as a mountain biking corridor in the Gallatin Crest Recommended Wilderness Area.
- Only by banning bikes in the wilderness study area will the impact on the wildlife be eased.
- To preserve the wilderness character of the wilderness study area, reroute the Big Sky Snowmobile trail to the west side of US 191 at the Porcupine Creek trailhead, up Buck Ridge road and onto the Cinnamon-Buck trail and existing and decommissioned logging roads to the south. The land must be restored to its previous wilderness character.

Response

This response will solely address management of mountain bike and motor vehicle use per the Montana Wilderness Study Act. See my responses in preceding sections regarding plan components for recommended wilderness areas in general.

Mountain biking is a recreation use that is allowed anywhere on national forest system lands, unless prohibited under an order per 36 CFR 261 after site-specific NEPA decisionmaking. Northern Region manual guidance indicates mountain bikes in wilderness study areas may be allowed on trails that had established motor-bike use in 1977, or on non-motorized trails as long as the aggregate amount of mountain bike and motorcycle use maintains the wilderness character of the study area as it existed in 1977 and the area's potential for inclusion in the National Wilderness Preservation System.

The final EIS indicates mountain bike use has the potential to affect the undeveloped nature and primitive recreation characteristics of recommended wilderness areas (final EIS section 3.22.2). In consideration of these

effects and public input, Forest Supervisor Erickson exercised her discretion to indicate that mountain biking would not be suitable in recommended wilderness areas because she determined it “preserves the wilderness characteristics, including the undeveloped nature, and opportunities for solitude and primitive recreation in recommended wilderness”. This includes the portion of the wilderness study area recommended for wilderness designation.

However, as allowed in the Montana Wilderness Study Act, the final EIS section 3.21.3 indicates motorized and mechanized means of transportation would be suitable within the portion of the wilderness study area *not* recommended for wilderness, so long as these uses maintain wilderness characteristics as it existed prior to 1977 and retain the potential for future consideration as wilderness. Motorized over-snow use and mountain bikes would continue to be suitable in areas *not* recommended for wilderness and would not eliminate the potential for future consideration as wilderness. Forest Supervisor Erickson has made a distinction in how to manage the non-recommended portion of the wilderness study area within her discretion under the law.

Some objectors indicate the effects analysis is insufficient to support the decision to limit mountain bike use because “proof of physical damage to the land must be provided to remove recreational uses”. However, the regulations require plan components to protect both ecological and social values of a recommended area, both to address existing effects and prevent future effects. Evidence of physical damage is not required. Also see the Suitability for Motorized and Mechanized Means of Transportation issue summary.

At the resolution meeting, other objectors highlighted their concern regarding increasing recreation in the area as the Bozeman population increases and the Big Sky development continues. They seek assurances that the Forest can maintain the level of recreation use that existed in 1977 given increasing recreation demand. I address many of those concerns in the Sustainable Recreation issue summary, however I recognize the Montana Wilderness Study Act has specific requirements not discussed there.

Conclusion

In consideration of the review provided for the issue summary addressing motorized and mechanized suitability in areas recommended for wilderness and the statutory framework of the Montana Wilderness Study Act, I find Forest Supervisor Erickson has acted within her discretion to indicate mountain biking is suitable in some portions of the wilderness study area but not others. However, in response to objectors concern regarding increased recreation pressure and demand, particularly in the Hyalite Recreation Emphasis Area portion of the wilderness study, I am instructing Forest Supervisor Erickson to include a monitoring question to monitor the trend of motorized and mechanized use occurring in the wilderness study area. See also the issues summary for Hyalite/South Cottonwood/Bozeman Creek Area.

Cabin Creek Recreation and Wildlife Management Area

An objector contends that allowing unrestricted motorized recreation in the Cabin Creek Recreation and Wildlife Management Area violates the Lee Metcalf Wilderness Act.

Objector’s Proposed Remedy

The recommended wilderness identified in the draft alternative D on the east and south sides of the Cabin Creek Wildlife Management Area should be included in the final plan.

Background

The Cabin Creek Recreation and Wildlife Management Area was designated by the Lee Metcalf Wilderness Act in 1983. Public law 98-140, October 31, 1983, established the Cabin Creek area for the purpose of wildlife and recreation (final EIS section 3.21.4, page 251).

Public law 98-140, October 31, 1983 states the [Cabin Creek Recreation and Wildlife Management Area]: "...shall be managed to protect the wildlife and recreational values of these lands and shall be hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing, and all amendments thereto. The area shall further be administered by the Secretary of Agriculture to maintain presently existing wilderness character, with no commercial timber harvest nor additional road construction permitted. The Secretary shall permit continued use of the area by motorized equipment only for activities associated with existing levels of livestock grazing, administrative purposes (including snowmobile trail maintenance) and for snowmobiling during periods of adequate snow cover but only where such uses are compatible with the protection and propagation of wildlife within the area: *Provided*, That the Secretary may, in his discretion, also permit limited motor vehicle access by individuals and others within the area where such access is compatible with the protection and propagation of wildlife and where such access was established prior to the date of enactment of this Act. Management direction for the area that recognizes these values shall be included in the forest plan developed for the Gallatin National Forest in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976."

Response

The Lee Metcalf Wilderness Act placed emphasis on the recreation and wildlife values of the area. At the same time, the bill recognized the historical uses of the area. The travel direction for the area was key, especially the use of motorized vehicles. The allegation that management direction violates the enabling legislation focuses on the portion of the Act that specifies the area must be administered "to maintain presently existing wilderness character." However, in addition to maintaining presently existing wilderness character, the Act states that the area "be managed to protect both the wildlife and the recreational values of these lands". The Act specifically addressed the unique and historical features of this area, stipulating continued use of the area "by motorized equipment" for specific uses, as well as "limited motor vehicle access...[when] compatible with the protection and propagation of wildlife".

The 2006 Gallatin Travel Plan decision allows broad use of the Cabin Creek area by several different types of recreation users. It allows uses such as retrieving animals harvested during hunting season by motor bikes on designated routes or by snowmobiles. In the 2020 Plan, the introductory text for the Cabin Creek Recreation and Wildlife Management Area states "Winter recreational use of snowmobiles and the Big Sky Snowmobile Trail continues as stated in the enabling legislation" (Plan pages 170 to 171). The Act states that the Secretary shall permit continued use of the area "for snowmobiling during periods of adequate snow cover but only where such uses are compatible with the protection and propagation of wildlife in the area."

The plan includes desired conditions and other plan components for the area consistent with the designating legislation addressing wildlife habitat, wilderness characteristics, and recreation uses. The final EIS evaluated recommending this area for wilderness designation as an "alternative considered, but not given detailed study" with the determination that "Congress has already decided the designation of this area; therefore, the Forest Service does not have the authority to propose a different land allocation" (final EIS section 2.5.10, page 31). Although the Lee Metcalf Wilderness Act of 1983 does not preclude the Forest Service from recommending this area as wilderness, the Act did allow for uses which would not be consistent with wilderness designation.

