

## Office of the Governor

March 25, 2014

Thomas Tidwell, Chief, U.S. Forest Service  
Attn: EMC – Administrative Reviews  
1400 Independence Avenue SW  
Mailstop 1104  
Washington, DC 20250-1104

Re: Shoshone National Forest Land Management Plan, Final Environmental Impact Statement and Draft Record of Decision

Dear Chief Tidwell:

Thank you for the opportunity to provide comments on the U.S. Forest Service (USFS) revised Land Management Plan (Plan), Final Environmental Impact Statement (FEIS) and Draft Record of Decision (Draft ROD) for the Shoshone National Forest. The planning area covers approximately 2.4 million acres in Fremont, Hot Springs, Park, Sublette and Teton counties in Wyoming. The Shoshone Forest is important to Wyoming and this Plan will influence the economy and culture of communities near the Shoshone Forest for the next 10 to 15 years.

I appreciate the cooperation between the USFS, state and local government in developing and revising a balanced and comprehensive land management plan. The Plan provides direction for maintaining and improving water quality. It provides opportunities for motorized recreation, backcountry recreation, and preservation of heritage resources. The plan maintains important fish and wildlife habitat, and opportunities to improve forest health. I do, however, have additional comments related to oil and gas, recreation, management and wilderness. (Attachment 1)

Commercial livestock grazing on the Shoshone Forest is economically and ecologically important and must continue. Both I and the Wyoming Department of Agriculture are concerned that portions of the Plan will reduce sustainability of commercial livestock grazing. I have attached a copy of the Wyoming Department of Agriculture's objection (Attachment 2), which I support. This and other objections should be resolved at the local level by Shoshone Forest personnel, the State of Wyoming and stakeholders. The State of Wyoming has special expertise and jurisdiction by law which is necessary to resolve objections. Management of the Shoshone

Chief Tidwell

March 25, 2014

RE: Shoshone National Forest Land Management Plan, FEIS and Draft ROD

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Forest is important and I ask the USFS to consider all objections seriously.

I have received comments from Meeteetse Conservation District (Attachment 3) and the Shoshone Cooperating Agency Coalition (Attachment 4), which I have also included for your review and consideration.

Please contact me if you have any questions.

Sincerely,



Matthew H. Mead  
Governor

MHM:mdm

cc: The Honorable Michael B. Enzi, U.S. Senate  
The Honorable John Barrasso, U.S. Senate  
The Honorable Cynthia Lummis, U.S. House of Representatives  
Joe Alexander, Forest Supervisor, Shoshone National Forest

Attachments

**Governor Mead's Comments on the Shoshone National Forest  
Land Management Plan, FEIS and Draft ROD  
Attachment 1  
Page 1**

**Oil and Gas**

I appreciate the USFS's responsiveness to my comments on the Draft Plan concerning oil and gas development on the Shoshone Forest. In my Draft Plan comments, I requested to meet with the Shoshone Cooperating Agency Coalition and USFS to discuss No Surface Occupancy (NSO) recommendations. Through subsequent discussions we agreed to remove two areas west of Meeteetse from NSO designation. (See "Map F – Sunshine" on next page.) I request the USFS remove the NSO designation from this area pursuant to those conversations. The Meeteetse Conservation District is also interested in this change as noted in Attachment 3.

**Forest Management**

Allowing vegetative treatments and timber sales is important for forest health and the many uses that occur on the Shoshone Forest, especially since large portions are wilderness or inventoried roadless areas. It is important to maintain the acreage of suitable timber and designate areas as available for timber production. The Allowable Sale Quantity, Suitable Timber Base Acres and Management Area acres with frequent vegetation management allow the USFS to work with state and local partners to conduct vegetative treatments and timber sales. It is important to Wyoming and important to long-term forest health.

**Wilderness**

I do not support designation of additional wilderness through administrative action. I appreciate that the USFS does not recommend wilderness designations in this Plan. I support additional conversations between stakeholders to address management of areas with wilderness characteristics, such as the Dunoir Special Management Unit. The Dunoir Unit is an area with exceptional primitive conditions. It is necessary for stakeholders to engage in meaningful conversations to determine an appropriate management strategy for that area.

Governor Mead's Comments on the Shoshone National Forest  
Land Management Plan, FEIS and Draft ROD

Attachment 1

Page 2

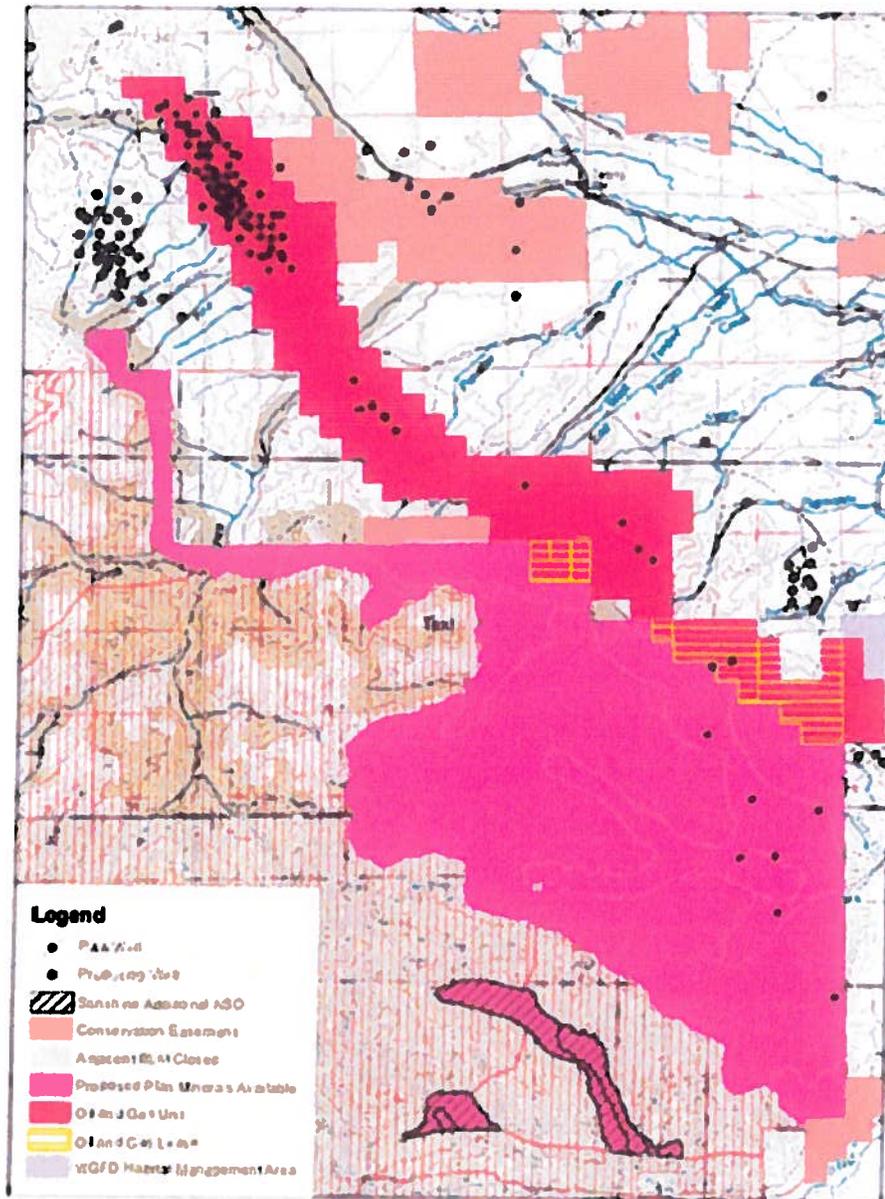
Forest Supervisor Joe Alexander

November 26, 2012

RE: Shoshone National Forest Draft Land Management Plan/  
Draft Environmental Impact Statement

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Map F - Sunshine





Wyoming  
DEPARTMENT OF *Agriculture*

Matthew H. Mead, *Governor*  
Jason Fearneyhough, *Director*  
2219 Carey Ave. • Cheyenne, WY 82002  
Phone: (307) 777-7321 • Fax: (307) 777-6593  
Web: agriculture.wy.gov • Email: wda1@wyo.gov

*The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.*

March 25, 2014

Mr. Tom Tidwell  
Chief, Objection Reviewing Officer  
USDA Forest Service  
Attn: EMC – Administrative Reviews  
1400 Independence Avenue, SW, Mailstop 104  
Washington, D.C. 20250-1104

Dear Mr. Tidwell:

The Wyoming Department of Agriculture (WDA) submits the following objection to the 2014 Shoshone National Forest (SNF) Land Management Plan (LMP), Final Environmental Impact Statement (FEIS) and Draft Record of Decision (Draft ROD). The Draft ROD for the SNF LMP, dated January 2014, was released January 17, 2014 and published in the Legal Notice section of the Denver Post on January 24, 2014. Mr. Daniel J. Jiron, Regional Forester, Region 2, Rocky Mountain Region is the Responsible Official.

The WDA is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life. We have served as a cooperating agency and regularly provided numerous comment letters with suggested changes. The SNF is required to review and address the submitted comments as they relate to the objection issues contained in this letter.

Our overall concern is the negative tone throughout the SNF FEIS and LMP in regards to livestock grazing and the overuse of livestock grazing as a risk factor to wildlife and other resources. We have commented numerous times on the SNF's lack of differentiation between types of grazing (commercial versus recreational) and the importance of proper versus improper livestock grazing. We strongly feel the SNF LMP and FEIS imply all livestock grazing is a risk to natural resources and wildlife and could lead to livestock grazing being reduced or even eliminated from the SNF.

We believe SNF should clearly and deliberately communicate management objectives or changes to ensure there is no misinterpretation by others. As written, the FEIS and LMP lack clarity and lead to open interpretation, improper conclusions and inaccurate suggestion of livestock grazing as the causal factor. Figure 17 of the FEIS shows that 98% of the grazing allotments are meeting or moving towards standards. We believe the SNF has neglected their data and unjustly portrayed all grazing as a risk factor to the entire forest.

While we do support the proposed decision and selection of Alternative G, we feel SNF has not fulfilled their duties and responsibilities in addressing our comments or developing a decision that is truly reflective of all interests on the SNF. Pursuant to regulation 36 CFR 219.54(c) we hereby file the following objection to the 2014 SNF LMP, FEIS and Draft ROD. Please find our objection issues attached as Attachment A.

*Equal Opportunity in Employment and Services*

**BOARD MEMBERS**

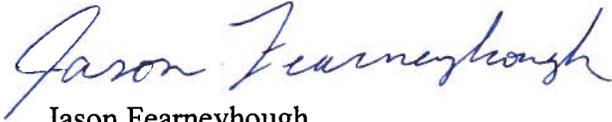
Jana Ginter, *District 1* • Jim Hodder, *District 2* • Shaun Sims, *District 3* • John Moore, *District 4* • Alison Lass, *District 5*  
Bryan Brost, *District 6* • Jim Price, Jr., *District 7*

**YOUTH BOARD MEMBERS**

Patrick Zimmerer, *Southeast* • Richard Schlenker, *Northwest* • John Hansen, *Southwest* • Cameron Smith, *Northeast*

We would like to thank the SNF for the opportunity to participate and look forward to working together as the process continues.

