

Record of Decision

Elk Bugs and Fuels

USDA Forest Service
Northern Hills Ranger District, Black Hills National Forest
Lawrence and Meade Counties, South Dakota

Legal Description		
Township	Range	Section
5 North	3 East	10, 11, 12, 13, 14, 15, 25, 26
5 North	4 East	2, 3, 4, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
5 North	5 East	7, 18, 19, 20, 21, 27, 28, 29, 30, 31, 32, 33
4 North	3 East	1, 12
4 North	4 East	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36
4 North	5 East	5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
4 North	6 East	9, 30, 31
3 North	5 East	1
3 North	6 East	6

Decision and Reasons for the Decision

Background

The Elk Bugs and Fuels project area is located in the northeastern portion of the Black Hills National Forest in Lawrence and Meade counties, South Dakota. Mountain pine beetle populations in the Beaver Park area reached an epidemic stage several years ago. Mountain pine beetles have now reached epidemic stages in adjoining areas. Public Law (P.L.) 107-206 was signed on August 2, 2002, allowing immediate treatment of the Beaver Park area as well as a specific amount of treatments in adjoining areas. The Black Hills National Forest has determined that more treatments than those authorized in P.L. 107-206 are necessary in order to reduce the spread of mountain pine beetle populations. Existing vegetative conditions, in addition to dead and dying trees caused by mountain pine beetle attacks, have created conditions making the area susceptible to catastrophic fire events. The Elk Bugs and Fuels project was developed to reduce the spread of mountain pine beetle populations and to reduce the susceptibility of vegetation to catastrophic fire events. The environmental impact statement (EIS) documents the analysis of three action alternatives to meet this need.

Purpose and Need

The Purpose and Need for action in the Elk Bugs and Fuels project area is based on the Black Hills National Forest Land and Resource Management Plan (LRMP) and analysis of mountain pine beetle activity completed by Region 2 Forest Health Management staff. This project proposal is designed to move the area from its existing condition towards the desired future condition as described in the LRMP. The Purpose and Need is to reduce mountain pine beetle populations in pine stands, decrease risk and hazard of wildfire in the proximity of private lands and homes, and reduce susceptibility of vegetation to catastrophic fire and further mountain pine beetle attacks. The following “needs” have been identified in order to accomplish the purpose and need:

1. Mountain pine beetle populations have reached epidemic levels. Stand conditions are conducive to sustaining continued high levels of beetle-caused mortality. Wind and snow damage combined with tree mortality due to mountain pine beetle infestation has created fuel conditions exceeding Forest Plan objectives. Therefore, there is a need to reduce the susceptibility of vegetation to uncharacteristically intense wildfire and outbreaks of mountain pine beetle. (LRMP I-9)
2. There is a need to cooperate with the South Dakota Division of Forestry, Community of Sturgis, and private entities in efforts to decrease the risk of a mountain pine beetle outbreak that could affect the Sturgis Community Watershed, private lands, and homes. Beetle control efforts are taking place within the Sturgis Community Watershed and private lands. Beetle control on National Forest System lands in the vicinity of this watershed is important to the success of control efforts taking place on adjacent lands. (LRMP Goal 7)
3. Since mountain pine beetles are at epidemic levels throughout much of the project area, there is a need to reduce beetle populations in affected stands. (LRMP Guideline 4205)
4. Since P.L. 107-206 did not authorize treatments adjacent to all areas of private lands and homes within the project area, there is a need to reduce the susceptibility to catastrophic, high intensity wildfire in the proximity of these areas. (LMRP I-9)
5. There is a need to disclose the effects of actions authorized by Section 706 of P.L. 107-206, except for subsections (f)(1) and (g), in the cumulative effects analysis for past, present, and reasonably foreseeable future actions. [P.L. 107-206 Section 706 (k)]
6. In most cases, the natural succession of hardwood stands, in the absence of fire, moves towards ponderosa pine or white spruce. Hardwood stands are generally less flammable and burn less readily during wildfire. Therefore, there is a need to maintain or enhance the existing hardwoods by removing conifers. (Objective 204)
7. Congress has recognized the importance of sustainable commodity use in laws including the Multiple-Use Sustained Yield Act, the National Forest Management Act, and the 1872 Mining Act. There is a need to emphasize long-term production of commodities for economies, communities and people in an environmentally sound manner. (LRMP I-17; Objective 303, p. I-18)
8. There is a need to provide an adequate transportation system for both short- and long-term access for the management of the National Forest System lands within the Elk Bugs and Fuels project area. Investments in the existing Forest Service road system

are needed to maintain or improve the safety or operating efficiency of roads. Where there is a need to initiate vegetative treatments and adequate access does not exist, investments in new roads are needed.

