BEFORE THE UNITED STATES FOREST SERVICE
DATA QUALITY OFFICIAL

BLACK HILLS FOREST RESOURCE ASSOCIATION Petitioner v. U.S. FOREST SERVICE Agency.	**Request for Reconsideration:** **Data Quality Act Challenge to U.S. Forest Service** **Correction of Information Presented in General Technical Report dated March 23, 2021** April 29, 2022

REQUEST FOR RECONSIDERATION OF PETITIONER'S REQUEST FOR CORRECTION OF INFORMATION

USDA Forest Service
ATTN: Witne Neil, Data Quality Official
Mail Stop 1143
1400 Independence Ave. SW
Washington, DC 20250-1143
Telephone number: 414-208-9905
Via email and registered email: witne.neil@usda.gov

I. Introduction

On November 19, 2021, the Black Hills Forest Resource Association ("BHFRA" or the "Petitioner") submitted its Request for Correction of Information ("Request") to the U.S. Forest Service ("USFS") with regard to the USFS' final general technical report "A Scenario-Based Assessment to Inform Sustainable Ponderosa Pine Timber Harvest on the Black Hills National Forest General Technical Report" dated February 2021 and published March 23, 2021 (GTR-

422)[1] ("GTR"). BHFRA asked the USFS to withdraw the GTR and to revise it in order to correct certain inaccuracies.

On March 21, 2022, USFS provided a reply dated March 15, 2022 ("Reply") to the Request. The Reply denied all assertions of the Request and denied BHFRA's request that the GTR be retracted and revised.

BHFRA disagrees with the USFS' denial of the Request. Therefore, BHFRA submits this Request for Reconsideration of Petitioner's Request for Correction of Information ("Request for Reconsideration") pursuant to Section 515 of the Treasury and General Government Appropriations Act of FY 2001 (Public Law 106-554) ("Data Quality Act," or "DQA"), and the "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information disseminated by Federal Agencies" (67 Fed. Reg. 8452 (Feb. 22, 2002)) ("OMB DQA Guidelines") and "Final Information Quality Bulletin for Peer Review (70 Fed. Reg. 2664 (Jan. 14, 2005)) ("OMB Peer-Review Guidelines") issued by the Office of Management and Budget ("OMB"), as well as USDA Peer Review Implementation Guidelines (2005),[2] and "Improving Implementation of the Information Quality Act" of the U.S. Department of Agriculture[3] ("USDA Guidelines"), which is also applicable to the U.S. Forest Service ("USFS").[4]

II. BHFRA's Request

In sum, BHFRA asserted that 1) the GTR is based on incorrect assumptions and inappropriate use of data, thereby producing inaccurate scientific information; and 2) the GTR is

[1] Graham, Russell T.; Battaglia, Mike A.; Jain, Theresa B. 2021. A scenario-based assessment to inform sustainable ponderosa pine timber harvest on the Black Hills National Forest. Gen. Tech. Rep. RMRS-GTR-422. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station. 61 p. https://doi.org/10.2737/RMRS-GTR-422
[2] https://www.ocio.usda.gov/document/usdas-peer-review-guidelines
[3] https://www.ocio.usda.gov/policy-directives-records-forms/information-quality-activities
[4] https://www.fs.fed.us/qoi/

functioning as a decision document. See graphs attached as Exhibit 1 for illustrative purposes. Specifically, BHFRA sought correction of the following incorrect findings of the GTR:

a. Arbitrary exclusions of available timber for harvest on the BHNF from spruce and timberlands outside the suitable base in the current forest plan.
b. Incorrect sawtimber growth estimates.
c. Incorrect application of high mortality rates and labeling of "rational" mortality rates.
d. Incorrect exclusion of plausible scenarios with observed lower mortality and/or higher growth rates as "unsustainable."
e. Incorrect/inconsistent suitable base flag.
f. Failure to include a thorough explanation of methods, including the use of a fraction of trees with available growth information, among others.

BHFRA also asserted that the GTR failed to comply with Office of Management and Budget ("OMB") and/or U.S. Department of Agriculture ("USDA") Information Quality Guidelines. BHFRA asked the USFS to withdraw the GTR and to revise it in order to correct these inaccuracies.

With the Request, BHFRA also submitted copies of the recommendation from the National Forest Advisory Board (NFAB) and a report dated July 15, 2020, prepared by consultants Steve Scharosch (Abacus Enterprises), Dr. Mike Huebschmann (Huebschmann & Associates), and Tom Montzka (Straight Arrow Consulting) entitled "Review of Black Hills National Forest 2017-2019 Augmented FIA Inventory Results" ("BHFRA Report" or the "Report").[5] The BHFRA Report reviewed the same FIA data used in the GTR. The Report noted, however, that "[n]umerous issues, concerns, and uncertainties were uncovered" which "cast doubt on the accuracy of the reported inventory results." Report at 4.

[5] The BHFRA Report was prepared for BHFRA.

BHFRA incorporates all assertions and information provided in the Request as if fully set forth herein.