Sincerely,



Jason Fearneyhough  
Director

JF/jb

CC: Governor's Policy Office  
Wyoming Board of Agriculture  
Wyoming Stock Growers Association  
Wyoming Wool Growers Association  
Wyoming Farm Bureau Federation  
Wyoming State Grazing Board  
Wyoming Association of Conservation Districts  
Wyoming Game and Fish Department

## Attachment A

### Objection Issues

The WDA objects in accordance with 36 CFR to the LMP, FEIS and Draft ROD based on the following issues. Attachment B contains WDA's previously submitted comments for referencing as our issues are presented. Within Attachment A, references to our previous comments will appear as dates with parentheses.

### Objection 1: Commercial Livestock Grazing; LMP pp. 16

*"New direction is needed to improve critical wildlife habitat and to prevent negative impacts on riparian areas. New management direction that expands the use of forage reserves and other approaches are needed."*

The WDA previously commented on the Draft Analysis of the Management Situation (July 29, 2011) and again on the Draft LMP and Draft EIS (November 26, 2012) regarding the Need for Change statement under Commercial Livestock Grazing and reiterates here. SNF monitoring data provided in the FEIS does not indicate current livestock grazing is negatively impacting wildlife habitat or riparian areas. The WDA objects to using Need for Change out of context to FSH 2209.13 which states *"Where a particular existing condition and desired condition are the same, there is no need for change."*

### Suggestions for Improvement

Because there is no evidence of negative impact this section should be removed.

### Objection 2: Guidelines for Vegetation; LMP pp.34

*"Livestock management should be modified when conditions are not moving toward desired conditions as determined through trend and condition monitoring."*

The WDA previously commented on the Draft EIS and Draft LMP regarding the Guidelines for Vegetation and when livestock management should be modified. In our letter dated November 26, 2012 we specifically asked the SNF to address when and why livestock management should be modified. The WDA urged the SNF to modify their language to more accurately communicate when current livestock grazing management is deemed the causal factor and needs modified. The WDA objects to SNF's implying livestock grazing is a factor keeping areas from reaching desired conditions. Evidence shows there are multiple causal factors for an area not reaching desired conditions.

### Suggestions for Improvement

The WDA proposes SNF removes their existing language and insert "Livestock management should be modified when conditions are not moving toward desired conditions as determined through trend condition and monitoring and livestock management is clearly shown to be the causal factor."

This is also more closely aligned with the Wyoming approach to grazing management and Executive Order 2013-3 which states: *"... Wyoming will cooperate with appropriate Federal agencies in defining a framework for evaluating situations to determine if a causal relationship exists between improper grazing...and objectives not being achieved on federal lands."*

Objection 3: Monitoring; LMP, pp. 191

*“Establish monitoring priorities: Criteria from the goals and objectives are used to establish priorities for monitoring within the expected program of work and budget constraints”*

The WDA previously commented that monitoring on the SNF should not be based upon budget constraints. In our November 26, 2012 letter we specifically addressed the LMP language. We strongly feel monitoring should be based only on goals and objectives, not budgets. Monitoring data is absolutely fundamental and not only protects permittees, but the SNF as well and should not be neglected or dismissed for any reason including budgets. In many cases, monitoring data is the most important piece of evidence producers have to show they are in compliance with their permit. Monitoring priorities must be based upon goals and objectives in order to remain relevant. We do not believe there are provisions allowing the SNF not to monitor an area due to budget constraints. Further, in order for the SNF to show progress within their own plan they must be able to provide data. To not monitor an area due to budgets would not only undermine the SNF and permittees, but the forest plan as a whole.

Suggestions for Improvement

36 CFR 222.2 (b) states that *“Each allotment will be analyzed and...an allotment management plan [will be] developed”* which implies monitoring is a requirement.

The WDA proposes the SNF replace as follows: *“Establish monitoring priorities: Criteria from the goals and objectives are used to establish priorities for monitoring within the expected program of work.”*

Objection 4: Rangeland Capability and Suitability Evaluation; Appendix B, pp. 1100

The WDA previously commented regarding Capability and Suitability assessments that were completed for the SNF. Literature and personal experience has shown cattle will graze areas with greater than 40% slopes. The Capability analysis should include all lands potentially capable of supporting grazing. Changes in breed of animal, differences in husbandry techniques and training and differences in animal behavior from one operation to the next should be realized as factors that will change utilization patterns.

Suggestions for Improvement

The SNF should accept on-the-ground knowledge from permittees and additional science to more clearly define capable and suitable areas. Local knowledge is readily available and should be used as much as possible.

**Attachment B**

**Previously Submitted Comments**

*November 15, 2010* – Scoping Comments

*July 29, 2011* – Draft Analysis of the Management Situation Comments

*November 26, 2012* – Draft Environmental Impact Statement and Draft Land Management Plan  
Comments



## **Meeteetse Conservation District**

P.O. Box 237 • Meeteetse, WY 82433  
(307) 868-2484 • [mcd@tctwest.net](mailto:mcd@tctwest.net)

**March 13<sup>th</sup>, 2014**

**Jessica Crowder**

Policy Advisor  
Office of Governor Matthew H. Mead  
Herschler Building, Second Floor East  
122 W. 25th Street  
Cheyenne, WY 82002

RE: ***Consistency Review between MCD Land Use Plan and SNF Land Management Plan Revision***

Dear Jessica,

The Meeteetse Conservation District (MCD) appreciates the opportunity to participate with the Governor's office in a consistency review between the MCD Land Use Management and Resource Conservation Plan 2011 (MCD LUP) and the 2014 Revision of the Shoshone National Forest Land Management Plan (SNFP). We are submitting to you our issues and concerns that have arisen from what we view as an apparent lack of consideration by the SNF to achieve consistency as required by regulations in the National Forest Management Act (NFMA). MCD also plans to file an objection to the SNFP regarding the same issues and concerns and is currently working with attorney Karen Budd-Falen throughout the process.

MCD has numerous concerns with the Final Land Management Plan that need to be resolved. The following comments on livestock grazing, no surface occupancy (NSO) and de facto wilderness are of our greatest concerns.

**Livestock Grazing:**

The Meeteetse Conservation District (MCD) believes that step 2 of the 'Process for Determination of Rangeland Suitability' must be revised in the FEIS.

Below is step 2 of the 'Process for Determination of Rangeland Suitability'

*2. Acres with slopes 40 to 60 percent slope were subtracted as not being suitable for cattle grazing.*

Step 2 should be changed to 'acres with slopes **greater** than 60% were subtracted as not being suitable for cattle grazing.' We believe it is justified by the ranchers within our district and the publications listed below. For these reasons the 40% figure 'can be modified' to fit the situations in the Shoshone National Forest (step 8b).

Step 8 out of *Rangeland Suitability for Livestock Grazing at the Forest Plan Level and Standards for NEPA Display* – November, 2002 reads as follows:

8. Subtract slopes meeting the following criteria:

a. Subtract slopes greater than 60% (not capable for either sheep or cattle). Keep track of capable acres for cattle and sheep separately (may also need to track separately for other kinds and classes of livestock such as bison, if the need presents). The 60% figure can be modified for each specific Forest or Geographic area to fit with local situations (with documented rationale).

b. From the above (a) capability calculations, subtract slopes greater than 40% (slopes of 41-60% are capable for sheep but not normally for cattle). The 40% figure **can be modified** for each specific Forest or Geographic area to fit with local situations (with documented rationale).

The Desk Guide clearly allows for flexibility in the capability calculations as noted in step 8b of the desk guide. Several publications George et al. (2007) and texts (Holechek et al. 1998); Range Management, Principles and Practices note that livestock will utilize slopes up to 60%. This 60% figure is far more realistic and accurate than the 40% figure used by the Forest Service. The Wyoming Stock Growers Association (Magagna pers. comm.) and local ranchers on the SNF confirm that cattle use slopes between 40%–60%. We believe this specific data and citations address step 8b in the capability determination to provide documented rationale (SCAC, 2012).

The definition of suitability found at 36 CFR 219.3 (1982 regulations) follows:

**Suitability:** *The appropriateness of applying certain resource management practices to a particular area of lands, as determined by an analysis of the economic and environmental consequences and the alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.*

*Rangeland suitability varies by alternative or grouping of alternatives.*

The definition of rangeland capability was found in 36 CFR 219.3 and is also found in FSM 1905 as follows:

**Capability:** *The potential of an area of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices and at a given level of management intensity. Capability depends upon current resource conditions and site conditions such as climate, slope, landform, soils, and geology, as well as the application of management practices, such as silviculture or protection from fire, insects, and disease.*

*Capability is the initial step in the determination of suitability. It is portrayed as a separate step both for reasons of clarity and because the actual product of “capability” often has utility in planning beyond its role in the determination of suitability.*

Subsequent to the comments pertaining to the DEIS, the FEIS states:

*Slopes greater than 60 percent were subtracted. These areas are identified as not suitable for cattle and sheep grazing. In the DEIS analysis, the 40 to 60 percent slope range, which is generally suitable for sheep grazing was identified as not being capable. Most of the Shoshone is not available for sheep grazing and the interdisciplinary team felt the information on capability*

*for sheep was not needed by the decision maker. Sheep are only grazed on two allotments on the south end of the Forest and the terrain is generally less than 40 percent slopes in those areas. Comments received on the DEIS objected to this approach. They felt it did not follow standard protocols and provided in incorrect display of grazing capability. Based on the comments, we reconsidered our approach and adjusted it to include the 40 to 60 percent slope range as capable acres. Now they are not removed until the suitability screen where suitability for cattle grazing is determined.*

Again, the suitability screen for cattle grazing should only subtract slopes greater than 60%. Grazing is critical to the producers within the Meeteetse Conservation District and provides a vast amount of ecological benefits. Excluding slopes of 40-60% in the suitability screen will have dramatic consequences on the ranchers, surrounding ecosystems and the economy.

The Meeteetse Conservation District recognizes that the livestock industry is vital to the local economy. Historically, the reduction of permitted grazing on public lands, unless for misuse or overgrazing, has had and will continue to have disastrous economic impacts on individual ranches, and collectively on both the MCD, Park County, and, for that matter, those impacts can be extended throughout the Big Horn Basin and the interrelated ranching community. "Federal livestock grazing is an important part of livestock production in terms of the number of producers affected, the acres of land affected, and economic effects on the individual agricultural operations. Federal livestock grazing also has important implications for the overall Park County economy" (Taylor et al. 2005). The authors continue by saying "...because there is a fixed amount of land in Park County, residents, landowners, county planners and public lands managers hold the keys to how this resource will be managed. Whether the land is used for agriculture and remains as open space or is developed for rural residential living depends on some degree how these individuals and institutions react in their communities and the market place in regard to this resource. In essence, it is a balance between agriculture, development and conservation, dictated by the value society and the market place on this land resource."