Poorly maintained roads, improperly located roads, or roads no longer needed can have adverse effects on watersheds. There is a need to ensure that the transportation system within the project area will not degrade water quality. Opportunities exist to maintain and enhance water quality by eliminating roads no longer needed for management purposes. (LRMP Objective 309)

Decision

After careful consideration of applicable laws, regulations, and policies, LRMP and Phase 1 Amendment direction, environmental effects, and other information contained in the EIS, as well as public comments received on the Draft EIS, I have selected Alternative 4, with modifications, for implementation in the Elk Bugs and Fuels project area. This alternative best meets the purpose of and need for action and best addresses issues while meeting LRMP and Phase 1 Amendment standards and guidelines.

My decision complies with law and balances agency direction, forest needs, and social acceptance. I have made this decision following extensive public involvement. My decision meets the requirements of the National Environmental Policy Act (NEPA) by responding to the Purpose and Need, significant issues identified in the planning process, and comments received from the public during the EIS comment period.

I am modifying Alternative 4 to protect the scenic integrity and recreational setting of Whitewood Peak. These modifications are to forego 195 acres of thinning, 7 acres of prescribed burning, and 1.5 miles of road construction in the vicinity of Whitewood Peak. The Whitewood Peak area is a landmark visible for miles and road construction on the north side of the peak would have been visually obtrusive. Minimizing the visibility of the roads following harvest would have been difficult to accomplish due to steep slopes. Treatments will be dropped from stands 081147-21, 081147-22, 081147-28, 081147-30, 081147-44, and 081147-45. Roads 7 and 8 will not be constructed, and the construction of road 6 will be reduced by 0.2 miles.

I am also modifying Alternative 4 to ensure protection of heritage resources. Heritage resource surveys have not been completed on 221 acres of the proposed fuel breaks. I will forego 221 acres of fuel breaks where surveys have not been completed, including portions of fuel breaks in the following areas: Forest System Road (FSR) 172.1 (Lost Gulch area), FSR 306.3 (Bear Butte Creek area), FSR 180.1 and FSR 170.4 (Park Creek area), and Red Hill. These fuel breaks may be approved and implemented under a separate, future decision after surveys and required analysis have been completed.

My decision is based on the stated Purpose and Need and Issues (EIS Chapter 1). The key points of my rationale are summarized below:

- Direction and public input indicate a need and desire for reduction of wildfire risk and hazard. The selected alternative will reduce the risk and hazard of wildfire near private lands and homes in and adjacent to the project area through thinning of pine stands, hardwood stand maintenance, and fuel reduction treatments.

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- The selected alternative will reduce forest susceptibility to uncharacteristically intense wildfire through thinning of pine stands, hardwood stand maintenance, and fuel reduction treatments.
- Direction and public input indicate a need and desire for reduction of mountain pine beetle infestation. The selected alternative will reduce mountain pine beetle populations through sanitation cutting.
- Thinning planned under the selected alternative will reduce forest susceptibility to mountain pine beetle-caused losses. Recent (since 1990) and on-going timber sales, precommercial thinning, wildlife habitat projects, and fuel management projects within the project area boundary have reduced the density of 32% of the forested stands. Treatments planned under Alternative 4, as modified, will reduce the stand density in an additional 25 % of the forested stands. Combined, these treatments effectively reduce stand susceptibility across much of the project area.
- Planned fuel breaks along roads will increase the chances of containing a wildfire, should one occur.
- The selected alternative focuses treatments around private lands, with most treatment areas within ½ mile of private land.
- The selected alternative will improve the forest road system and travel management. Road construction will provide access to currently inaccessible areas for vegetation management, road reconstruction will improve drainage and public safety, and decommissioning of roads not needed for forest management will decrease overall road density and road maintenance costs.
- Planned actions meet Revised Forest Plan and Phase 1 Amendment standards and guidelines.
- The selected alternative will do more to meet the Purpose and Need than would Alternative 2 or 3.

Note: Treatments and actions authorized by P.L. 107-206 will proceed regardless of this decision, and are not part of this decision.