Conclusion

I find the Forest Supervisor Erickson has provided management direction consistent with the enabling legislation for the Cabin Creek Area and provided sufficient rationale in the draft record of decision for assigned land allocations. However, I am instructing her to clarify the rationale for why recommendation of the area for wilderness designation was not evaluated in detail.

Plan Allocations

Backcountry and Recreation Emphasis Areas

An objector contends that the allocation of backcountry and recreation emphasis areas, together with designated wilderness and inventoried roadless areas is a violation of the Organic Act of 1897. Another objector asserts the backcountry area desired conditions do not provide for integrated resource management. Other objectors assert land allocations other than recommended wilderness will fail to protect wildlife habitat, wildlife connectivity, and wild character. Others are concerned these allocations will leave areas they value “vulnerable to road building, logging, and recreational trail development”.

Objectors’ Proposed Remedies

- Begin revision from scratch.
- At a minimum, desired conditions for recreation settings and scenic character need to be established and correspond with plan maps.
- The exception for, “Vegetation management, including timber harvest, is suitable for purposes such as fuels reduction, restoration, or wildlife habitat enhancement” is too broad and should be deleted.
- Vegetation management needs to be constrained to achieve primitive or semi-primitive recreation opportunity spectrum setting desired conditions. The management prescription should be modified to state that vegetation management and permanent and temporary road construction is constrained by established semi-primitive motorized and non-motorized setting plan components.
- Additional plan component additions or modifications to constrain motorized and mechanized transport or other management activities.

Response

Some objectors expressed concern that backcountry area allocations were a “new” “untested” management designation. Others objected to what they perceived as restrictions on land management activities beyond what is already designated as inventoried roadless areas. At the resolution meeting, I heard a common theme that objectors sought wilderness as a “permanent” protection fearing that the management of backcountry areas could change as leadership on the Forest changes over time. Others pointed to “management rules and regulations” for wilderness to protect ecological values that see as lacking in the backcountry area plan components. At the resolution meeting, when I asked what plan components are missing that could help resolve some objections, the most common answer was to recommend the areas for wilderness and eliminate motorized and mechanized recreation access. I do appreciate the objectors that provided alternatives to recommending an area for wilderness in their remedies, although they also asked for plan components limiting the motorized and mechanized recreation access in that alternative.

However, the 2020 Land Management Plan simply uses the term “backcountry areas” as a name to describe areas where plan components apply, similar to the definition of a management area at 36 CFR 219.19. Like the management areas and areas recommended for wilderness in the 1986 and 1987 plans, their management can only change through plan revision or plan amendment. The recommended wilderness areas in those plans, and the 2020 Land Management Plan, are *only* administrative recommendations and do not provide “permanent” protections unless Congress chooses to provide that whether through a wilderness designation or some other legislation.

The final EIS indicates the intent of backcountry areas management is to maintain current undeveloped or lightly developed character, while allowing some management flexibility particularly for vegetation management such as restoration, fuels reduction, or wildlife habitat improvement (final EIS appendix F). Most backcountry areas overlap inventoried roadless areas where timber harvest and road construction are constrained by regulation (final EIS

section 3.22.4, table 5). As indicated in previous issue summaries, I have found the full suite of plan components in the 2020 Land Management Plan provides for ecological integrity and species diversity. Backcountry areas are one piece of the integrated plan allocations that help provide for ecological, economic, and social sustainability required by the planning regulations. See the preceding travel management, sustainable recreation, species diversity, and other plan allocation issue summaries for additional discussions.

Similarly, recreation emphasis areas are a plan allocation which function like a management area, intended to offer a variety of quality recreation opportunities, accessible to a wide range of users in several seasons, with challenges for a wide range of skills, and may have a high density of human activities and associated structures. The proposed recreation emphasis areas already see higher recreation use, and recreation use can be expected to increase in these areas. Plan components for these areas do not prohibit other multiple uses such as vegetation management, permitted livestock grazing, or extraction of saleable mineral materials; new proposals would need to meet all applicable plan direction (final EIS appendix F). Recreation emphasis areas do not restrict timber management, however timber production is not suitable in inventoried roadless areas or developed recreation sites, which occur in parts of some recreation emphasis areas (FW-SUIT-RECDEV-01 and FW-SUIT-IRA-01).

Conclusion

I find Forest Supervisor Erickson acted within her discretion to identify various land allocations, with associated plan components, to provide opportunities for a variety of multiple uses across the Forest.

Hyalite/South Cottonwood/ Bozeman Creek Area

Objectors contend that the plan will not provide adequate protections for the Hyalite/South Cottonwood/Bozeman Creek area because it allows timber harvest, temporary roads, and increased recreational development and use. They question whether the current and potential level of recreation in the Hyalite Recreation Emphasis Area is sustainable and point to the lack of standards or guidelines to address increasing recreation demands.

Objectors' Proposed Remedies

- Include the alternative C standard that construction and designation of new motorized trails shall not be allowed in the Hyalite Recreation Emphasis Area to ensure it continues to be a place where users of all types can have high quality recreation experiences and limit the motorized footprint.
- Protect this area from logging and road building.
- Restore the protections proposed by the Gallatin Forest Partnership for Hyalite Canyon area and including Mt. Blackmore and South Cottonwood.
- Hyalite Canyon should be a non-motorized recreation area.
- Suggested boundary modifications to include more or less of these areas in recommended wilderness area, backcountry area, or recreation emphasis area allocations.
- Additional plan component suggestions.

Response

The management of the Hyalite area, including South Cottonwood and Bozeman Creek has garnered a lot of attention because of the popularity of the area for recreation, proximity to growing population centers, and importance of the area for clean water (municipal watershed) and wildlife (bordered by a key linkage area for wildlife and recommended wilderness/wilderness study area). Many objectors are supportive of some iteration of Hyalite Recreation Emphasis Area, with additional protections for South Cottonwood and Bozeman Creek, such as recommended wilderness area or backcountry area. Some objectors want more motorized recreation access, while others do not want to see an expansion of the Hyalite Recreation Emphasis Area due to concerns about protecting wildlife.

As indicated in the Amount and Location of Recommended Wilderness issue summary, Forest Supervisor Erickson has the discretion to identify the appropriate mix of uses and management of the plan area. Numerous forestwide plan components are included in the revised forest plan to protect ecological and social values in every allocation, as well as in areas with no specific allocation.

Specific to Hyalite Recreation Emphasis Area, plan components include desired conditions that sustainable recreation opportunities and settings respond to changing recreation desires (FW-DC-REA-01), local communities can readily access recreation emphasis areas for a variety of motorized and non-motorized experiences (FW-DC-REA-01), trail systems connect to communities (FW-DC-REA-02), provide loop trail opportunities (FW-DC-REA-03) and educational programs (FW-DC-REA-03 and 04), developed recreation sites which are accessible to all users (FW-DC-REA-06), vegetation management which complements the recreational settings over the long term (FW-DC-REA-05). Also see my response to the sustainable recreation issue summaries. In addition, as all applicable forestwide plan resource components apply within recreation emphasis areas, natural resources would be protected while seeking to accommodate appropriate levels of recreational use (final EIS section 2.22.5).