*Continued grazing use of federally managed land is necessary if the livestock industry is to survive. The expectation for continuation of the livestock industry in the MCD is essential to support economic stability and to preserve the custom and culture of the citizens. If grazing is restricted, financial pressure will be placed on the rancher, which may even result in him/her going out of business. When that happens, the tax base of the county suffers, and the business income is also reduced (MCD LUP, pg. 57, 2011).*

From MCD LUP (pg. 60, 2011),

*Public Lands Agricultural Use Policy - It shall be the policy of the MCD that:*

- i. The MCD shall support continued agricultural use of the public lands in accordance with its custom and culture in order to sustain its continued economic and social stability.*
- ii. In recognition that the productivity of the public lands affecting the MCD is directly related to the MCD's social and economic well-being, the MCD will directly participate in land use planning activities related to agricultural use of the public lands.*
- iii. The MCD shall provide comment(s), seek Coordination Status, or seek to become a Cooperating Agency, as is appropriate for the MCD's purposes, for federal land use planning affecting the agricultural use of public lands by the people of the MCD in order to effectively represent and protect the MCD's custom, culture, economy and general welfare.*

- iv. *The MCD shall require that land and natural resource use, management, and conservation planning, the plans developed for public lands, as well as the implementation of those plans, protect the agricultural use of public lands used by the people of the MCD to the fullest extent provided by law in order to protect the custom, culture, economic viability, social stability, and general welfare of the MCD.*
- v. *The MCD may, at its discretion, join with other governmental and nongovernmental entities to combine efforts to provide that agricultural use of public land is protected to the fullest extent provided by law in order to preserve the MCD's custom, culture, economy, social stability, and general welfare of its people.*
- vi. *Each federal and state agency with oversight, management or jurisdiction over lands, water, and natural resources in the District or affecting the District continue the grazing use that has been established in the District, and that the agencies work with the District in assisting landowners and grazers in achieving sound management. (MCD policy, 2/9/2011)*
- vii. *Regulatory action pertaining to agricultural use of public lands will cite the impacts to the local economy, local custom and culture, the human environment and provide how such proposed action is consistent with new, revised or supplements to this Plan.*
- viii. *The MCD insists that any changes and/or restrictions on agricultural use of public lands proposed by federal or State agencies must be based on objective and sound scientific data and in cooperation with the County.*
- ix. *The MCD may, at its discretion, seek to enforce mandates on State and federal authorities to consider the social, cultural, and economic needs of the local human environment in any regulatory action impacting agricultural use of public lands. The MCD has determined that agriculture makes a substantive contribution to environmental and recreational uses of public land; for that reason, public purposes such as protection of endangered species, wildlife habitat, open space, and augmentation of water resources are all enhanced by continued agricultural use of public lands.*
- x. *The MCD will strive to bring affected agricultural stakeholders into the processes affecting their agricultural use of public lands and facilitate their participation in addressing issues affecting agricultural use of public land in order to protect the custom and culture and economic stability of the MCD.*

### **No Surface Occupancy**

On page 621 of SNFP FEIS Vol. I, the SNF recognizes that,

*Policy within the Meeteetse Conservation District (MCD) Land Use Plan opposes the restriction of access (including access for mineral production) and any management that might "negatively impact the livelihoods" of their constituents. The MCD views the further restriction of surface occupancy for oil and gas leasing proposed in the preferred alternative of the Shoshone revised plan as being in conflict with their policy. In designating lands available for surface occupancy the forest focused on those lands with a high potential for oil and gas occurrence. No surface occupancy designations were drafted to be consistent with the direction for back country non-motorized management areas, big game crucial winter range and the desire of the public (that commented on the DEIS) to limit oil and gas leasing on the Forest. Economic impacts to the communities within the MCD from restrictions on surface occupancy are not anticipated low potential for oil and gas development during the life of the Forest Plan (10 to 15 years).*

First off, the preceding text is true in that the MCD does oppose management that would have a negative impact on the economic stability as well as the custom and culture of those residing within the MCD.

Also, MCD asserts that requiring NSO across large tracts of land is in conflict with the MCD plan. However, the MCD LUP provides that,

*The MCD will join with local landowners, government agencies, and organizations in maintaining, improving, and enhancing wildlife populations and habitat, complementary to and in conjunction with the other resources of the District.*

This is to say that MCD does support limited use of NSO where there is no other apparent means to address Wyoming Game and Fish Department (WGFD) concerns regarding wildlife, namely elk on Crucial Winter Range.

The SNF insists that lands on the forest with a high occurrence potential were considered when designating lands available for surface occupancy and that negative economic impacts to the community were not anticipated due to NSO regulations because both potential for occurrence and potential for development were low according to the 2010 BLM Reasonable Foreseeable Development (RFD) document. Therein lies a substantial problem in the eyes of the MCD. Through much research it is our understanding that the authors of the RFD arbitrarily classified the area beneath the Absaroka volcanics (which also happens to, for the most part, coincide with the area under SNF ownership) as having a low occurrence potential due to a demonstrated absence of one or more of certain criteria necessary in order to not be classified as such. The foundational data used in producing the results of the RFD was collected during the 2008 USGS National Oil and Gas Assessment (NOGA). Page 66 of the RFD reads,

*The Sub-Absaroka play (see Glossary), which was projected beneath Eocene-age volcanic rocks trapped in Laramide structures was considered under the earlier assessment of the Bighorn Basin Province in the western part of the Planning Area (Beeman et al., 1996; Charpentier et al., 1996; Gautier et al., 1996), **but was not included in the most recent assessment.***

To simplify, the subsurface petroleum resources were not even analyzed in the 2008 NOGA but given a low occurrence potential designation by the RFD authors. We believe that the 1995 NOGA happens to entail the best science available as it is the most recent analysis of the Sub-Absaroka play and that the oil and gas occurrence potential is in fact “good” to high as follows on page 8.

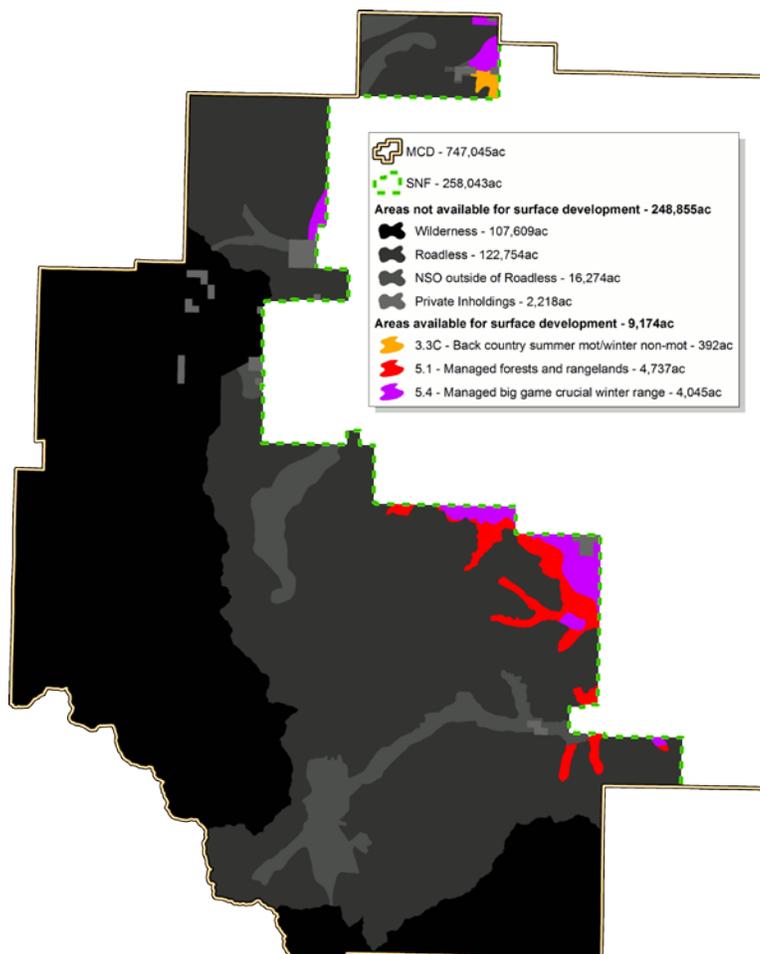
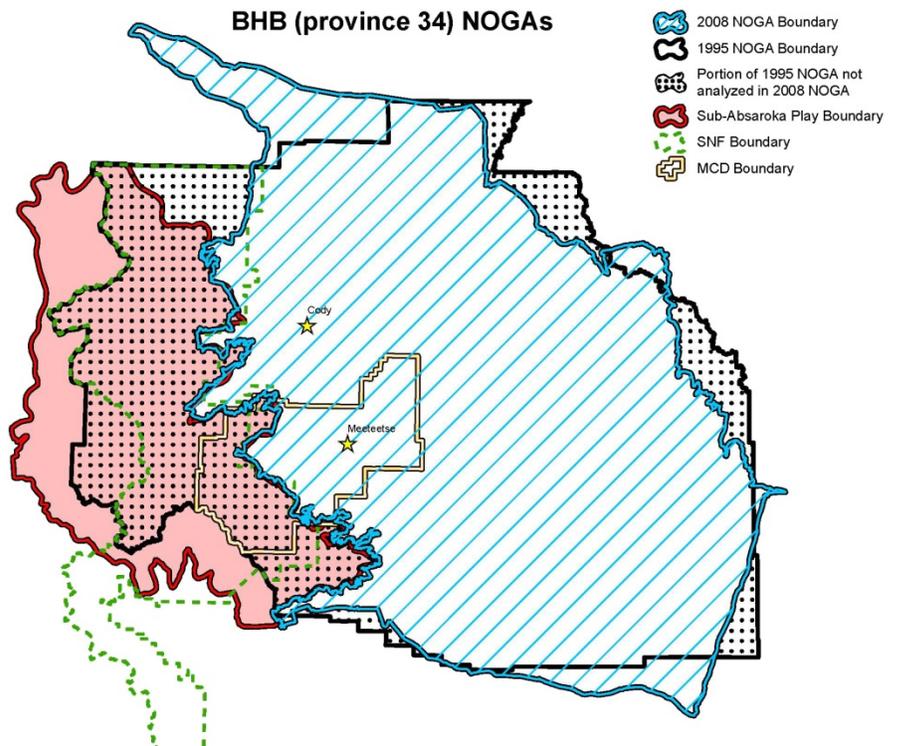
**Exploration status:** *This play **has not been extensively explored** because of the difficulty of exploring beneath the volcanic rocks. Six small fields (less than 1 MMBOE) have produced oil from small structures beneath the volcanics. They include Aspen Creek, Baird Peak, Dickie, Prospect Creek, Prospect Creek South, and Skelton Dome fields.*

**Resource potential:** *The potential for significant large new field discoveries (greater than 1 MMBOE) is **good**. Several of the basin-margin anticlinal fields on trend with this play area have large reserves. For example, Fourbear field has 31.2 MMBO ultimate recoverable and Pitchfork has 68 MMBO ultimate recoverable.*

Included in the 1995 NOGA is a play results summary chart for each play analyzed in the Big Horn Basin, Wyoming. Below is the chart for the Sub-Absaroka play which again illustrates its high probability of occurrence for oil (\*note highlighting).



The following map illustrates the boundaries of each of the two different NOGA units as well as the boundaries of the SNF, MCD and Sub-Absaroka play. Take particular notice to the area of pink stippling (dots) – this is the portion of the Sub-Absaroka play that was analyzed in the 1995 NOGA but not in the 2008 NOGA. The eastern boundary of this area also mostly coincides with the SNF boundary, at least within the MCD.



Another problem with applying blanket NSO restrictions across large sections of land is that this action essentially eliminates any future opportunity for surface development to occur in these areas. It is well known that with each iteration of federal land management plans, restrictions rarely become less stringent than what is currently in place and that they more often than not grow stricter and more intense. The SNF occupies roughly 1/3 (258,043 ac) of the land that falls within the MCD jurisdiction (747,045 ac). This includes 107,609 ac of the Washakie Wilderness and another 122,754 ac of inventoried roadless area. Once acres are removed for Alt G NSO and private inholdings, we are left with 9,174 acres and nearly half of that is managed big game crucial winter range or precluded from any site development due to slope and other physical limitations. The take-home here is that the application of NSO to lands (that we believe actually have high occurrence potential) as proposed in Alt G will leave only a small fraction of the available petroleum resources to be extracted.