The original proposed action included the treatment of additional stands of dense ponderosa pine, which are at increased risk of mountain pine beetle infestation. Many of these stands were tentatively identified as potential goshawk nesting habitat. When surveys for active nests and identification of alternative nest stands are completed, I may consider additional treatments to further reduce wildland fuels and stand susceptibility to mountain pine beetle-caused losses. .

Planned Activities

Alternative 4, the selected alternative, is designed to reduce the susceptibility of pine stands to attack by mountain pine beetles. The primary method of treatment is to reduce the basal area of stands to below 80 square feet of basal area per acre through both commercial and non-commercial thinning. Commercial thinning will take place on 5,839 acres and non-commercial thinning will take place on 2,347 acres. Most thinning treatments are within ½ mile of private lands. Thinning decreases stand density, increases tree vigor, and reduces stand susceptibility to mountain pine beetle attack. Thinning from below removes the smallest trees and retains the largest, best-formed trees. In most cases, stands that are commercially thinned will receive follow-up treatment to thin the smaller, non-commercial trees. Where thinned stands are within

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200 feet of private land, trees will be spaced so that there is at least 15-20 feet between the crowns.

Sanitation cutting will take place on areas planned for commercial timber harvest. Sanitation involves treating pine trees currently infested with mountain pine beetles prior to beetle maturation and emergence. This treatment reduces mountain pine beetle populations in local areas, and allows merchantable timber to be salvaged in some cases.

Bait and sanitation cutting will occur at eight locations. Mountain beetles will be lured with pheromones into areas where sanitation can readily take place. This treatment reduces mountain pine beetle populations in local areas, and merchantable timber can be salvaged.

Hardwood restoration will occur on 323 acres. Stands will be treated to maintain or enhance the existing hardwoods by removing invading conifers. Hardwood stands are generally less flammable and burn less readily during a wildfire, so it is desirable to maintain hardwoods, especially near private lands and homes.

Planned vegetation treatments are also designed to reduce the threat and severity of potential wildfires, particularly in the vicinity of private land. Many of the thinning treatments described above are located in the wildland urban interface (WUI) to reduce fuels and wildfire resistance to control in these areas.

In addition to thinning, shaded fuel breaks will be created along specific road corridors in order to prevent the spread of fire, should one occur. Shaded fuel breaks will be implemented on 1,414 acres and will involve the thinning of the overstory trees to establish 15-20 feet between the crowns. Understory conifers will also be removed. Surface fuels will be removed or intensively treated. Conifer trees remaining within the fuel break will have the branches pruned up to 10 feet from the ground.

Prescribed burning will reduce fuel loading and is planned on 2,943 acres. Prescribed fire will re-introduce low-intensity ground fire with the objective of reducing surface, ladder, and canopy fuels.

This alternative includes 14.7 miles of road construction, 26.3 miles of road reconstruction, and 55.9 miles of road decommissioning.

Approximately 20,800 CCF of sawtimber and 14,500 CCF of POL (products other than logs) will be harvested.

Table 1 provides a summary of the planned treatments and transportation system activities.

Table 1. Treatments and Activities		
Treatment	Amount	Units
Commercial Hardwood Restoration	278	acres
Non-commercial Hardwood Restoration	45	acres
Commercial Thinning	4,262	acres
Commercial Thinning followed by Prescribed Burning	1,211	acres
Commercial Thinning and Bait and Sanitation Cutting	364	acres
Non-commercial Thinning	1,489	acres
Non-commercial Thinning followed by Prescribed Burning	858	acres
Bait and Sanitation Cutting	32	acres
Prescribed Burn	867	acres
Shaded Fuel Breaks	1,414	acres
Transportation Activities		
New Road Construction	14.7	miles
Reconstruction	26.3	miles
Decommission Existing Roads	55.9	miles

Monitoring and Mitigation

The following mitigation and monitoring measures will apply to my decision to prevent adverse effects or to maintain acceptable limits of change during implementation of project activities: LRMP and Phase 1 Amendment standards and guidelines (Chapters II and III); State of South Dakota Best Management Practices (BMPs) for the Control of Nonpoint Pollution from Silvicultural and Related Road Activities; mandatory BMPs contained in Federal regulations at 33 CFR 323; requirements in the Watershed Conservation Practices Handbook (Forest Service Handbook 2509.25); and mitigation measures listed in Appendix B of the Elk Bugs and Fuels EIS. Project activities will be monitored according to Chapter 2 and Appendix C of the EIS.