Other objectors have pointed to the lack of protections for South Cottonwood and allowance of new motorized and mountain bike trails and increased capacity and new campgrounds, as well as timber harvest, questioning how wildlife will be able to migrate through the Hyalite area to reach the Gallatin Key Linkage Area to the north. As one objector explained, they are concerned that additional mountain bike trails would “effectively cut off the potential for wildlife to migrate northward out of the Gallatin Range, across Interstate 90, and to migrate to areas north”. Objectors assert the plan lacks standards to protect grizzly bears in this area to address the impacts of non-motorized activities, including mountain biking, and backcountry trail and campsite infrastructure. My response to the Connectivity issue summary describes how the revised plan provides an integrated suite of plan components that provide for connectivity across the forest, with particular emphasis on known migration routes. My response to the Grizzly Bear issues addresses objectors’ concerns about grizzly bear protections, including potential effects from mountain biking and other recreation activities, and concludes that existing plan direction is adequate to provide for grizzly bear recovery.

Some objectors expressed concern that the 2020 forest plan over-emphasizes recreation in the Hyalite area and should do more to maintain other values such as watershed protection. Both Hyalite and Bozeman Creeks are within the Bozeman Municipal Watershed. As indicated in the response to comments: “Multiple plan components recognize the importance of municipal watersheds, including FW-DC-WTR-08 and FW-STD-WTR-01. Goal MG-GO-WTR-01 specifically addresses Forest Service cooperation with the City of Bozeman in sustainable land management of the Hyalite and Bozeman Creek municipal watersheds.....Plan components were revised, at least in part to address concerns regarding needs for management flexibility within the Bozeman Municipal Watershed. ...Plan appendix C lists Bozeman Creek (Sourdough Creek) and upper Hyalite Creek as priority watersheds (a watershed condition framework designation). This will result in future conservation work in these two watersheds” (final EIS appendix F, page 118).

Conclusion

I find that Forest Supervisor Erickson appropriately considered a range of land allocations for the Hyalite/South Cottonwood/Bozeman Creek area in the final EIS and the draft ROD identifies land allocations for the area within her discretion to provide a mix of multiple use management on the Forest. I find the plan complies with planning regulations requirements to maintain or restore ecosystem integrity and ecosystem diversity, as well as provide for sustainable recreation on the Forest including within the Hyalite Recreation Emphasis Area.

Pryor Mountains

Objectors contend that the plan represents “status quo” management for the Pryor Mountains and fails to recognize and protect their unique landscape and ecosystem. They contend several errors in the map and trail descriptions unduly influenced the decision to allocate portions of the Pryors as backcountry areas rather than recommend them for wilderness designation.

Objectors’ Proposed Remedies

- Various suggestions for additional or modified plan components to limit or prohibit motorized and mechanized transport.
- A plan standard needs to be added to achieve the draft record of decision statement that mechanized use would not be expanded in the Pryor Mountains backcountry areas.
- All explicit and implicit reference to "Big Pryor Trail #30" should be removed from the plan and final EIS.
- All these inaccuracies should be removed from the plan maps, and from all future Forest maps of the Pryors.
- The Big Pryor and Punch Bowl land allocations should be reconsidered.

Response

At the resolution meeting, objectors explained their concern about “status quo” management because it is a description the Forest Service has used to describe the similarity of the plan components associated with general backcountry areas and current management of inventoried roadless areas per the Roadless Area Conservation Rule (largely undeveloped or lightly developed). They explained the history of management for the area and that given the 1986 plan does not acknowledge “any of the special characteristics” of the area, status quo is “not good enough”. They either seek additional recommended wilderness, or additional plan components to limit expansion of motorized and mechanized recreation access.

Although Forest Supervisor Erickson does not recommend as much land area for wilderness designation as some objectors would prefer, my review of the geographic area-specific plan content for the Pryor Mountains indicates she has included a detailed description of the unique ecological, social and economic, and cultural and historical characteristics of the area on page 139 through 145. As indicated in previous issues summaries, the full suite of integrated forestwide, designated area, and geographic area specific plan content will maintain or restore ecological integrity and support sustainable recreation across the plan area, including the Pryor Mountains. The desired condition for backcountry areas is intended to maintain the largely undeveloped condition where “natural processes play their role and human use leaves little permanent or long-lasting evidence” (FW-DC-BCA-01) (final EIS section 3.22.4). While forestwide desired conditions such as FW-DC-BCA-01 apply to all backcountry areas, the plan also includes geographic area-specific plan components for the Pryor Mountains to address the conservation needs for the unique endemic plant species, Utah juniper habitats, areas of tribal interest, and the wild horse territory. There are also plan components that recognize and protect the unique plant communities of the designated Research Natural Area.

Some of the stated reasons objectors would prefer the area is recommended for wilderness is to limit the effects of increasing demand for recreation access that could lead to additional invasive species and habitat fragmentation. They contend backcountry area plan components will not limit expansion of mountain bike use in the Pryor Mountains backcountry areas as stated in the draft record of decision: “existing motorized and mechanized transport can continue but not expand” (page 13). Review of the plan indicates suitability PR-SUIT-PBCA-01 states motorized transport is suitable on existing system motorized routes and areas and mountain biking is suitable only on approved system mountain biking routes. The plan also includes standard PR-STD-PBCA-02, which restricts construction and designation of new motorized trails, but does not have something similar for mountain bike use.

Thus, objectors proposed an additional standard to state new mechanized trails shall not be constructed or designated in the Pryor Mountain backcountry areas.

Objectors also expressed concern that trail mapping errors unduly influenced Forest Supervisor Erickson's decision to allocate Big Pryor and Punchbowl as backcountry areas rather than recommend them for wilderness designation. While I recognize there is disagreement over how trails in the area are mapped, I reviewed the record as a whole and found the wilderness analysis in appendix D (final EIS appendix D, pages 206 to 207 and 211 to 212) addresses multiple factors other than just a single trail. For example, it includes descriptions of the naturalness, opportunities for solitude, vegetation conditions, grazing infrastructure, etc. of each area.

Some objectors compared the analyses for both the Punch Bowl and Lost Water Canyon areas and noted Lost Water Canyon is also bisected by a motorized route. They assert it is arbitrary to recommend Lost Water Canyon, but not recommend Punchbowl "despite similar physical conditions and without adequate explanations as to why different management is needed". However, the portion of Lost Water Canyon area influenced by the road is only recommended for wilderness designation in alternative D, where Punchbowl is also recommended. Forest Supervisor Erickson excludes the portion of the Lost Water Canyon area bisected by the road in the draft record of decision to select "a manageable boundary for the Lost Water Canyon Recommended Wilderness Area" (draft record of decision, page 13). This indicates she took a consistent approach to address the manageability challenges described for both areas.