The SNF has maintained that industry has shown little to no interest in development on the forest based on findings in the RFD which we know to not be the latest or best science and information available. By reviewing a few excerpts from comments by the Petroleum Association of Wyoming (PAW) and Public Lands Advocacy (PLA) it is clear that industry has been and still is in fact interested in production development on the SNF, especially as advancements are made in modern drilling techniques. This is notably contrary to repeated comments by the SNF that industry has shown almost no interest in these areas. The following statement is from page 2 of the PAW/PLA comments on the Draft EIS.

*While we recognize that certain physical elements may be contributing factors for the assumption that the Forest has low development potential, **it is readily apparent that management is the primary basis for the lack of development potential.***

There is a direct tie between multiple use and the custom and culture of the MCD. Multiple use concepts are integral to its custom and culture. Exclusive use of a disproportionate share of the public landscape for purposes of limited diversity is generally detrimental to social and economic stability. The people of the MCD are directly and indirectly dependent upon public land and the land's intrinsic resources for their livelihoods and their quality of life. It follows that the viability and sustainability of the local economy is dependent upon management for multiple use. Multiple use management is the paradigm of both the USDA Forest Service and the USDI Bureau of Land Management. PL 86-517 (16 U.S.C. 528-531), the Multiple-Use and Sustained Yield Act, 1960 authorizes and directs that the national forests to be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes. The following paragraph from the MCD LUP (pg. 26) addresses the importance of multiple use management on federal lands to the culture and economy of the MCD.

*The economic stability of the MCD rests upon continued multiple use management of the federally or State managed lands. Tax revenue is available to the County mainly through the ad valorem tax, or property tax. The MCD relies on a one mil tax levy. While Park County and the town of Meeteetse receive a share of sales tax receipts, the MCD does not. The limited amount of private property, which was approximately 23% of the County in 2008, greatly restricts the tax revenue of the County and limits that of the MCD. That limited tax base must be protected, and the continued vitality of that tax base is dependent upon continued multiple use of federally or State managed lands. If multiple use is restricted, business income will suffer and sales and property taxes will be affected. ...*

The MCD asserts that the 2014 SNF Plan is invalid and materially deficient due to the lack of a proper and thorough evaluation of how the proposed application of NSO would affect the economy of the MCD community as required by NEPA. It is critical to the future economic stability and well-being of the MCD to preserve the opportunity for industry to site, especially as advancing technology becomes less invasive and more environmentally friendly. Pg. 28 of the MCD LUP as follows,

*The MCD recognizes the importance of the mineral industry, especially oil and gas, to its tax base and economy. The assessed valuation for oil and gas in the county now is over 75% of the total county valuation and thus provides over half of the MCD's total revenues. The mineral industry provides many opportunities for employment and benefits our community in several ways. Good paying jobs open the door for greater needs of services and consumables. The mineral industry in the surrounding area provides a broad economic foundation. The mineral industry is a friend to*

*the MCD and an integral part of the good things, i.e. custom and culture, economic stability, and quality of life we enjoy as a community.*

Again, the importance of the oil industry to MCD on pg. 30 of the MCD LUP,

*The MCD is funded principally from a 1 mil levy administered by Park County on property within its political boundaries. The MCD has had enough of a tax base to operate sufficiently, primarily due to the oil industry. However, most of the taxes are on oil reserves in old fields.*

To gain further perspective as to how paramount oil and gas is to the MCD community (as well as the State of WY), observe the following graph which illustrates precisely what an active well on the SNF could mean in terms of revenue, based on data from five different fields that serve as appropriate analogues based on their close proximity to the SNF.

<b>One Well: Annual Value of Production at \$49.47 per BBL</b>				
<b>100 BBL/day</b>	<b>200 BBL/Day</b>	<b>300 BBL/day</b>		
<b>\$1,805,655</b>	<b>\$3,611,310</b>	<b>\$5,416,965</b>		
<b>Annual Royalty and Severance:</b>				
<b>200 BBL per Day at 12.5% Federal Royalty</b>				
<b>Federal</b>	<b>State</b>	<b>1 mill</b>		
<b>\$234,735</b>	<b>\$406,272</b>	<b>\$3,160</b>		
<b>Cumulative BBL</b>	<b>Federal Royalty</b>	<b>State Royalty</b>	<b>1 mill</b>	<b>Representative Field</b>
100,000	\$321,555	\$556,538	\$4,329	Rose Creek (100M)
1,000,000	\$3,215,550	\$5,565,375	\$43,286	Willow Draw (2.4 MM)
10,000,000	\$32,155,500	\$55,653,750	\$432,863	Sunshine North (4.3 MM)
40,000,000	\$128,622,000	\$222,615,000	\$1,731,450	Fourbear (40.5 MM)
269,309,750	\$865,978,967	\$1,498,809,750	\$11,657,409	Grass Creek (269 MM)
<b>Park County Municipalities 2010</b>		<b>\$1,461,889</b>	7,454,739 BBL Production	\$0.196 per BBL
\$0.004 per Dollar of Federal Minerals Royalty and Severance				

Based on the information previously presented in this section, it is evident that the SNF is incorrect in their assertion that 1 – occurrence potential of oil and gas is low, 2 – industry has no (low) interest in development on the SNF and 3 – economic impacts to the MCD community are low.

**De Facto Wilderness**

The Meeteetse Conservation District strongly opposes any decisions that eliminate multiple use opportunities on the Shoshone National Forest.

*Wilderness and other one use management systems do not result in sound management of grazing, water conservation, prevention of soil erosion and prevention of waste water. When a federal agency declares federal land as de facto wilderness, or attempts to manage multiple use lands within wilderness study areas or other types of one-use restrictions, the result is damaging to the sound performance of the District's duties, and is damaging to the watershed within the District (MCD LUP, pg. 52, 2011).*

De facto wilderness negatively impacts grazing, wildlife, ecosystem productivity, oil and gas production and economics throughout the communities. Under the *Multiple Use Policy* in the Land Use Management Plan the MCD states that,

*Multiple use lands should not be changed into de facto wilderness, should not be changed into non or one-use category, should not be changed from multiple use without the specific and definite act of Congress. The district operates with a policy that does not favor change of multiple use lands at all, but strongly opposes any such change without the express authorization of Congress (MCD LUP, pg. 55, 2011).*

Multiple use maintains continuity in the local economy as well as sustainability of existing agricultural, recreational and industrial interests. The FEIS blatantly disregards the importance of multiple use by implementing a blanket policy that removes the ability for the aforementioned interests to be pursued.

In the Draft Record of Decision for the Land Management Plan Division it explains that

*Thirty percent of the Shoshone (746,000 acres) was evaluated as additional potential wilderness in the FEIS. Alternative G increases the protection of these areas to maintain their back country character by reducing the area that allows active vegetation management, summer motorized use, and winter motorized use.*

These increased protections (restrictions) as well as the drastic decreases in suitable acres for such activities will have dramatic negative impacts on the local economy.

The MCD Land Use Management Plan (pg. 49, 2011) also mentions relying on the Wyoming Wilderness Act.

*Access, and the ability to utilize the full spectrum of resources originally provided by multiple use management, has been systematically limited by the incremental implementation of restrictions on a wide variety of individual uses. These restrictions have typically been imposed with intent to provide some form of protective measure. The MCD asserts that cumulative effects of incrementally imposed restrictions has led to the systematic reduction in the ability of the community as a whole to prosper through utilization of resources previously available from the public lands.*

*With an increasing emphasis, federal land planning is creating new and specially designated areas with priority uses or protections that employ new restrictions which can negatively impact resource use. These include, but are not limited to wilderness, wilderness study areas, designation of areas with wilderness or "wilderness-like" characteristics, areas having specific environmental concerns, protection areas for specific classes or species of wildlife, wildlife seasonal use areas, and wildlife habitat. These areas can comprise thousands of acres on an*

*individual basis and there is no area within the MCD without special land use restrictions on its public lands. There is increasing overlap of layer upon layer of “special areas.” The management of these areas through time has resulted in incrementally imposed additional restrictions which is in direct conflict with multiple use principles. These “special areas” have been promulgated through repeated plan revisions through time, abetted by the loss of applicable agency, Cooperating Agency, and participating entity institutional knowledge in the intervening years between management plans, and the loss of key individuals who were active in a prior plan development. As stated elsewhere in this Plan, the MCD asserts that cumulative effects of incrementally imposed restrictions has led to the systematic reduction in the ability of the community as a whole to prosper through utilization of resources previously available from the public lands (MCD LUP, pg. 53, 2011).*

### **Conclusion**

The MCD recognizes that federal law mandates multiple use of federally managed lands and has long supported multiple use. Sustained multiple use necessarily includes continued historic and traditional economic uses, which have occurred on federally managed lands within and affecting the MCD. The economy of the MCD benefits from multiple use policies that allow for grazing, mining, the harvest of marketable timber, the development of oil and gas reserves, water storage for irrigation and hydroelectric power, and recreational use of the federally managed land. Many of our industries have seen the impact of policies made at the federal level without adequate local coordination. Some of our historic industries have been forced out by ill-conceived policies. We must protect and enhance our historical industries to insure that our natural resource based economy can survive.

Page four of the MCD LUP reads as follows,

*43CFR1610.3-2 Consistency requirements:*

*(c) State Directors and District and Area Managers shall, to the extent practicable, keep apprised of State and local governmental ... policies, plans, and programs, but they shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments ... of an apparent inconsistency.*

It is the responsibility of the Forest Service to strive for multiple use management. However, it is clear that this Forest Plan ignores that responsibility, violates the Multiple-Use and Sustained Yield Act and is essentially migrating towards de facto wilderness by managing for single-use purposes with layers of restrictions. Again, the MCD appreciates the opportunity to participate with the Governor’s office in this consistency review and hopes our concerns are acknowledged and resolved.

Sincerely,



Steffen Cornell  
Resource Specialist  
Meeteetse Conservation District

## References

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March 25, 2014

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**RE: Statement of Objections for the Shoshone National Forest Land Management Plan Revision, Final Environmental Impact Statement, and Draft Record of Decision with recommendations for improvements pursuant to regulation 36 CFR 219.54(c).**

Dear Forest Service Chief Tidwell:

The Shoshone Cooperating Agency Coalition (SCAC) of Wyoming submits this objection to the 2014 Shoshone National Forest (SNF) Land Management Plan Revision, Final Environmental Impact Statement (FEIS), and Draft Record of Decision (ROD). The Draft ROD for the SNF Land Management Revision, dated January 2014, was released on January 17, 2014 and published in the Legal Notice section of the Denver Post on January 24, 2014. Mr. Daniel J. Jirón, Regional Forester, Region 2, Rocky Mountain Region, is the Responsible Official.

The SCAC is comprised of and represents three County Commissions (representing Fremont, Hot Springs, and Park Counties) and five Conservation Districts (Cody, Dubois-Crowheart, Hot Springs, Lower Wind River, and Meeteetse Conservation Districts) adjacent to the SNF. As consistently engaged cooperating agencies, the SCAC has been active in the public process for the Forest Plan revision and diligent in providing comment and supplemental analysis. For purposes of this objection, the Park County Commission will be the lead objector.