III. Disagreements with USFS Reply

The Reply from the station that produced the GTR (and subsequently reviewed the request) illustrates a clear misunderstanding of the Request and the problems with their analysis. A central issue raised in BHFRA's request is that the GTR leaves out critical data and information important to decision makers and information that should result in different conclusions within the GTR. Ultimately, the Reply fails to address the scientific inaccuracies in the GTR. Examples include:

A. Timber resources outside the suited base described in the GTR

In replying to what is labeled Correction Request 1.3 "Faulty assumptions and arbitrary exclusion of available timbered acres," the Reply continues to miss critically important information regarding available acres and timber resources. Importantly, the Request stated this issue as: "Arbitrary exclusions of available timber for harvest on the BHNF from spruce and timberlands *outside the suitable base* in the current RMPA." [emphasis added]

Reasons 1 through 3 for denial of Correction Request 1.3 provide definitions for the suitable base and citations for the various acreages of suitable base in the current Forest Plan as provided by FIA, the BHNF, and the GTR. Unfortunately, the Reply continues to look past the issue of timber resources available for harvest outside the suited base on acres not statutorily or otherwise withdrawn from harvest. In response to this issue, the only mention of timber outside the suited base is found in a quote from a report by the silviculturist on the BHNF: *"The standing inventory*

on unsuitable acres should not be included in the sustained yield calculations for timber production. By doing this, the standing inventory volume is inflated by 742,000 CCF which produces an inflated NAG [Net Annual Growth] and thus an inflated sustainable program level." In fact, the GTR grossly underestimates the inventory and unjustifiably reduces the sawtimber program level far below that proscribed by the BHNF forest plan (181,000 ccf /yr). Although areas outside the current suited base may not be immediately set on an established harvest schedule for repeated entry, they are nonetheless in need of management and are available for harvest. In a January 15, 2020 email (attached hereto as Exhibit 2) from Deputy Forest Supervisor Jerry Krueger to Ben Wudtke, Mr. Krueger states that, *"In discussion, the FIA data produced over the last four years broken out by timberlands and suitable base likely contain accurate estimates of opportunity in the timberlands outside the current designated suitable base."* Indeed, there have been ongoing discussions between the BHNF and BHRA about harvest options to address a myriad of forest health concerns from overstocked forest stands on acres outside the suited base.

The reply to Correction Request 1.4 is also related to this issue and attempts to address concerns about disregarding the potential for the suited base to change in the current or future revision processes. However, the only rationale provided in the Reply continues to restate the very nature of the problem. The Reply states, *"The assumptions made in RMRS-GTR-422 were based on the current suitable base…"* and *"In RMRS-GTR-422, the 80-year estimates were based on starting live standing volume… using current suitable base estimates."* The Reply goes on to describe the

use of various potential scenarios for timber resources on the current suited base and concludes that *"RMRS-GTR-422 emphasizes that continuous monitoring and flexibility to adjust harvest levels based on realized mortality rates is crucial for long-term timber sustainability. For these reasons, the request for correction has been declined."* The Reply continues to disregard timber resources available for harvest outside the suited base and instead relies on a disclaimer to continue monitoring for mortality and growth rates instead of acknowledging other available timber resources or potential changes in suited base. The GTR should include discussions and data pertaining to timber resources on lands outside the suited base and that they could play a role in determining locations and amounts of timber harvest on the BHNF. It is up to decision makers to determine how or if those resources can be utilized.

Continuing to disregard the existence of those acres and timber resources in the GTR, or that those resources may be available through numerous means is a gross oversight. The responses to this issue illustrate the continued difficulty the authors of the GTR face in understanding the issues raised by BHFRA and others, or the intricacies of defining a sustainable timber harvest program.

B. Sawtimber growth rates

1. The issue raised by BHFRA in this instance was the GTR's use of trees smaller than sawtimber to estimate sawtimber growth rates and that the use of those smaller trees results in growth rates lower than in sawtimber only trees. The Reply labeled this as Correction Request 2.1. Although we appreciate the Reply acknowledging that *"…inclusion of growth rates from trees ranging from 5-inches d.b.h. to 8.9-inches d.b.h. can reduce growth rates…,"* and that growth

rates *"are generally higher for sawtimber size trees than trees in the pole and sapling size classes,"* we find it unsettling the Reply supports use of those smaller trees by stating, *"…the growth rates used in the scenarios still represented what was observed in the pre-2000 and post-2000 data."* We would expect to find somewhat similar growth rates comparing data sets that all rely on the use of non-sawtimber trees in the same smaller diameters used by the GTR. Just the same, actual sawtimber growth rates on the BHNF are higher than pre/post-2000 data of growth on trees less than sawtimber size. The Reply continues to not fully understand the issue within the GTR and that raised by BHFRA. The issue raised is not whether historical growth data using non-sawtimber size trees agrees with new growth data on non-sawtimber sized trees, but that the authors excluded the most recent 19 years of actual sawtimber growth information available from FIA data.