Objectors are also not satisfied with Forest Supervisor Erickson's desire to retain flexibility for future vegetation management within the Big Pryor and Punchbowl areas (draft record of decision, page 13). Objectors cite similar descriptions of departure from historic fire regimes and vegetative conditions in Lost Water Canyon and Bear Canyon, which are both recommended for wilderness. Some objectors note that recommend wilderness area plan components allow for some restoration activities. However, as indicated in the Amount and Location of Recommended Wilderness, Forest Supervisor Erickson has the discretion to identify the appropriate mix of uses and management of the plan area. While recommended wilderness area plan components do allow for some limited restoration opportunities as one objector asserts, backcountry areas would allow greater flexibility to address broader restoration needs for fuels reduction or wildlife habitat improvements.

Conclusion

I find Forest Supervisor Erickson describes the distinct roles and contributions provided in the Pryor Mountains Geographic area and that the integrated plan content includes plan components to sustain the unique aspects of the landscape. In addition, as indicated in the amount and location of recommended wilderness summary, she has provided sufficient rationale throughout the record to support her broad land allocation decisions.

However, it's not fully clear how plan components for the Big Pryor and Punch Bowl Backcountry Areas will limit expansion of mountain bike trails as indicted in the draft record of decision. Therefore, I am instructing her to clarify how the plan direction will achieve the described management intent for this area in the final record of decision.

Continental Divide National Scenic Trail

Background

The National Trail System Act (Public Law 90-543, as amended through Public Law 116-9, March 12, 2019) and (United States Code, Volume 16, Sections 1241-1251). The National Parks and Recreational Land Act of 1978 amended the National Trails System Act by adding five trails to the System, including the Continental Divide National Scenic Trail (Trail).

Section 3(a)(2) of the act says national scenic trails will be...“located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.”

Section 7(j) of the act states, “Potential trail uses allowed on designated components of the national trails system may include, but are not limited to, the following: bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, and surface water and underwater activities. Vehicles which may be permitted on certain trails may include, but need not be limited to, motorcycles, bicycles, four-wheel drive or all-terrain off-road vehicles.”

Section 7(a)(2) of the act states, “Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for the specific area in order to insure continued maximum benefits from the land.”

Section 7(c) indicates campsites, shelters, related public use facilities, and “other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted...”

FSM 2353.44b provides management direction for the Trail.

The Continental Divide National Scenic Trail Comprehensive Plan (September 2009) provides a uniform Trail program that reflects the purposes of the National Scenic Trail system, and allows for the use and protection of the natural and cultural resources found along the rights-of-way and located route on lands of all jurisdictions (page 2).

36 CFR 219.7(d) states that “every plan must have management areas or geographic areas or both. The plan may identify designated or recommended designated areas as management areas or geographic areas.” Management area is defined as “a land area identified within the planning area that has the same set of applicable plan components” 36 CFR 219.19. 36 CFR 219.10(b)(1)(vi), the planning regulations require land management plans provide for appropriate management of other designated areas or recommended designated areas in the plan area.

Legal and Regulatory Framework

Objectors assert the final EIS and draft record of decision fail to adequately address the regulatory framework for the Continental Divide National Scenic Trail (Trail). They allege the Forest Service’s discretion to implement the general provisions of the Multiple-Use and Sustained-Yield Act is curtailed by provisions of the National Trails System Act within the Trail’s selected right-of-way.

Objector’s Proposed Remedies

- The plan must contain plan components that provide for the nature and purposes of the Trail’s presumed rights-of-way.
- Include a suggested list of additional guidance documents in the laws and regulations for the Trail.

Response

In response to comments on the draft EIS, the Forest added references to the nature and purposes of the Trail as described in the 2009 Comprehensive Plan. The objector contends including this information in the introductory text, rather than restating it as a desired condition “does not address the integration requirement of the National Forest Management Act and fulfil the requirements of the National Trails System Act”. However, rather than simply restating what is already required per law, regulation, and policy, the plan more appropriately includes a suite of plan components through both forestwide, geographic area, and trail corridor specific plan components to guide management to protect the nature and purposes of the trail as required by law and regulation and in alignment with the Trail’s plan. (Also see the following response regarding the plan components for the Trail.)

Similar to the requirements for developing a land management plan under the National Forest Management Act, the National Trails System Act requires the development of a comprehensive plan for national scenic trails. As a result, both the trail comprehensive plan *and* the land management plan guide project and activity decisionmaking for the Trail. Section 7(a)(2) of the Trails Act indicates, “Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for the specific area in order to insure continued maximum benefits from the land”. Thus, the land management plan and comprehensive trail plan must be compatible. If not, either the land management plan or the designated area plan must be amended to achieve this compatibility (FSH 1909.12, section 24.3). Given this important and unique relationship, a discussion of the compatibility of the two plans and a determination of whether the land management plan decision would result in a need to update the Trail comprehensive plan should be included in the record of decision.

The objector contends that section 7(a)(2)'s requirement to “harmonize” trail and land management planning is not applicable to a land management plan approved after the passage of the National Forest Management Act. They assert this is because the National Forest Management Act requires the land management plan address the comprehensive planning and other requirements of the Trails Act in order to form one integrated plan. However, the National Forest Management Act requirements for one integrated plan at 16 U.S.C. 1604(f) is specific to its statutory requirements, not the Trails Act requirements. Nothing in the National Forest Management Act amended or superseded the Trails Act. Nor does the Trails act supersede either the National Forest Management Act or the Multiple-Use Sustained-Yield Act. The Forest Service must comply with all three. Thus, as required by the planning regulations at 36 CFR 219.10(b)(1)(vi), the 2020 Land Management Plan includes “appropriate management of other designated areas”, but does not replace or address all the requirements of the Trails Act that are addressed in the 2009 comprehensive plan.

As such both statutorily required plans provide relevant management direction, page 174 of the land management plan references the 2009 Trail comprehensive plan stating, “Management for the Continental Divide National Scenic Trail is outlined in the 2009 Continental Divide National Scenic Trail Comprehensive Management Plan and national policy”.

The most relevant statutory and regulatory documents are listed in the designated area section of the final EIS. These sections are intended to highlight other non-discretionary management direction. Including other guidance documents such as management tools or other information is not necessary or recommended.

Conclusion

Upon review of the record described here and in the following issues summaries, I find that Forest Supervisor Erickson developed plan components that provided adequate plan direction consistent with the nature and purposes of the Continental Divide National Scenic Trail. However given the additional requirements of the Trails Act, I am instructing Forest Supervisor Erickson to describe the compatibility of the 2020 Land Management Plan with the 2009 Continental Divide National Scenic Trail Comprehensive Plan and indicate in the final record of decision if any updates to the comprehensive plan would be needed upon approval of the land management plan.

Plan Component Sufficiency

Objectors assert the plan components do not protect the nature and purposes of the Trail and the plan must include a management area for the Trail. In addition, they contend the responsible official did not consider the 1986 Recreation Opportunity Spectrum User Guide and the Scenery Management System when developing plan components for the Trail.