Other Alternatives Considered

In addition to the selected alternative, I considered 3 other alternatives in detail. These alternatives are discussed below. A more detailed comparison of alternatives considered in detail can be found in the EIS, Chapter 2. Three additional alternatives were considered but eliminated from detailed study. These are also discussed in Chapter 2 of the EIS.

Alternative 1 – No Action

Under the No Action alternative, current management plans would continue to guide management of the project area. No hardwood restoration, thinning, prescribed burning, fuel breaks or transportation activities would be implemented to accomplish project goals.

Under Alternative 1, management activities approved in previous documents and those approved by P.L. 107-206 would continue, but no new federal management activities would be initiated. Beyond completing on-going and previously approved activities, Alternative 1 would allow ecological processes to control vegetative development and mountain pine beetle activity.

Commercial thinning, non-commercial thinning, commercial thinning with bait and sanitation cutting, and bait and sanitation cutting would not occur to help meet the need to control the spread of mountain pine beetle populations and reduce the susceptibility to intense wildfires. Shaded fuel breaks and prescribed burning would not be implemented to reduce the threat and severity of potential wildfire events. Commercial and non-commercial hardwood restoration treatments would not be implemented. Changes, such as road maintenance, could occur through current management direction, natural processes, or other management decisions in the future.

During the Draft EIS comment period, many members of the public voiced a strong desire for action to reduce insect infestation and fire hazard in the project area. Others voiced the opinion that further management of the area would adversely affect biodiversity. I believe that the EIS shows that adverse effects of the selected alternative will be negligible. I chose not to select the No Action alternative because it would not have responded to desires for action, LRMP direction, or the purpose of and need for this project.

Alternative 2 – Modified Proposed Action

The Modified Proposed Action was developed in order to move the project area from the existing condition towards the desired future condition described in the LRMP and to meet the purpose and need as described in the Purpose and Need section of this ROD. This alternative is similar to the Proposed Action shown in the Notice of Intent and distributed to the public in the Scoping Letter. Modifications to the original Proposed Action were made to reflect changes resulting from public comments, additional survey information, and to better manage goshawk nesting habitat. The original Proposed Action was moved to the Alternatives Considered but Eliminated From Detailed Study section.

The Modified Proposed Action was designed to reduce susceptibility of pine stands to attack by mountain pine beetles. As under the selected alternative, the primary method of treatment would have been commercial and non-commercial thinning to reduce the basal area of stands to below 80 square feet per acre. Bait and sanitation cutting, hardwood restoration, shaded fuel breaks, prescribed burning, and fuel treatments would also have taken place (see treatment descriptions on p. 5).

New road construction, reconstruction, and decommissioning were proposed under Alternative 2.

Alternative 2 would have harvested approximately 20,700 CCF of sawtimber and 14,500 CCF of POL.

Table 2 summarizes Alternative 2 treatments and activities.

Table 2. Alternative 2 Proposed Treatments and Activities		
Treatment	Amount	Units
Commercial Hardwood Restoration	278	acres
Non-commercial Hardwood Restoration	45	acres
Commercial Thinning	5,430	acres
Commercial Thinning and Bait and Sanitation Cutting	364	acres
Non-commercial Thinning	2,264	acres
Bait and Sanitation Cutting	32	acres
Prescribed Burning	339	acres
Shaded Fuel Breaks	1,635	acres
Transportation Activities		
New Road Construction	16.2	miles
Reconstruction	26.3	miles
Decommission Existing Roads	60.7	miles

I chose not to select this alternative because comments on the Draft EIS indicated little public support for this alternative in comparison with Alternative 4. There was also public opposition to proposed decommissioning of several segments of road. In addition, more could have been done to meet the purpose and need of the project, especially on Forest lands adjacent to private property.

Alternative 3

This alternative was developed to respond to Significant Issues D and E (EIS Chapter 2). Issue D suggests that grass, forb, and shrub habitat should be created within the project area to benefit wildlife species that utilize this type of habitat. Issue E suggests that big game habitat should be maintained or improved by enhancing forage on south slopes while maintaining cover on north slopes.

Alternative 3 would have left stands on north slopes in their present condition in order to maintain or enhance thermal and hiding cover. Selected stands on south slopes would have been thinned to not more than 60-70 square feet of basal area per acre in order to create more grass, forb and shrub habitat. Stands of small-diameter trees would have been non-commercially thinned to approximately 170 trees per acre. This alternative proposed enhancing meadows by removing encroaching pine and burning where appropriate.