The SCAC has been involved with the SNF planning effort from the start. We have provided comments as requested in the Notice of Intent (NOI)<sup>1</sup>, participated in planning meetings as cooperating agencies (40 CFR 1501.6 and 40 CFR 1508.5), and prepared formal comments on the Draft Forest Plan and Draft Environmental Impact Statement. Prior to this planning effort under the National Forest Management Act (NFMA) 1982 Planning Rule, the SCAC was involved in the Forest planning under the 2005 and 2008 NFMA Planning Rule. We believe that the SNF is compelled to review and address the comments previously provided as they relate to the objection issues contained in this document.<sup>2</sup> We incorporate

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<sup>1</sup> *Federal Register Vol. 75, No. 185 (Friday, September 24, 2010).*

<sup>2</sup> Federal direction stipulates that lead agencies “[u]se the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.” (Council on Environmental Quality, Sec 1501.6)

these previous comments by reference. We thank the SNF for the opportunity to participate in the process and look forward to working with the SNF on this important Plan.

Our overarching statement on the Forest Plan is that the SCAC would like to see the SNF maintain a strong measure of flexibility in this especially challenging environment for public lands management. Budgets are likely to decrease, while the cost of wildfire suppression will surely increase in the coming years. We understand that in order to provide for forest restoration and wildlife habitat, as well as to decrease the chances of catastrophic wildfires and to address mountain pine beetle infestations—to keep the SNF as the treasure that it is—the option of treatments on forest lands must remain available as a management strategy. The citizens we represent support increasing the flexibility of the Forest Plan, to respond better to future needs and conditions.

It is also crucially important to the SCAC that economic opportunities on the SNF are expanded or at least maintained at present levels. As we have suggested in scoping comments, meeting comments, and the review of previous draft planning documents, the counties and conservation districts believe that we owe it to our constituents to look for ways to expand economic opportunities.

Pursuant to regulation 36 CFR 219.54(c), we hereby file the following objection to the 2014 SNF Land Management Plan Revision, FEIS, and Draft ROD. The Draft ROD adopts Alternative G for the revised Forest Plan.

Sincerely,



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## **Objection Summary**

Following the release of the Draft SNF Plan and EIS, the SCAC prepared comprehensive comments that were consistent with federal and state laws and policies, including county and conservation district land use plans. The comments submitted in November of 2012 focused on the likely effects of the selected alternative on county resources. Additionally, a main concern expressed throughout the commentary was that best available science be used and interpreted correctly when predicting and analyzing effects in the FEIS.

Responses to the comments submitted by the SCAC were addressed and included in Appendix A of the FEIS. However, changes to the FEIS are minor and typically consist of the modification of language, not a change in the analysis and consequently did not correct the issues of concern.

The SCAC has reviewed the Final Plan and EIS and has identified fundamental errors in the environmental document. The SCAC has concluded that for several analysis topics the FEIS failed to accurately disclose direct, indirect, and cumulative impacts as required by the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations, and FSH 1909.15. Although the intent may not have been to violate law, regulation, and policy, the SNF achieved this by ignoring current research, misinterpreting or taking research out of context, and failing to quantify readily-available data at the appropriate effects analysis boundary scale. One product of this inaccurate analysis is the overstatement of impacts.

As a cooperating agency that submitted substantive comments on the Draft Plan and EIS, the SCAC meets the requirements for an objection opportunity. The SCAC is concerned that the acceptance of effects determinations that are not supported by data will affect future multiple use actions. Therefore, this objection calls in to question specific issues that were incorrectly analyzed and the resulting erroneous disclosure of effects.

The SCAC members each have county and conservation district land use plans that address goals, objectives, and policies for lands within the counties. CEQ mandates that the SNF identify and discuss areas in which the proposed action is inconsistent with local land use plans. Furthermore, where inconsistencies do exist, the SNF shall discuss the extent to which these differences will be reconciled. CEQ Section 1506.2 – Elimination of Duplication with State and Local Procedures Part D states:

- (d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

The SCAC wants to remind the SNF of the 1982 Planning Rule requirement to coordinate with local governments [219.7 (d) & (e)]. In conjunction with the CEQ regulations for working with cooperating agencies, we request that the SNF, review, and where applicable, recognize and be consistent with our individual county and conservation district plans for the following objection issues. The 1982 planning

rule (219.12 (b)) requires that “The interdisciplinary team shall identify and evaluate public issues, management concerns, and resource use and development opportunities, including those identified throughout the planning process during public participation activities and coordination with other Federal agencies, State and local governments, and Indian tribes.” Additional information regarding this topic can be found in the SCAC November 2012 comments submitted on the Draft Plan and EIS, which are incorporated by reference.

### **Objection Issues**

The SCAC objects to the following issues that were raised during the planning process and addressed in our comments submitted on the Draft Plan and EIS. We provide a concise statement explaining the objection issue and include suggestions for improving the Plan per direction in 36 CFR 219.54(c). A full list of documents previously submitted by the SCAC is provided as Attachment A.

As cooperators with special expertise, we request that our objection issues be resolved at the local level when possible and offer to help correct the issues identified.

### **Objection Issue 1 – Inadequate Analysis of the Management Situation, Inadequate Alternative Development, and Inadequate Effects Analysis for Social and Economic Resources**

Inadequacies identified in the Analysis of the Management Situation (AMS), Forest Plan, and FEIS are centered on the lack of reliable analysis and consistency of data within the social and economic analysis. The SNF resisted preparing the AMS, only finally preparing one after the alternatives had been developed. The AMS as published did not meet the intent of an AMS. CFR 219.12(e) notes that “the primary purpose of this analysis is to provide a basis from formulating a broad range of reasonable alternatives.” The SNF AMS was developed after the Alternatives were developed, thus eliminating their ability to help inform alternatives. The AMS failed to produce useful desirable conditions or financial benchmarks against which to measure the alternatives, making it difficult to measure missed opportunity costs for specific resources uses. The Maximum Present Net Value Benchmark [219.12e(1)[iii]] should, “develop a maximum PNV for those resources that have a market or non-market value and are relevant to the plan revision issues.”

An additional section was included in the FEIS Appendix B that was inadvertently omitted from the Draft EIS. This added section does still not contain the financial benchmarks. The reasoning for not providing the maximum present net value (PNV) is flawed. FEIS Appendix B (pages 1136-1137) state:

No monetary benchmarks were completed for the AMS. The requirement to analyze these benchmarks assumes that an allocation/scheduling model can be built which adequately represents all resources having “an established market value or an assigned value.” This is not the case. Our knowledge of the joint production functions within national forest ecosystems is not sufficient to adequately quantify all inputs and outputs as required in the deterministic models currently being used for forest planning analysis...The decision maker has chosen not to produce a PNV benchmark.

However, the maximum PNV benchmark does not require a joint production function. A joint production models multiple outputs and according to the policy it should assume no budget constraint. The purpose is to examine the maximum value of a particular resource, such as timber, and determine the maximum PNV as if that was the only resource. By knowing the total values of individual resources, one is able to evaluate the trade-offs of the joint production function of the alternatives. For example, a wilderness area closed to logging represents a trade-off of a certain value of timber logs. Likewise, the trade-off for an increase in the amount of winter range managed for wildlife means less snowmobile use or potential energy development.

The Forest Plan contains many references to social and economic sustainability, but little substantial thought. In addition, some of the goals specific to economics are not carried through into the FEIS analysis. For example, on page 147 of the FEIS timber product manufacturing infrastructure and its relation to forest health is discussed in terms of how the decline in the availability of timber product manufacturing infrastructure may impact the ability of the Forest Service to maintain forest health. Yet, in the Peoples and Communities–Goods and Services section the desirable conditions are vague and do not include any mention of determining the level of timber required to maintain the industry infrastructure.

The socio-economic sections provide the opportunity to weigh the costs and benefits of the alternatives to competing publics. In addition, the People and Communities – Goods and Services section should focus on the impacts of the alternatives on local communities, whom are the portion of the public that bear the largest portion of those impacts. The SCAC believes that the analysis focuses on the impacts to the Forest, other resources, and the three county region as a whole, rather than the impacts to the particular communities and people. In small communities, the loss of a single job may be important, yet negligible across the analysis area on the Shoshone National Forest.” The SCAC believes that the Forest Service has produced just an analysis of the “negligible” impacts across the planning area, without providing the detail required for determining where and to whom the “considerable” impacts may occur.

#### *Suggestions for Improvement*

Include a desired condition within the communities section to maintain supply sufficient to sustain the timber product manufacturing infrastructure in the local area. There are currently no large sawmills; however, according to the cumulative impacts section there are seven local sawmills (FEIS page 618).

Explore where the seven local sawmills are located, along with the other timber related companies included in this same study and include the information in the affected environment and environmental consequences sections of the FEIS. It is understandable that the quantitative data may not be available on a scale smaller than the county, but qualitative data will aid the decision maker and public reader in understanding the level of supply required to maintain the infrastructure.

The SCAC submitted comments on the Draft EIS stating that we are unable to replicate the amounts listed in the NPV for economic efficiency for each alternative. The information provided says that a spreadsheet was used with a 4% discount rate over a 50-year period and “Built into the spreadsheet were

predicted increases and decreases to output levels over time.” We would request that the PNV table be expanded to detail the PNV of the different components that compose the total amount.

Assign values to maximum NPV benchmark for resources where possible and appropriate, such as timber and grazing. The calculation of this number does not require a joint production function.

Explain in more detail the limits of the analysis completed and provide additional qualitative analysis of the smaller communities in the region and the role they play in maintaining forest health and the role the forest plays in their working and personal lives.

Include a desired condition of minimizing the differences between summer and winter recreation in order to help sustain lodging and other recreation sector infrastructures.

### **Objection Issue 2 – Incorrect Grazing Capability and Suitability**

The SCAC is concerned that the capability and suitability analysis described in the AMS and FEIS is incorrect. The FEIS states on page 417 that only 16% of the SNF (378,529 acres) is “capable of supporting commercial livestock grazing on the Forest.” This statement is factually incorrect and misleading. This figure contradicts FEIS Table 99 (page 421), in which the capability and suitability acreages are different for alternatives. The Forest Plan failed to properly calculate and model suitable and capable range lands as described by the Region Desk Guide and as required in 36 CFR 219.20. Our objection to this issue is based on the following:

1. The SNF did not properly document and/or present the capability or suitability calculations and model. No economic analyses appears to have been conducted or shown as required in CFR 219.12, and 219.20 and again in the internal USFS *Economic Analysis to meet 1982 Rule Procedural Requirements*.
2. The SNF permittees have been properly grazing many of these lands identified as not capable and unsuitable lands for decades without harm to the resource. The FEIS documents that 99% of allotments are meeting or trending towards objectives. The accompanying map (Figure 1) shows existing allotments with use on greater than 60% slopes.
3. The SCAC believes the Forest and the landscape benefits from keeping working ranches operational. The grazing allotments are an important component to keeping these larger landscapes protected from fragmentation due to subdivision. The loss of grazing allotments and the subsequent subdivision of ranches will have great impacts to wildlife and aesthetics as previously large land units are broken up into homesites and ranchettes.

The range science literature is clear regarding the use of vegetation on slopes; domestic livestock will use vegetation on steep slopes of up to 60% (Holechek et al. 1998; Roath and Krueger 1982). Several researchers report that slope use will change by breed of cow, as well as management practices including herding, salting, fencing and developing of water (Bailey 2004; Roath and Krueger 1982). On the SNF permittees with steep slope allotments have reported cattle use on over 60% slopes. The standard range

text describes cattle utilization on up to 60% slopes (Holechek et al. 1998). Holchek (1988) in his article *An Approach for Setting the Stocking Rate*, states that slopes over 60% are not grazable by cattle. Other researchers Roath and Kruger (1982) in their study *Cattle Grazing and Behavior on a Forested Range* note that "Slopes in excess of 60% were not used by cattle regardless of vegetation type or aspect".