Objectors' Proposed Remedies

- Establish and display on a forest plan map a Trail Management Area (aka National Trail Management Corridor) that is discernable with an extent of at least 1/2 mile on both sides of the Trail's travel route where overlaid on the Custer Gallatin National Forest.
- Modify the Trail management corridor direction by adding a suggested list of plan components and eliminating proposed plan guidance that may conflict with the following direction.
- Exclude the Trail management corridor from the Hebgen Winter Recreation Emphasis Area, since the described desired conditions are inconsistent with the nature and purposes of the Trail.
- Add a suggested standard to the Hebgen Winter Recreation Emphasis Area to provide a primitive Trail experience.
- The Trail route is a concern level 1 travel route and the scenic integrity objective is to be high or very high.
- The nature and purposes description of the Trail should be the principal desired condition for the management corridor. Standards or guidelines should clearly describe providing for a semi-primitive non-motorized recreation opportunity spectrum setting and a high scenic integrity objective. Suitability should describe that corridor is not suitable for timber production. Suitability should be silent on motor vehicle use including over snow vehicles and mountain bikes.
- The Madison, Henrys Lake, and Gallatin Mountains Geographic Area introduction information needs to include the percent of the area for the Trail and ensure the trail is discernible on the associated plan map.
- Establish a carrying capacity and add monitoring indicators to measure increases in signage and suitable access with thresholds for to restrict or prohibit use of mountain bikes or over-snow motorized vehicles if recreational user conflicts arise or resource damage occurs on any segment open to mechanized or motorized use.

Response

The 2020 Land Management Plan presents the Trail as a linear feature, with a mile-wide management corridor in (1/2 mile each side of the trail when that boundary remains on the Custer Gallatin). A mapped trail corridor is required by Forest Service Handbook 1909.12 Section 24.43(1)(c), however explicitly calling that corridor a "management area" is not required. The corridor provides a spatially identifiable area where the associated plan components apply as required by 36 CFR 2197(e). Land management plan direction applied to the corridor determines how management activities would be conducted within the corridor. The plan provides integrated direction multiple resource areas and land allocations at forestwide, geographic area, and Trail corridor-specific scale. This includes plan direction associated with assigned recreation opportunity spectrum settings and management of scenic resources. The scenic integrity objective for the trail corridor is high (FW-DC-SCENERY-02 and scenery management map, page 138) and it is not suitable for timber production (MG-SUIT-CDNST-01). While the recreation emphasis area land allocations are designed to meet increased demands for recreation opportunities, all authorized activities in areas like the Hebgen Winter Recreation Emphasis Area must be consistent with the Trail direction found in both the 2020 Land Management Plan and the 2009 Comprehensive Plan. Thus, excluding the Trail is not necessary.

The National Recreation Opportunity Spectrum Inventory Mapping Protocol of April 2018 was referenced and used to establish recreation settings for the plan. This protocol is a Forest Service document that provides guidance for not only how recreation settings are mapped but also what activities are appropriate in each setting (final EIS section 3.19.2, table 47). The Trail was considered in accordance with the protocol and is fully described in the final EIS (section 3.21.12). While the Trail (and other designated areas) are not displayed on the recreation opportunity spectrum maps, the Trail corridor is displayed on the designated areas and land allocations map as well as the scenery management map.

While objectors would prefer a primitive or semi-primitive non-motorized settings for the entire length of the Trail, Continental Divide National Scenic Trail direction acknowledges that as the trail crosses various national forests, there will be road crossings and segments that include recreation opportunity spectrum classifications other than the more primitive end of the spectrum. The 2020 Land Management Plan is consistent with the 2009 Trail Comprehensive Plan, which states, “Where possible, locate the [Trail] in primitive or semi-primitive non-motorized [recreation opportunity spectrum] classes, provided that the [Trail] may have to traverse intermittently through more developed [recreation opportunity spectrum] classes to provide for continuous travel” (section IV. B(1)(b)(1)) [emphasis added here]. The Trail route has been constructed on the Forest. Guidance in the Trail plan to locate new segments in less developed settings is specific to new sections of the Trail, not the established existing route. This also applies to the segments of the trail where snowmobile use existed prior to the Trail’s designation.

Some objectors assert that the Forest Supervisor has accepted mountain bike use without first assessing and deciding if mountain bike use will substantially interfere with the nature and purposes of the Trail. An objector at the resolution meeting indicated that although the Trail plan allows mountain bike use on appropriate segments, it does not allow it within recommended wilderness.

However, site-specific mountain bike trail designations were made in the 2006 Gallatin Travel Plan as allowed in the 2009 Trail plan (page 15 indicates mountain bikes are allowed where consistent with the land management plan) and policy in the Forest Service Manual. FSM 2353.44b (10) states: “Bicycle use may be allowed on the [Trail] (16 U.S.C. 1246(c)), using the appropriate trail design standards, if the use is consistent with the applicable [Trail] unit plan and will not substantially interfere with the nature and purposes of the [Trail] (FSM 2353.42)”. As such the 2020 Land Management Plan guides future decisionmaking with a suitability component that states “The Continental Divide National Scenic Trail is suitable for mountain bikes, *as long as such use does not substantially interfere with the nature and purpose of the trail* (MG-SUIT-CDNST-04) [emphasis added here].

The Trail plan does state the “Where the [Trail] crosses an area recommended for designation as a wilderness... the [Trail] must be managed so as to leave the area unimpaired for inclusion in the National Wilderness Preservation System. However, it does not prescribe what specific activities are allowed on the trail do so. See the Lionhead Area issue summary for additional discussion.

The Trails Act requires establishment of a carrying capacity in the trail comprehensive plan, not the National Forest Management Act required land management plan. It would not be appropriate for the Forest to establish a carrying capacity for only 31 miles of a 3,100-mile long trail. That is more appropriately addressed in the Trail comprehensive plan in coordination with all other land management agency jurisdictions.

Conclusion

Upon review of the record, I find that the Forest Supervisor Erickson developed plan components consistent with planning regulations to provide for the nature and purposes of the Continental Divide National Scenic Trail. However, to ensure clear communication of the location of the trail corridor and where plan components apply, I’m instructing her to add the corridor to the designated area map.

Analysis Sufficiency

Objectors assert the effects analysis is inadequate.

Objector’s Proposed Remedies

- Supplement the final EIS to describe the Trail corridor’s affected environment.
- A supplemental final EIS should be prepared to (1) rigorously explore and objectively evaluate all reasonable alternatives, and (2) take a hard look at the effects of the alternatives. A supplemental final EIS must also

address whether proposed activities and use substantially interferes with the nature and purposes of the Trail, which did not occur in the final EIS that supports the draft record of decision.

Response

The objector alleges deficiencies in several sections of the final EIS beginning with the affected environment, indicating it fails to adequately describe how current uses are affecting the nature and purposes of the trail.

40 CFR 1502.15 requires federal agencies to “succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration” in an EIS. The affected environment section of the final EIS includes a description of the Trail’s length, segment locations, right-of-way status, and common recreation uses (final EIS section 3.21.12).