Where conditions allow, low-intensity fire would have been re-introduced in stands with south and west aspects to improve grass, forb, and shrub habitat. This alternative proposed the least commercial and non-commercial thinning and the most prescribed burning.

Patch cuts were proposed on 594 acres of the 2,219 acres proposed for non-commercial thinning. The patch cuts would have created scattered openings and ranged in size from 2 to 10 acres. The total amount of openings would not exceed 30 percent of any stand.

Alternative 3 would have harvested approximately 15,400 CCF of sawtimber and 9,700 CCF of POL.

Table 3 provides a summary of Alternative 3 treatments and activities.

Table 3. Alternative 3 Proposed Treatments and Activities		
Treatment	Amount	Units
Commercial Hardwood Restoration	278	acres
Non-commercial Hardwood Restoration	45	acres
Commercial Thinning	2,047	acres
Commercial Thinning followed by Prescribed Burning	2,390	acres
Non-commercial Thinning	1,577	acres
Non-commercial Thinning followed by Prescribed Burning	642	acres
Meadow Enhancement	170	acres
Meadow Enhancement followed by Prescribed Burning	59	acres
Prescribed Burning	1,761	acres
Shaded Fuel Breaks	1,635	acres
Transportation Activities		
New Road Construction	11.5	miles
Reconstruction	23.0	miles
Decommission Existing Roads	62.0	miles

Comments on the Draft EIS also indicated little public support for this alternative and public opposition to proposed decommissioning of a number of road segments. Analysis did not indicate that the effects of Alternative 3 on big game habitat and foraging areas would have been substantially more positive than those of the other action alternatives. All action alternatives would have resulted in big game habitat effectiveness values well above LRMP guidelines. Because of these factors and the opportunity provided by other alternatives to do more to meet the purpose of and need for action, especially on Forest lands adjacent to private property, I did not select Alternative 3.

Public Involvement

The Notice of Intent (NOI) was published in the Federal Register on November 15, 2002. The NOI asked for public comment on the proposal from November 15, 2002 to December 16, 2002. In addition, as part of the public involvement process, the agency mailed 1,538 Scoping Letters to organizations and individuals. A press release announcing the scoping period was prepared and an article published in the Rapid City Journal on November 17, 2002. The scoping period for the project ended on December 16, 2002.

Using the comments from the public, other agencies, and organizations (see EIS Chapter 1, Issues), the interdisciplinary team identified several issues regarding the effects of the proposed action. To address these concerns, the Forest Service created the alternatives described above. The main issues of concern included:

Issue A: Decommission fewer roads.

Members of the public expressed concern over the amount of road decommissioning. One concern was the potential effect proposed decommissioning could have on access for

fire control. Another concern was that reducing the miles of roads available to the public would increase resource damage by concentrating use on the remaining roads.

Issue B: Use only existing roads and build no new roads.

Comments were received suggesting no new roads should be built. It was also suggested that fewer roads could be built by using existing road prisms.

Issue C: Thin more areas, particularly small diameter pine stands.

Comments suggest there should be more aggressive thinning of small diameter pine stands. The concern is that without aggressive thinning, within a few years the forest may be in a similar condition regarding the potential for large fires and mountain pine beetle attacks.

Issue D: Provide more grass, forb, and shrub habitat within the project area.

Comments were received recommending more grass, forb and shrub habitat treatment within the project area. Suggested methods included providing patch clearcuts within stands to be thinned, burning to benefit native hardwoods and shrubs, and variable thinning on north and south facing slopes. There are also opportunities to improve meadows by removing encroaching pine trees and burning to improve grass/forb habitat.

Issue E: Maintain or create big game habitat in Management Area 5.4.

A comment was received pointing out that if big game habitat were created or maintained in MA 5.4, it might reduce the amount of time these animals spend on private land.

Issue F: Propose more treatments near private property.

The Lawrence County Fire Advisory Board presented a plan in which they propose a 200-foot radius survivable space zone around structures in Lawrence County. The plan also proposes 197 Wildland-Urban Interface “zones” around all inhabited structures in Lawrence County. The intent of these half-mile-radius buffer zones is to reduce fuels around private property with structures to the point where the average worst condition during a wildfire would not support a high intensity crown fire. This issue is based on a proposal for additional fuel reduction in the Wildland-Urban Interface zones throughout the project area.