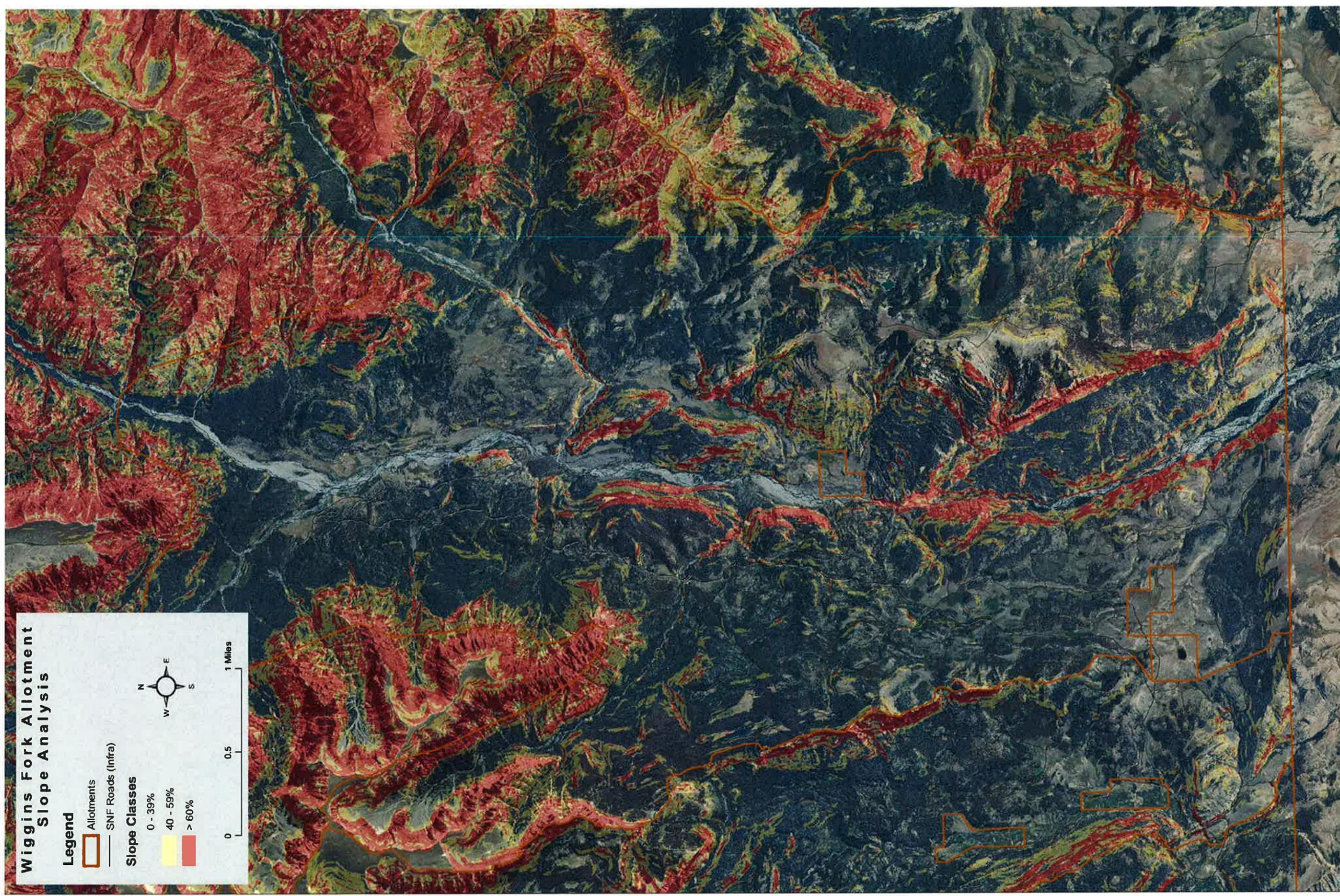


Figure 1: Existing Allotments with Use on Greater than 60% slopes

The SNF Plan and FEIS are inconsistent with direction in the National Forest Management Act (NFMA), did not follow language in the Act, did not follow internal USFS desk guide policy in suitability and capability calculations, nor used specifically provided information as required in NFMA 219.12 and the CEQ regulations for using cooperating agency provided information. NFMA 219.20 provides direction for grazing related forest planning. This section notes that the suitability and potential capability for forage for grazing animals shall be determined and that “Lands so indentified shall be managed in accordance with forest plans.” The planning requirements go on to elaborate “The present and potential supply of forage for livestock ... shall be estimated.”

As we noted throughout the planning process, we are extremely concerned that this will attract challenges to limit livestock grazing to only those acres that are “capable”. While the FEIS states that changes to rangeland capability and suitability may occur at the project scale, using site-specific data, the SCAC is concerned that project level analysis will still be required to be tiered to the overarching analysis in the Forest Plan—thus limiting our ability to change capability acreages. The Regional Desk Guide, *Revision Analysis Requirements for Planning Documents* (p.G.8) states that "Changes to Suitability Determinations would involve making changes at the Forest Plan level as suitability is a Forest Planning level determination."

The anti-grazing community is currently appealing USFS grazing NEPA documents based on the calculations of capability and suitability. The Bridger-Teton National Forest received an appeal by the Western Watersheds Project (2013) appealing problems with the capable suitable calculations. In order to avoid endless appeals, we believe that using the Regional Desk Guide allowances for local changes (must be documented); this will help both the permittees and USFS from dealing with continuing appeals.

#### *Suggestions for Improvement*

The SCAC would like the SNF to correct the suitability and capability problems identified in this objection according to local documented knowledge (as allowed in the Regional Desk Guide), working with SNF range conservationists and permittees to document existing allotment proper grazing use to support capability and suitability. This exercise can be done quickly and shown on SNF maps and clarified in the Plan and EIS. Providing these clarifications will correct errors in the plan and FEIS and help remove a criticism of anti-grazing groups.

#### **Objection Issue 3 – The Forest Plan and EIS Do Not Adequately Address the Forest Health Revision Topic**

Forest health is briefly mentioned a few times throughout the Forest Plan and FEIS but it is not sufficiently addressed within the alternative analysis. The SNF verbally and in e-mail communications appeared to agree to supplement the older 2006 revision topics. The SCAC suggested the topics be updated to reflect massive forest changes between 2006 and 2010 resulting from insect damage. The discussion of revision topics extended to alternative development where the SCAC strongly supported a “Forest Health” alternative.

Given that vegetation management and forest health have been listed as a revision topic, the forest health issue receives little comparative analysis in the FEIS. It appears that much of the forest data in the FEIS (including age-class distribution) and resulting effects analysis is based on out-of-date information. Given the timing of data collection and the large amount of recent disturbance activity, the management area designation and desired conditions are in need of improvement. At the very least, the SNF should acknowledge that there are considerable data gaps. The CEQ Regulations speaks directly to the inclusion or exclusion of “incomplete or unavailable information” in Section 1502.22:

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

Fire and fuels treatments are central to the SCAC’s concerns about forest health and socioeconomics. The SNF has failed to adequately estimate costs associated with wildfires. While the amount of anticipated wildfire has been modeled for each alternative, associated suppression and indirect costs have not been analyzed. These are substantial costs that would be realized by taxpayers and especially by local people relying on forest resources. It is important that the SNF consider not only direct suppression costs but also indirect costs. While we understand that fire budgeting is handled under separate accounts and controlled by larger overarching policies, it is still the responsibility of the SNF to calculate anticipated costs as the lead office and agency for the planning process. It falls on the responsibility of the SNF, as required by NFMA, to provide a substantive comparison and justification for choosing an alternative that does not maximize present net value (CFR 219.12 (j)).

“(j) Plan approval. The Regional Forester shall review the proposed plan and final environmental impact statement and either approve or disapprove the plan in accordance with Sec. 219.10(c). The record of decision for approval of a plan shall include, in addition to the requirements of NEPA procedures (40 CFR 1505.2), a summarized comparison of the selected alternative with:

- (1) Any other alternative considered which is environmentally preferable to the selected alternative; and
- (2) Any other alternative considered which comes nearer to maximizing present net value.”  
(219.12)

The SCAC is concerned that with recent insect activity and the near-term forest wildfire risk, some of the management areas will not be able to function under their designation as is assigned in the Forest Plan. Timber Management Areas are designated to provide managed lands for the production and harvesting of wood products. With recent insect activity and the large risk of stand replacing forest fire, the SCAC questions if the limited number of acres that have been designated as *Management Area 5.1 – Managed Forests and Rangelands* will be enough to provide forest products. Similarly, with habitat potentially changing so rapidly under lands designated as *Management Area 5.4 – Managed Big Game Crucial Winter Range*, will the intended purpose for the lands be fulfilled?

*Suggestions for Improvement*

Add language to the Plan that states the Forest will maintain cooperating agency involvement for project-level NEPA and will focus on forest restoration adaptive management, including twice annual review.

Assign values to maximum NPV benchmark for resources where possible and appropriate, such as timber. The calculation of this number does not require a joint production function.

Explain in more detail the limits of the analysis completed and provide additional qualitative analysis of the smaller communities in the region and the role they play in maintaining forest health and the role the Forest plays in their working and personal lives.

**Objection Issue 4 – Informational Deficiencies in the EIS Lead to a Flawed NEPA Effects Analysis for Wolverine and Winter Motorized Recreation**

The FEIS provides the following conservation measure for wolverine on page 186, “If important denning habitat is identified outside of wilderness (i.e., Beartooth Plateau) snowmobiling in these areas may need to be restricted.” SCAC comments on the Draft EIS concerning this conservation measure, which was worded exactly the same in the Draft, included:

The leading experts on wolverine research do not have convincing scientific evidence that snowmobiling impacts wolverine denning activities. That science does not presently exist. While we understand the importance of effective wolverine management, research and conservation, restrictions suggested for the SNF in regard to wolverine management should be driven by best available science. Also, the SNF identified winter recreation as the primary risk factor for wolverine management. They did not address other winter recreation activities such as extreme cross-country skiing.

Also, if wolverine denning habitat is identified, or if actual wolverine denning occurs in areas open to winter recreation on the SNF, forest officials may wish to bring forward the appropriate science or evidence that indicates a conflict exists. If wolverine denning activity is occurring, SNF officials may want to determine if this denning activity has been occurring in past years. If wolverine denning activity occurred in the past, it is important to realize the level of winter recreation activity that occurred during that time as well.

In response to the comment provided by the SCAC on the Draft EIS, Appendix A of the FEIS states:

There is no direction in the revised Forest Plan that snowmobiling would be restricted for wolverine dens. The EIS points out that this was something that may be considered. Any such consideration would be subject to a site-specific decision made at the project level with the latest information and science. For the FEIS, wolverine is now being analyzed as a proposed species. The latest information indicates that snowmobiling is not a risk factor for wolverine. Therefore, the revised Forest Plan will not have any specific direction to restrict snowmobiling in wolverine denning habitat. As before, project plans may consider the impact of snowmobiling on wolverine dens in a site-specific analysis.

*Suggestions for Improvement*

The SCAC is concerned that the inclusion of this conservation measure in the FEIS is misleading and that in the future the measure will not be cross-referenced with the clarification provided in Appendix A of the FEIS. In order to eliminate confusion we request that the conservation measure be deleted or replaced with the language provided in FEIS Appendix A (page 837).