The objector alleges the environmental consequences section is inadequate because they do not believe the plan components, allowed management activities, recreation opportunity spectrum settings, and scenic integrity objectives protect the qualities and values of the Trail. Section 3.21.12 of the final EIS describes the effects of the plan components to protect the desired character of the Continental Divide National Scenic Trail, with a description of the effects of the management activities with potential to impact the trail corridor. While the objector asserts the plan components and effects should describe how the trail corridor provides for wildlife connectivity, the response to comments indicates the corridor does not fall within a key linkage area. However, the EIS does acknowledge the undeveloped nature of the broader land allocations (e.g., inventoried roadless areas) where almost half of the Trail is located will minimize effects of habitat fragmentation, etc. (section 3.10.2).

Lastly, the objector contends the cumulative effects description is deficient because it did not describe activity-specific impacts or address the status of the Beaverhead-Deerlodge National Forest Trail plan direction in response to an appeal instruction on their plan revision in 2009. The final EIS discloses how plan components will guide vegetation, fire and fuels, access and recreation, scenery and minerals management while protecting the nature and purposes of the trail as is appropriate for a programmatic NEPA review. The cumulative effects in section 3.21.12 compares the plan’s management direction with comparable land management direction and indicates management of the Trail contributes to, and is coordinated with, management of the recreation experiences along the entire 3,100-mile trail.

In addition, the final EIS displays a consistency review of other government plans with the plan. This review focused on higher level desired conditions and goals, rather than standards or guidelines. Appendix E (final EIS) includes a comparison of the Beaverhead-Deerlodge National Forest plan’s Trail direction with comparable Custer Gallatin plan desired conditions. No Trail direction was found in 1997 Targhee Plan. A review of the Beaverhead-Deerlodge plan direction’s compatibility with the 2009 comprehensive plan is outside the scope of the what is necessary for the programmatic review of the Custer Gallatin’s land management plan revision.

Objector’s contention the EIS fails to include a reasonable range of alternatives is based on assertions their suggested plan components protect the nature and purposes of the Trail, while the Forest Service’s components do not. The response to comments (final EIS appendix F) describes how the suggested plan components do not comply with current regulatory requirements or are not necessary given the status of trail construction on the Forest. While effects to congressionally designated areas was identified as an important element of the analysis, management of 31.6 miles of the 3,100-mile trails was not identified as a significant issue that drove alternative development for the overall land management plan.

Conclusion

I find the final EIS includes sufficient detail to inform Forest Supervisor Erickson's decision that the land management plan, together with the 2009 Comprehensive Management Plan, provide sufficient direction to protect the nature and purposes of the Trail.

Lionhead Area

Objectors contend by removing recommended wilderness area plan direction in the Lionhead area, the land management plan decreases the protections for and recognition of the Trail and does not comply with management direction in the 2009 Comprehensive Plan and the National Trails System Act.

Objectors' Proposed Remedies

- Several suggested plan components for the Trail including a desired condition it is protected by in the Lionhead Recommended Wilderness (27,266 acres) and "not suitable" plan components for mountain biking and snowmobile use.
- The final record of decision should establish Lionhead as Recommended Wilderness (Alternative D or A)
- Manage the Lionhead Recommended Wilderness Area, including the length of the Trail that falls within its boundaries, to allow pedestrian and stock travel only.
- The Lionhead Backcountry Area should include desired condition statements that the area is a natural-appearing landscape, the scenic integrity objective is high, and the semi-primitive non-motorized setting is protected.

Response

As indicated in a previous issue summary, the 2009 Comprehensive Plan states that "Where the CDNST crosses an area recommended for designation as a wilderness... the CDNST must be managed so as to leave the area unimpaired for inclusion in the National Wilderness Preservation System." Objectors interpret this to mean the 1987 Gallatin Forest Plan Lionhead area wilderness recommendation cannot be changed. At the resolution meeting, an objector provided a paraphrase of the Trail plan stating, "the comprehensive plan makes it clear that where the [Trail] crosses a recommended wilderness area, that it must be managed to leave the area unimpaired for future designation...so removing this designation is outside of Mary's decision space".

However, it is neither the intent, nor within the authority of the Trail plan to make wilderness recommendations to Congress. Nor is it the intent or within the authority of the Trail plan to determine that once an area is recommended it must always be recommended and managed as such. Such decisions on National Forest System lands are made under the purview of the land management plan regulations as Forest Supervisor Erickson has completed here. Rather, the cited statement in the Trail plan provides direction, consistent with current planning regulation requirements, that trail management activities must protect the wilderness characteristics of recommended areas, wherever or whenever they overlap the trail corridor.

The discretion to recommend an area for wilderness or not is within Forest Supervisor Erickson's discretion based on the assessment, effects described in the environmental impact statement, and public engagement. This may change from planning cycle to planning cycle as directed in the planning regulations. The draft record of decision (page 16) provides her rationale for the land allocations for the Lionhead area, which includes the Trail.

Conclusion

My review indicates Forest Supervisor Erickson has the authority to change the land allocation for the Lionhead Area, while also protecting the nature and purposes of the Trail in a manner compatible with the 2009 Comprehensive Plan.

Regional Forester's Guidance

An objector asserts the Regional Foresters' formulation and adoption of Trail plan component development guidance was not in compliance with section 14(a) of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1612(a)) and 36 CFR 216 processes.

Objector's Proposed Remedy

- Replace the plan components with those proposed by objector.

Background

36 CFR 216 ensures that Federal, State, and local governments and the public have adequate notice and opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

Response

The regional guidance is not a rule for purposes of the Administrative Procedures Act, which requires notice, comment, and publication for rules of general application. Nor is it a "standard, criteria, or guideline" requiring notice and comment under 16 U.S.C. 1612. Rather, the regional guidance is supervisory guidance from the regional foresters that are "recommended" for forest plan components designed to "assist" plan revision. The regional guidance only requires that the template be used as a basis for discussion with the public and allows flexibility for the responsible official to make adjustments based on comment and the unique circumstance of the particular forest.

Conclusion

The record demonstrates the Forest considered the guidance in developing plan components for the proposed plan, offered opportunities for public engagement on those components during scoping and public review of the draft EIS, and responded to comments received from the public in the final EIS. Although the objector has offered alternative plan components, as discussed in the preceding issue summaries, the final EIS demonstrates the plan complies with the requirements in both the National Trails System Act and the planning regulations.

Wild and Scenic Rivers

Background

The Wild and Scenic Rivers Act of 1968 was enacted to protect rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations. This Act describes the National Wild and Scenic Rivers System, sets out the process for evaluating specific rivers Congress identifies as potential additions to the System as legislatively mandated study rivers (sec. 5(a) of the Act), and directs federal agencies to identify and evaluate additional potential rivers for inclusion in the System during Agency planning (sec. 5(d)(1) of the Act).

The planning regulations at 36 CFR 219.7(c)(2)(vi) require the Forest Service to inventory and determine wild and scenic river eligibility and classification during land management plan development or revision. 36 CFR 219.10(b)(v) requires plan components to provide for protection of designated wild and scenic rivers and protection of the values that provide the basis for rivers found eligible for inclusion in the wild and scenic river system.