Issue G: Do not harvest any commercial timber.

The commentator suggested an alternative proposing no commercial timber harvest. The alternative would accomplish mountain pine beetle treatments and fuel reduction without selling any commercial timber volume.

Additional public comment occurred when the district released the Draft EIS in May 2003 for a 45-day comment period in accordance with federal regulations at 36 CFR 215. The Draft EIS was mailed to the appropriate federal agencies and to those who had requested the document. On May 30, 2003, a Notice of Availability was published in the Federal Register, requesting public comments on the Draft EIS. Comments generally expressed strong support for Alternative 4 (or even more action) or equally strong opposition to proposed activities. Most comments from local government and residents supported action. I also considered the comments opposed to proposed activities and concluded that the FEIS analysis and Appendix E

comment responses adequately address these issues. I concur with the responses in Appendix E, and the analysis addresses all issues to my satisfaction.

Findings Required by Other Laws and Regulations

Consistency with the Land and Resource Management Plan

Regulations at 36 CFR 219.10(e) require me to ensure that permits, contracts, cooperative agreements, and other activities carried out on the Black Hills National Forest are consistent with the Revised Forest Plan and Phase 1 Amendment. My decision is consistent with this direction in that:

- Planned activities will contribute to LRMP and Phase 1 Amendment goals and objectives (Elk Bugs and Fuels Environmental Impact Statement, Chapter 1, Purpose and Need for Action). They will not detract from or jeopardize any goal or objective.
- Planned activities are consistent with management area emphasis.
- Planned activities are consistent with LRMP and Phase 1 Amendment standards (Elk Bugs and Fuels Environmental Impact Statement, Chapter 3). Although standard 2301 relating to snags may not currently be met in some watersheds, planned activities and retention of green trees will move the project area toward compliance. In addition, the ongoing mountain pine beetle epidemic within the Elk Bugs and Fuels project area is expected to create numerous additional snags across the landscape.
- Planned activities are consistent with LRMP and Phase 1 Amendment guidelines.
- Planned activities are consistent with the Settlement Agreement, Civil Action No. 99-N-2173, Biodiversity Associates, et al., Plaintiffs v. Lyle Laverty, et al., Defendant.
- Planned activities meet resource protection and other requirements of regulations at 36 CFR 219.16 and 219.27, as discussed below:
 - All stands proposed for silvicultural treatment can be adequately restocked within five years of final harvest.
 - Stands planned for thinning, fuel breaks, sanitation, patch cuts, and hardwood restoration were not evaluated for culmination of growth. These practices are not subject to the CMAI finding because the treatments are exceptions permitted as sound silvicultural practices or meet multiple use objectives.
 - The selected alternative will not create openings greater than 40 acres.
 - No harvest will occur for timber production purposes on lands classified as unsuitable for timber harvest. Some harvest on unsuitable land is planned to meet fuel reduction objectives and reduce susceptibility to mountain pine beetle caused losses. These objectives are consistent with the Forest Plan and do not violate the regulation at 36 CFR 219.27(c.1).

Consistency with the National Forest Management Act

The National Forest Management Act, at 16 U.S.C. 1604(m)(2), allows exceptions to the general prohibition on harvesting trees prior to culmination of mean annual increment for a given timber stand. This decision includes stand treatments that are exceptions consistent with the law at part (m)(2): precommercial thinning, commercial thinning, hardwood restoration, fuel breaks, and sanitation. These treatments are described in Chapter 2 of the final environmental impact statement. The public was advised of these exceptions to the law in the Draft EIS.

Executive Order 11988

Executive Order 11988 directs Federal agencies to take action to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains. The selected alternative includes 0.4 miles of road construction within the riparian zone and will decommission approximately 4.5 miles of road within the riparian zone. This alternative will improve floodplain function and condition. Approximately 112 acres within floodplains will be treated. Prescribed mitigation measures have been determined to be effective in controlling erosion, and as a result no significant impacts to existing floodplain conditions are expected to occur.

Executive Order 11990

Executive Order 11990 requires Federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands. Mitigation measures (FEIS Appendix B), in addition to the application of South Dakota Best Management Practices for Water Quality Protection on Timber Harvests and Other Silvicultural Activities in South Dakota, will minimize impacts to wetlands.