**Objection Issue 5 – Impacts to Big Game Winter Range from Low Potential Energy Development Are Overstated and Conclusions in the Draft ROD Are Not Supported by the Effects Analysis in the FEIS**

We believe impacts to big game owing to low to very low energy development potential are overstated, are not predicted by effects analysis, nor supported by a review of the literature. Significance has been reduced to arbitrarily reflect a conservative interpretation of what might happen. This violates CEQ Section 1502.22 by not providing complete and available information, CEQ Section 1505.24 for failing to address appropriate methodology and scientific accuracy, and CEQ Section 1508.27 for failing to demonstrate that effects are significant.

The ROD states with regard to oil and gas development (page 9), “Alternative G does not change the total acres available for leasing. However, to protect crucial winter range and other resources it does the change the acreages suitable for surface development of oil and gas...”. That rationale is not supported in the FEIS which concludes for impacts to elk that (page 303), “effects are mitigated through land reclamation and restriction on timing, location, and types of disturbance...The projected development potential for mineral and oil and gas development on the Forest is low to very low under all alternatives. Because of this low potential none of the alternatives are expected to have an adverse effect on wildlife”. In other words, the FEIS concludes that surface occupancy constitutes no higher risk to wintering ungulates, when appropriate mitigation is applied, than no surface occupancy—contrary to the conclusion included in the ROD.

*Background*

The SCAC worked closely with representatives from the Wyoming Game and Fish Department (WGFD) and the Wyoming Governor’s Office on this issue. All parties involved, including the SCAC, agree that wintering ungulates on the Absaroka Front face numerous challenges including: 1) non-migratory elk are increasingly wintering on adjacent private lands; 2) brucellosis transmission risk to cattle is increasing as a result and; 3) non-migratory elk herd populations on private lands are increasing, and because hunter public access is limited, keeping those herds at or below population objective is becoming increasingly difficult for the WGFD.

Recognizing those variables, the WGFD and the Governor’s Office recommended no surface occupancy (NSO) on all big game winter range presuming that any surface activity associated with oil and gas development would force wintering animals onto private land, thus exacerbating existing problems.

During these discussions the SCAC agreed that areas considered as the highest quality habitat should be protected, while lesser quality areas should offer flexibility for multiple use. We also considered the sizeable acreage designated as winter range on the Forest during our evaluation.

The SCAC believes that the potential magnitude of development in terms of road density, amount of drilling and development-related human activity, and degree to which mitigation measures would offset adverse effects, is extremely minor and should have been quantitatively assessed. We have not been provided with documentation that shows the SNF performed any such analysis. Furthermore, the SNF has ignored the fact that drilling intensity on and adjacent to private land is currently higher than anything likely to occur on the Forest.

Appropriately, SNF staff did consider the potential magnitude of drilling activity (FEIS page 303 "...development potential is low to very low... none of the alternatives are expected to have an adverse effect on wildlife) and the degree to which mitigation could offset potential adverse effects ("effects are mitigated through land reclamation and restriction on timing and location)" and concluded that contrary to the ROD, that surface occupancy constituted no higher risk than NSO.

The SCAC understands the Forest's desire to be sensitive to the issues raised by other government agencies as mandated by the 1982 planning rule 219.7(d). NEPA, however, requires that effects be assessed as to whether or not they are significant (CEQ 1508.27). Furthermore, the ROD ignores the fact that mitigations are routinely applied to avoid ungulate winter disturbance and site degradation, and impacts to other resources (steep slope, sensitive soil, riparian areas).

Lastly, the Draft ROD states (page 9), "The Shoshone NF worked with the Bureau of Land Management [BLM] and the State of Wyoming to have consistent suitability designations along administrative boundaries." SCAC comments on the Draft Plan/EIS also state that there should be consistent suitability designations along administrative boundaries and requests that the SNF maintain flexibility for energy development where it exists along these boundaries. It is important that the SNF cross-check the preferred alternative for the BLM Bighorn Basin Resource Management Plan Revision, and correct areas that are more restrictive on the SNF compared to the BLM boundary before issuing the Final ROD.

#### *Suggestions for Improvement*

We are requesting that not all areas considered as big game winter range be designated as NSO based on assumptions alone and that effects be analyzed in more detail during project-level analysis. This is the methodology that was used in the design of the selected alternative. Figure 2 shows the existing management and the selected Alternative G.

During this process we identified areas that we believe could be managed with surface occupancy without causing adverse impacts to wildlife. Consequently, we request that surface occupancy be allowed on the areas depicted on Figure 3. This request is based on extensive evaluation that shows that limited development can occur without causing adverse impacts to big game. This is in line with the results of the effects analysis provided in the FEIS.

We contend that the SNF has ignored the fact that development potential is low to very low and have repeatedly compared adverse effects of activity to areas (i.e. Pinedale Anticline) with vastly higher well head density. We encourage the SNF to consider ongoing drilling activity on private land and evaluate any effects regarding that activity as an analogue for the effects determinations. We expect the conclusions included in the ROD to be consistent with the effects disclosed in the FEIS. Therefore, the ROD should be corrected accordingly.

The SNF should cross-check the preferred alternative for the BLM Bighorn Basin Resource Management Plan Revision, and correct areas that are more restrictive on the SNF compared to the BLM boundary before issuing the Final ROD.

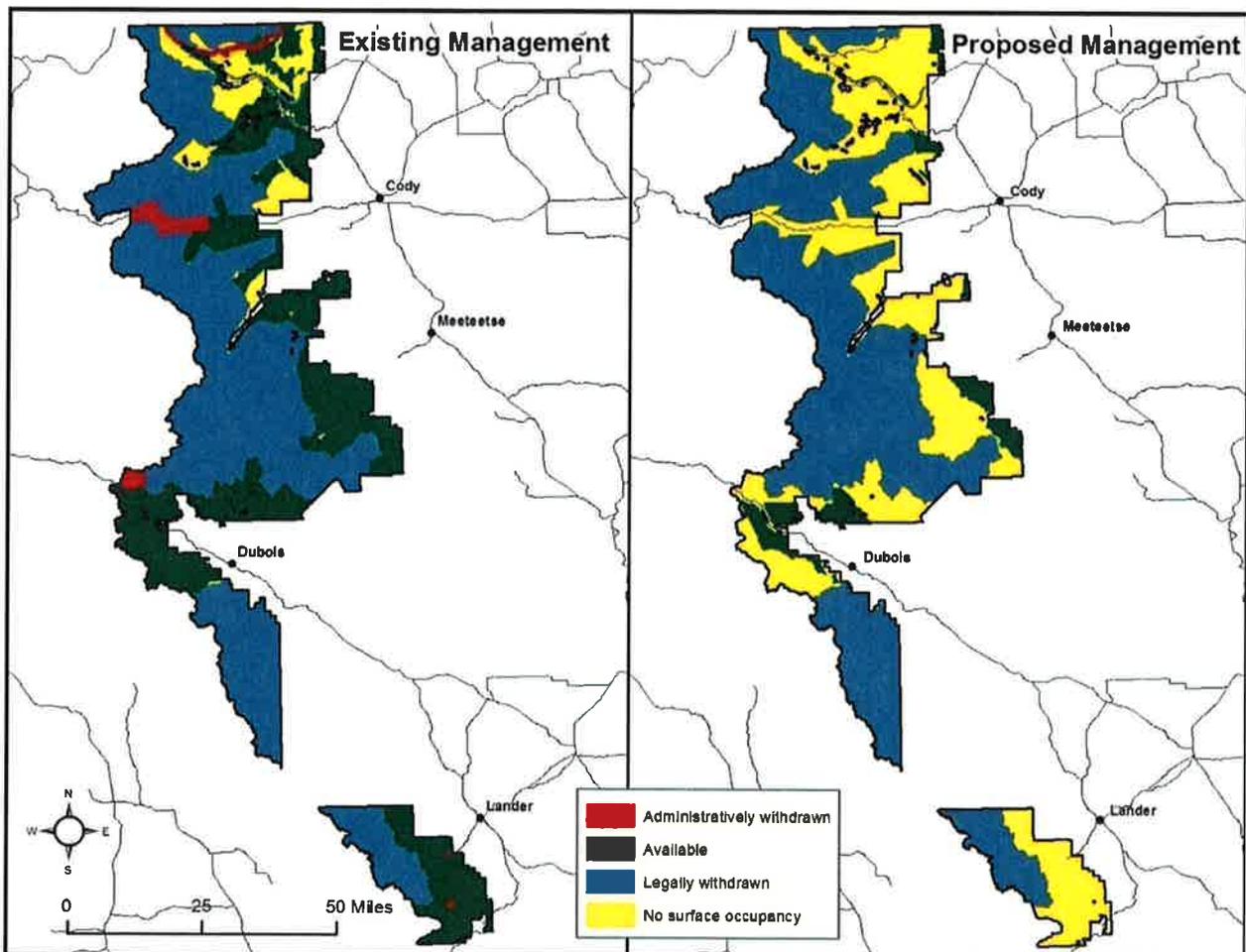


Figure 2: Existing Management and Proposed Management (Alternative G)

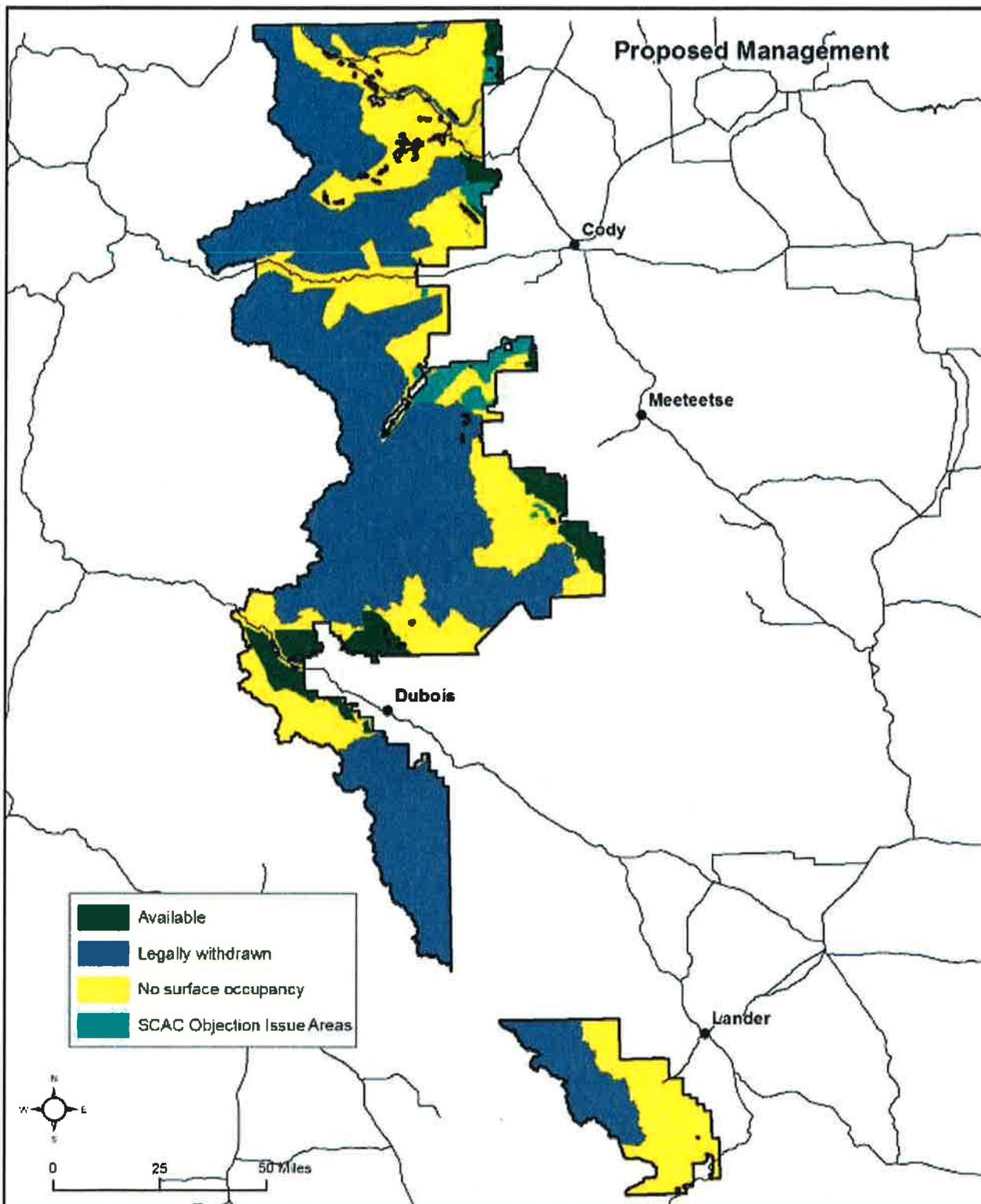


Figure 3: The SCAC's Objection Issue Areas on the Preferred Alternative's Oil and Gas Stipulations