Eligibility

Objectors contend that several additional streams should have been identified as eligible wild and scenic rivers based on their outstandingly remarkable values.

Objectors' Proposed Remedy

- All of Bear Creek should be designated as a Wild and Scenic River.
- Buffalo and the Shields River system should be considered eligible Wild and Scenic Rivers based on the Forest Service's own definition of the Fisheries habitat ORV: "The habitat supports native aboriginal populations or assemblages of native fish with high conservation value."
- Recognize Yellowstone cutthroat trout habitat in Mill Creek and its upper tributaries as a fisheries outstandingly remarkable value.
- Hellroaring Creek, Taylor Creek and its tributaries, Alp Creek and Lightening Creek, should be eligible Wild and Scenic Rivers with a wildlife outstandingly remarkable value. Taylor Creek should also have a scenery outstandingly remarkable value.

Response

The interdisciplinary team evaluated for eligibility all named rivers on the Forest as required by Forest Service Handbook direction (final EIS section 3.22.3, pg. 372) and found 30 rivers eligible for wild and scenic designation (final EIS section 3.22.3, table 153). Forest Service Handbook direction indicates the determination that a river area does or does not contain one or more outstandingly remarkable values is a professional judgment on the part of the responsible official as informed by the interdisciplinary team, best available scientific information, and public participation (FSH 1909.12, sec. 82.73). Forest Supervisor Erickson invited public feedback multiple times on potential eligible wild and scenic rivers (final EIS section 2.3 and 3.22.3) and considered all rivers proposed by the public. Rivers not listed as eligible were found to not have an outstandingly remarkable value in the "region of comparison" (the area identified to serve as the basis for meaningful comparative analysis of river values). The response to comments on the draft EIS addresses public concerns about the eligibility list and provides rationale for not identifying additional rivers as eligible (final EIS appendix F, pages 130 to 134). In addition, an alternative not considered in detail regarding the identification of additional rivers is described in section 2.5.10 of the final EIS.

As the presence of fish or wildlife habitat were identified as river values for several rivers, I asked objectors at the resolution meeting to explain why they thought their presence rose to the level of outstandingly remarkable values in some river segments. Objectors pointed to ongoing and planned habitat conservation projects with partners such as Montana Fish Wildlife and Parks to preserve stronghold habitat for Yellowstone cutthroat trout meets the definition that the river provides unique, diverse, and/or high-quality habitat for native populations compared to the rest of the region. Objectors also talked about important grizzly bear, mule deer, and moose habitat.

However, appendix F (pages 131 to 132) indicates the Forest reviewed these areas again in response to comment on the draft EIS and found high levels of trout hybridization or non-native fish, thus concluded no additional fisheries outstandingly remarkable values were present. It also indicates that the fact that mammals such as moose, beaver, river otter, or grizzly bear at times use rivers and floodplain habitats is not an outstandingly remarkable value, but a part of their normal habitat.

Conclusion

I find that Forest Supervisor Erickson appropriately evaluated rivers for eligibility as wild and scenic rivers. The planning record documents the use of professional judgment, informed by the interdisciplinary team, best available scientific information, and public engagement in the wild and scenic river eligibility study.

Plan Direction

Objectors contend the responsible official ignored comments and went too far in providing protections for areas within 0.25-mile of eligible wild and scenic rivers adversely affecting recreational, timber, and agricultural uses. One objector asserts that private property rights are infringed upon because plan is circumventing congressional

designation and puts federal control over private property rights without due process or just compensation, which could be considered ripe for a takings action.

Objectors' Proposed Remedy

No wild and scenic rivers and streams should be proposed in Gallatin County.

Response

The planning regulations require an evaluation of the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System as part of the plan revision process, unless an existing inventory is complete and no changed conditions warrant additional review (36 CFR sec. 219.7(c)(2)(vi)). As required, an eligibility study was conducted as part of the plan revision process.

The evaluation of potential wild and scenic rivers follows a three-step process: (1) determining eligibility, (2) assigning potential classification, and (3) determining suitability (FSH 1909.12, chapter 80). The responsible official has discretion to initiate a suitability study subsequent to the completion of an eligibility study (FSH 1909.12 section 83). A suitability study – in which the agency determines which eligible river segments to recommend to Congress as potential additions to the National Wild and Scenic Rivers System – was not conducted as part of the plan revision process. Determination of suitability, including tradeoffs associated with potential designation, will occur at a later date (final EIS section 2.5.10 and appendix F, pages 131 to 132).

The plan must provide for interim protection measures of eligible river corridors until a decision is made on the future use of the river and adjacent lands. Forest Service-identified eligible and suitable rivers must be protected sufficiently to maintain free flow and outstandingly remarkable values unless a determination of ineligibility or non-suitability is made (FSH 1909.12 section 84). Thus, as required, the plan includes direction for eligible rivers and National Forest System lands in a 0.25-mile corridor on either bank to protect free flow and outstandingly remarkable values (2020 Land Management Plan, pages 121 to 122).

As indicated in the planning regulations (36 CFR 219.1(c) and (g) and 219.2(b)(2)), the plan *only* applies to National Forest System lands in the analysis area. However, the objector references a statement on page 28 of the draft record of decision, which states that “wild, scenic, and recreational designation protects the water quality and free-flowing nature of rivers in non-Federal areas, something the Wilderness Act and other Federal designations cannot do”. This statement accurately describes the effects of a Congressional designation and is not intended to indicate the plan decision identifying eligible river segments on Forest Service lands would impact non-Federal lands, but I recognize additional explanation would help clarify that intent.

Conclusion

I find that Forest Supervisor Erickson appropriately included plan components to maintain the free flow and outstandingly remarkable values of eligible river segments on Forest Service lands.

However, I am instructing her to clearly articulate the identification of eligible wild and scenic rivers does not affect private property rights in the final record of decision. This should include clarifying that any administrative recommendations to Congress will not occur until a subsequent suitability study has been completed.

Summary of Instructions

Coordination with Other Planning Efforts

To clearly communicate how each relevant plan was considered per ii to iv of 36 CFR 219.4(2)(b), clarify the statement that “some aspects of one county land use plan could not be accommodated” by providing additional detail in appendix E regarding which aspects could not be accommodated. This should include documentation of how the plan provides opportunities to resolve or reduce conflicts.

Areas of Tribal Importance

Review objector’s suggested desired condition and consider whether there is an opportunity to reflect the suggested text in other plan content.

Timber Harvest Economics

Provide additional explanation in the body of the final EIS to clearly describe the information in the employment and job income tables.

Airfields

Provide clarification in the final record of decision on how the selected alternative provides opportunities for airfield proponents to engage Forest leadership on potential airstrip development proposals.

Recreational Pack Goat Use

Clarify plan components FW-SUIT-REC-01 and FW-STD-RECOG-01 regarding direction for pack goat use if an area became newly occupied by bighorn sheep in the Bridger, Bangtail, Crazy Mountains; Ashland; and Sioux Geographic Areas.

Clarify the analysis and evaluate if a change in goats per person is warranted.