Endangered Species Act

No effects are predicted on any threatened or endangered species (FEIS Chapter 3). Therefore, no consultation with the US Fish and Wildlife Service was required.

National Historic Preservation Act

Heritage resource inventories (100% of affected area) have been conducted in the project area, and potential effects on heritage resources have been considered. Sites determined to be eligible to the National Register of Historic Places will be protected through avoidance or mitigation. No adverse effects are anticipated. The South Dakota State Historic Preservation Officer has concurred in the determination of the no effect (FEIS Chapter 3). The Section 106 compliance process is complete. Documentation of compliance is included in the FEIS and the project file.

Other Law and Regulations

This alternative is consistent with all other relevant laws, regulations, and policies including, but not limited to:

- Organic Administrative Act of 1897
- Multiple Use-Sustained Yield Act of 1960
- Forest and Rangeland Renewable Resources Planning Act of 1974
- Clean Air Act of 1995, as amended
- Archeological Resources Protection Act of 1979
- Native American Religious Freedom Act
- National Environmental Policy Act

Effects on management indicator species and species designated as sensitive by the Regional Forester have been considered. I considered information in the EIS and elsewhere in the project record concerning fish, wildlife, and plant species in making my decision.

Environmentally Preferred Alternative

National Environmental Policy Act (NEPA) regulations at 40 CFR 1502.2(b) require agencies to specify the alternative or alternatives which were considered to be environmentally preferable [40 CFR 1502.2(b)]. Forest Service policy (FSH 1909.15, Section 05) defines environmentally preferable as:

An alternative that best meets the goals of Section 101 of NEPA. Ordinarily this is the alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources.

The goals of Section 101 of NEPA are:

1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
3. Attain the widest range of beneficial uses of the environment without degradation, risk to health, or safety, or other undescribed and unintended consequences;
4. Preserve important cultural and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and a variety of individual choices;
5. Achieve a balance between population and resource use which will permit high standards of living while sharing life's amenities; and
6. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

After considering the alternatives analyzed in detail in the context of Section 101 of the National Environmental Policy Act as articulated above, I find that Alternative 4, the selected alternative, best meets the goals of Section 101 of NEPA and is the environmentally preferred alternative. Of the alternatives considered in detail, Alternative 4 will do the most to reduce the risk and hazard of fire, especially in the wildland-urban interface, and reduce impacts of the ongoing mountain pine beetle epidemic. These actions will best protect natural resources and are unlikely to damage biological or physical resources.

Implementation and Appeal Provisions

Implementation Date

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

Administrative Review or Appeal Opportunities

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This decision is subject to appeal pursuant to 36 CFR Part 215 (June 2003). A written appeal must be submitted within 45 days following the publication date of the legal notice of this decision in the Rapid City Journal, Rapid City, South Dakota. It is the responsibility of the appellant to ensure their appeal is received in a timely manner. The publication date of the legal notice of the decision in the newspaper of record is the *exclusive* means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source.

Paper appeals must be submitted to:

USDA, Forest Service, Region 2
Attn: Appeal Deciding Officer
PO Box 25127
Lakewood, Colorado 80225

Electronic appeals must be submitted to:

appeals-rocky-mountain-regional-office@fs.fed.us

In electronic appeals, the subject line should contain the name of the project being appealed. An automated response will confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF).

It is the appellant's responsibility to provide sufficient project- or activity-specific evidence and rationale, focusing on the decision, to show why my decision should be reversed. The appeal must be filed with the Appeal Deciding Officer in writing. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14, and include the following information:

- The appellant's name and address, with a telephone number, if available;
- A signature, or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);
- When multiple names are listed on an appeal, identification of the lead appellant and verification of the identity of the lead appellant upon request;
- The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
- The regulation under which the appeal is being filed, when there is an option to appeal under either 36 CFR 215 or 36 CFR 251, subpart C;
- Any specific change(s) in the decision that the appellant seeks and rationale for those changes;
- Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
- Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and
- How the appellant believes the decision specifically violates law, regulation, or policy.

Contact Person

Elk Bugs and Fuels Project Record of Decision

For additional information concerning this decision or the Forest Service appeal process, contact: Elizabeth Krueger, National Environmental Policy Act Coordinator, Northern Hills Ranger District, 2014 N. Main Street, Spearfish, South Dakota, 57783; 307-283-1361.

/s/Brad Exton

Nov. 10, 2003

BRAD EXTON

Date

Deputy Forest Supervisor

Black Hills National Forest

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