### **Objection Issue 6 – Canada lynx Habitat Analysis and Effects from Roads**

The FEIS Canada lynx analysis (FEIS page 157, Table 36) segregates non-lynx (matrix) habitat from lynx habitat based on vegetation data that is scientifically defensible. The FEIS (page 158) concludes that “(with)in matrix habitat, activities that change vegetation structure or condition would not be considered an adverse effect to lynx...”. The Forest Plan, however, has no cross-reference to this conclusion. The SCAC is concerned that managers of the future, who might not have been involved with the Plan revision, might miss this important conclusion and over-apply the Northern Rockies Lynx Management Direction (NRLMD) vegetation standards to matrix lands. We find that omission to be inconsistent with CEQ Sec. 1502.22.

FEIS Table 36 (page 157) segregates non-lynx matrix habitat from lynx habitat at a Lynx Analysis Unit (LAU) and Forest scale. Since lynx recovery may have a substantial impact on timber suitable lands, the SCAC concludes that full disclosure of effects should have involved segregating non-lynx matrix and lynx habitat further between timber suitable and unsuitable lands. Since timber suitability has been a major issue with the SCAC, we contend omitting this information is inconsistent with CEQ Sec. 1502.22.

Lastly, the FEIS cites the Federal Register (Vol. 74, 36. p.8645) to conclude that activities in matrix habitat (page 158), “that would increase traffic volume and speed on roads that divide lynx critical habitat”, would be adverse to lynx. This conclusion is a misinterpretation of the NRLMD. Guideline G1 refers to highways not forest roads. Guidelines G7 addresses forest roads but only in terms of avoiding ridges and saddles. Standard S1 identifies the need to maintain linkages across highways. Speed on forest roads is not identified in the NRLMD. Expert opinion on Canada lynx and roads minimize the significance of roads to adversely affect the species, except in the case of high-speed highways and interstates. This violates CEQ Section 1502.22 by not providing complete and available information, CEQ Section 1505.24 for failing to address appropriate methodology and scientific accuracy, and CEQ Section 1502.16 for failing to demonstrate that effects are significant.

#### *Suggestions for Improvement*

Add a statement to the Plan under Management Area 5.1 that concludes that lynx vegetation standards within matrix habitat are not required as identified in the NRLMD unless they affect habitat connectivity within the LAU scale.

Segregate Table 36 to separate non-lynx matrix habitat and lynx habitat by suitable and unsuitable lands.

### **Objection Issue 7 – Guideline for Wolves is Overly Restrictive**

Forest Plan Sensitive Species Guideline-7 (Plan page 47) is biologically superfluous in terms of sustaining wolf populations. The Guideline is not based on established scientific research and it thus not compliant with CEQ 1502.24. Wolves are fully recovered in the three-state area (Wyoming, Montana, and Idaho). The SCAC acknowledges that wolves must be considered “sensitive” and assessed in the FEIS in terms of their dependence upon ungulate populations, and the risk they impose to livestock

depredation. Wolf management, however, has totally shifted from recovery to depredation and population control actions. There is not a single word in the FEIS suggesting that disturbance at the den site is limiting wolf populations, or that pup recruitment has suffered as a result. Standards and guidelines should be limited to situations where a “problem” has been identified that can best be resolved by the implementation of a standard or guideline. Superfluous guidelines like this one have no place in the Plan given that there is absolutely no problem that needs resolution regarding den protection.

*Suggestions for Improvement*

Delete Forest Plan Sensitive Species Guideline-7 (Plan page 47).

**Objection Issue 8 – Management for Winter Motorized Use is Unclear in the Plan and FEIS**

The SNF offers limited, but excellent winter motorized use opportunities. Motorized use on the SNF is growing in use and popularity while many non motorized uses decline. The Forest Plan is ambiguous regarding important winter travel routes. Previous questions posed by the SCAC with regard to this issue have been met with a response that page 118 of the Plan indicates that “over-snow motorized vehicle use is permitted on roads and trails open to wheeled motorized vehicles consistent with law and regulations – see MVUM map)”. However, the Motor Vehicle Use Map (MVUM) specifically indicates that it is not meant for over-snow use. The public must then attempt to compare the MVUM with Forest Plan Map K – Winter Motorized Allocation and also cross-reference with Map C to ascertain winter use rules. Moreover, what is derived from the Forest MVUM is not clear on Plan Map K. Also, there is public concern that access to private residences, and public trailheads and facilities will be eliminated as some seasonal and special vehicle designations restrictions would appear to block use by special use permittees and other facilities not mentioned in the MVUM.

Figure 4 presents winter motorized designations from the preferred alternative in the South Fork of the Shoshone and Greybull River area, south of Cody. These area designations are overlaid with roads from the SNF's Plan Revision GIS database, which were derived from the SNF's MVUM. The preferred alternative in the Plan/FEIS has some winter motorized areas that contain winter non motorized routes (creating conflicting and contradictory situations), and closed areas that contain closed routes leading to open area in the winter. The SCAC would like to minimize these conflicts prior to the signing of the ROD.

*Suggestions for Improvement*

Make clear which roads are open for winter motorized use. This clarification will eliminate future confusion and conflicts. In addition, please add to the Plan that private landowners and other special use permit holders (i.e. cabins) would be allowed to use snowmobiles to reach their property.

As cooperators with special expertise, the SCAC offers to help correct the issues identified for winter motorized use.

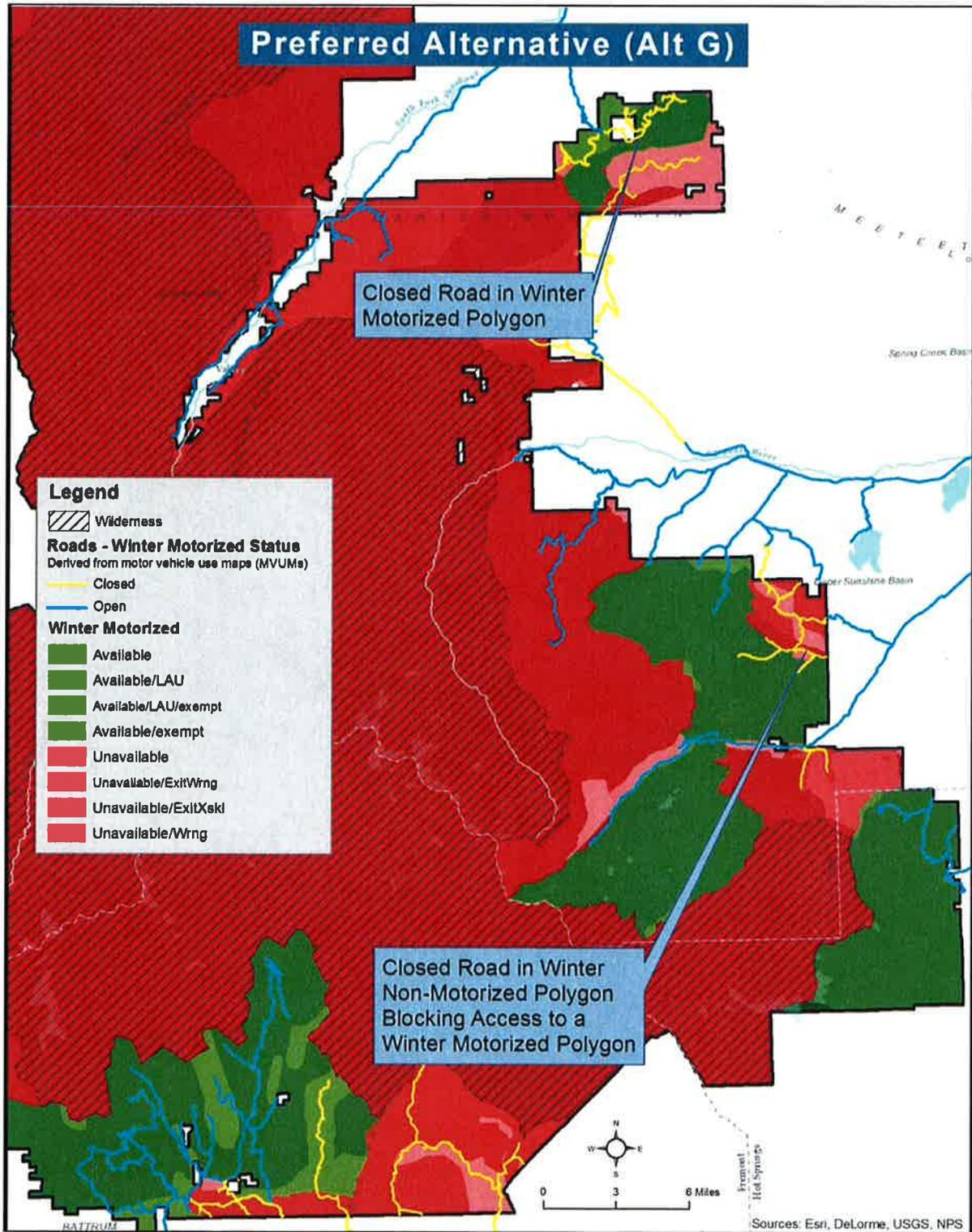


Figure 4: Example winter motorized areas that contain winter non motorized routes

The SCAC, as cooperating agencies, with recognized special expertise extends a continued offer to work with the SNF to resolve any of the issues brought up in the above objection. We look forward to continuing communications with the SNF and look forward to opportunities to be a productive participant in National Forest system land management.

**ATTACHMENT A – LIST OF SCAC COMMENTS PREVIOUSLY SUBMITTED**

March 21, 2007: Comments, Analysis, and Suggested Changes to Shoshone National Forest Draft Proposed Land Management Plan

November 19, 2010: Comments on the Notice of Intent to Revise the Shoshone National Forest Land and Resource Management Plan and Prepare an Environmental Impact Statement

July 8, 2011: Comments on the Draft Analysis of the Management Situation

January 13, 2012: Scoping Comments

November 26, 2012: Comments on the Shoshone National Forest Draft Land Management Plan and Draft Environmental Impact Statement

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