Soils

Explain the rationale for changing the maximum slope specified in FW-GDL-SOIL-02.

Recreation Impacts

Provide some additional discussion to clarify what is known about the effects of mountain biking on wildlife.

Connectivity

Clarify rationale for determining that mountain biking in key linkage areas is only suitable on approved system trails.

Bison Plan Component Sufficiency

Clarify why desired condition FW-DC-WLBI-04 was modified between draft and final EIS.

Either move the detailed explanation of why the grizzly bear primary conservation area is used in FW-GDL-WLBI-03 from the grizzly bear section (page 435) to the bison section (page 541) or provide a cross-reference in the bison section.

Bison Monitoring Sufficiency

Add a new heading in the monitoring program to clarify that the number of bison/human conflicts associated with MON-WL-07 is an outcome indicator.

Adequacy of Plan Direction to Contribute to Grizzly Bear Recovery

Clarify in the final record of decision that if plan component changes are needed to address any substantive changes made to the final grizzly bear conservation strategy, subsequent National Environmental Policy Act and National Forest Management Act procedures will be undertaken at that time.

Lynx

Review the scientific information published after the draft ROD was issued and update the plan and EIS if warranted.

Amount and Location of Recommended Wilderness

Provide additional rationale for how the land allocation decisions were weighed.

Windy Pass Cabin and Communication Sites

Clarify the effects of the recreation cabin and communication site suitability plan components in the final EIS beyond just a change in numbers of cabins or communications sites.

Wilderness Recommendation is Flawed

Clarify how the sounds of low flying aircraft were considered in the wilderness evaluation of the final EIS.

Provide additional explanation of how the information in the 2015 Craighead Report relates to the analysis in the EIS.

Mountain Bikes and Motorized Recreation in the Wilderness Study Area

Include a monitoring question to monitor the trend of motorized and mechanized use occurring in the wilderness study area.

Cabin Creek Recreation and Wildlife Management Area

Clarify the rationale for why recommending the Cabin Creek Recreation and Wildlife Management area for wilderness designation was not evaluated in detail.

Pryor Mountains

Clarify how the plan direction will achieve the described management intent for the Pryor Mountains in the final record of decision.

Continental Divide National Scenic Trail – Legal and Regulatory Framework

Describe the compatibility of the 2020 Land Management Plan with the 2009 Continental Divide National Scenic Trail Comprehensive Plan and indicate in the final record of decision if any updates to the comprehensive plan would be needed upon approval of the land management plan.

Continental Divide National Scenic Trail – Plan Component Sufficiency

Add the Trail corridor to the designated area map to ensure clear communication of the location of the trail corridor and where plan components apply.

Wild and Scenic Rivers

Clearly articulate the identification of eligible wild and scenic rivers does not affect private property rights in the final record of decision. Clarify that any administrative recommendations to Congress will not occur until a subsequent suitability study has been completed.

List of Eligible Objectors and Interested Persons

Eligible Objectors

Abe Martin	Annie Laurie
Abraham Ramirez	Anthony Christine Guarnieri
Addrien Marx	Anthony Donnici
Aggie Monfette	Anthony Pavkovich
Al Bradley	Antonia Chianis
Alan Lee	Art Hanson
Alan Reynolds	Ashley Lipscomb
Alessandra Tromboni	Ashley Martens
Alex Russell	Ashli Carter
Alexandra Lamb	Barbara Aas
Alfred Lopena	Barbara Becker
Alice Kincer	Barbara Blackwood
Alliance for the Wild Rockies	Barbara Lasley
Allie Tennant	Barbara Maat
Ally Jones	Barbara Poland
Alvin Stein	Barbara Scott
Amanda Niles	Barbara Trypaluk
American Forest Resource Council	Ben Polk
American Rivers	Beth Sirr
Andrea French	Bethany Schatzke
Andrea Sreiber	Beverly Nichols
Andreas Vlasiadis	Bijan Foroutan
Andrew Franks	Bill Arbon
Angela Fazzari	Bill Stokes
Angela Phoenix	Bob Allen
Anita Goncalves	Bob Kuhnert
Anje' Waters	Bob Ronan
Ann Stickel	Bob Steininger
Anna Brewer	Bonnie Macraith
Anne Hutchison	Bozeman Mountaineers 4WD Club
Anne Millbrooke	Brad Parsch
Anne Trygstad	Brandon Crane

Brenda Robinson
Brett Haverstick
Brett Nelson
Brian Paradise
Brian Pike
Brian Reynolds
Bridget Irons
Bronwen Evans
Bruce Granger
Buffalo Field Campaign
Cal Cole
Caleb Efta
Camelia Mitu
Capital Trail Vehicle Association
Carbon County Resource Council
Carl Skompinski
Carla Marshall
Carlene Visperas
Carlo Popolizio
Carol Anderson
Carol Jurczewski
Carol Taggart
Carol Wiley
Carolina Rodriguez
Caroline Sevilla
Carolyn Barkow
Carrie Palmer
Cary Lund
Catherine Schmidt
Catrina Lessley
Celeste Kessler
Center for Biological Diversity
Chad Fuqua
Charlene Woodcock
Charles Coddington
Charles M Paden
Charlie Hull
Cheryl Caldwell
Cheryl Kilts
Chris Casper
Chris Drumright
Chris Monroe
Chris Moore
Chris Pedone

Chris Williams
Christina Crosby
Christina Martin
Christina Williams
Christine Burkhart
Christine Morrissey
Christine Mullaney
Christine President
Church Universal and Triumphant, Inc.
Cindy Stein
Citizens for Balanced Use
Claire Mortimer
Claudia Eziniicki
Claudia Garoutte
Claudia Greco
Cliff Wilkinson
Colleen McMullen
Connie Burris
Connie Kennedy
Continental Divide Trail Coalition
Cottonwood Environmental Law Center
Croitiene Ganmoryn
Crow Nation
Dan Janet Blair
Dan Porter
Dan Struble
Dana Bleckinger
Danae Schafer
Daniel Graham
Daniel O'brien
Darynne Jessler
Dave Colavito
David Drake
David Jones
David Mattson
David Myers
David Steinmuller
Dawn Franklin
Dawn Mosher
Debbie Dent
Debi Griepsma
Debra Miller
Defenders of Wildlife
Denise Kastner

Denise Lytle
Dennis Heinzig
Dennis Kreiner
Dennis Morley
Derek Gendvil
Devon Benton
Diana Duffy
Diana Hall
Diana Kliche
Diane Debinski
Diane Kastel
Diane Kent
Diane Martin-Brodak
Diane Syd Marcus
Diane Weinstein
Dianna Torson
Dianne Douglas
Dick Patti
Dinorah Hall
Dominique Lang
Don Bachman
Don Jackson
Dona Laschiava
Donna Buscemi
Donna Snow
Dorinda Kelley
Doris Shultz
Dorothy Richard Chamberlin
Dostana Ljusic
Doug Gledhill
Doug Landau
Doug Mulvaney
Doug Parks
Doug Rand
Douglas Bartholomew
Douglas Uptain
Dr M Smith Jr
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