In supporting the denial of the Request, the first evidence the Reply relies upon quotes passages from the GTR that illustrate the lack of historical sawtimber growth data and that the GTR used a range of growth rates in developing scenarios (most of which were labeled as unsustainable). All growth rates used in the GTR were less than the FIA data shows for sawtimber growth rates on the suited base of the BHNF from 2000-2019. Here, again, we find it unsettling that the Reply reiterates passages from the GTR as rationale for the GTR. Passages such as, *"Growth rates for the >9 inches d.b.h. were not used due to the lack of historical data."* do little to assuage our concerns regarding not using the most recent FIA growth information for sawtimber trees on the BHNF.

The second evidence provided includes a citation from the Forest Silviculturist (Jeffrey Underhill) that *"Comparisons of recent inventory and historical inventory results for lands classified as suitable for timber production are not possible since stratification of inventory data by suitable lands applies to the 2017-2019 augmented inventory only."* Here, Mr. Underhill and the Reply have a clear misunderstanding of FIA data retrieval and the augmented data itself. As stated later in the Reply, *"While there are many more trees in the entire database, only the trees on plots that were remeasured were used for growth analysis."* In other words, only the plots that already existed in the online FIA data, that had been permanently located beginning in 2000, were used in the growth rate analysis for the 2017-2019 augmented dataset. Because those plots are permanent, it is easily possible to isolate those exact plots used in the augmented data and limit online FIA data results to only those plots within the suited base—thereby excluding plots outside the suited base. The few Wyoming plots not available in the online data would likely have only increased the growth rate for online data as determined by State Foresters, the NFAB, and FIA reports. This line of thought as evidence in the Reply underscores the misunderstanding by the Forest Silviculturist and reviewers of our Request.

For reference, the gross growth rate as a percent, as defined by the GTR and similarly in the BHFRA Report and NFAB recommendation, is calculated as the total gross tree growth over the timber inventory. Therefore, although total gross growth may be reduced with a reduction in timber inventory, the growth rate may be unchanged, increase, or decrease relative to changes in inventory.

This basic concept is evidenced in forest ecology where increases in tree diameter growth increment are typically realized with a reduction of tree competition. In this example, total gross growth may be relatively unchanged followed harvest but individual growth rates as a percent are substantially increased.

2. Related to growth rates, the Reply replies to what is labelled Correction Request 2.2. The evidence provided in support of the denial of the Request is troubling and is a clear mischaracterization or misunderstanding of the data provided by BHFRA.

   Here, the reviewers state that *"the use of the on-line public database (FIADB) is inappropriate for this analysis because FIADB [is] based on older observations [and], it ignores the more recent observations included in the augmented data set."* In the Request, BHFRA cites the specific growth figure from the NFAB recommendation of 3.04 percent growth rate for ponderosa pine sawtimber on suited lands within the BHNF. The 3.04 percent average growth rate was produced solely from FIA data for growth on sawtimber sized ponderosa pine trees within the suitable base of the BHNF and used the average that incorporates both the online FIA data and the augmented data. Growth on sawtimber trees from 2000-2016 was retrieved from online FIA data and the recommendation incorporated the augmented, or 2017-2019, FIA data cited by the GTR. This is evident in the table presented by the NFAB as part of their recommendation and shows the precipitous drop in the 2017/18 growth rate in the augmented data (followed by a tremendous increase), but still averages to 3.04 percent gross growth rate for sawtimber ponderosa pine trees on suited lands

within the BHNF between 2000 (when plots were initially permanentized) and 2019.

AVERAGE by INVENTORY PANEL & YEAR																			
2006	PP GAG %	% of INV	ALL																2.03%
2007			ALL															2.50%	
2008			ALL														3.54%		
2009			ALL													3.05%			
2010			ALL	2.91%											3.54%				
2011			ALL	3.00%										1.82%					
2012			ALL	3.19%									4.18%						
2013			ALL	3.09%								3.86%							
2014			ALL	3.06%							4.12%								
2015			ALL	3.01%						3.54%									
2016			ALL	2.89%					3.85%										
2017			ALL	3.16%				1.50%											
2018			ALL	3.31%			1.07%												
2019			ALL	2.43%	4.23%														
INVENTORY PANEL STATISTICS				3.06% = AVERAGE			3.54% = MEDIAN			4.23% = MAXIMUM				1.07% = MINIMUM			10.42% = SE %		

3. The Reply also included evidence for the inappropriateness of using online FIA data through an excerpt from an FIA report in response to the BHFRA Report, citing the FIA report with, "The "augmented" data and associated calculations (specific sample/stratification pairing) yields an unbiased estimate." In this instance, the Reply has blatantly omitted the line immediately following in the FIA report. The next line in the FIA report reads, "The public [online] data set uses a stratification with estimation units defined by FIA survey units and the BHNF boundary (actual ownership, not proclaimed)…. The expansion and adjustment factors were computed for this specific sample/stratification pairing, *yielding an unbiased estimate.*" [emphasis added]

   If "yielding an unbiased estimate" is evidence in support of the augmented dataset, it must certainly be in support of the online FIA data as well.

4. Moreover, the Reply does not provide rationale for why the BHNF never formally accepted the BHFRA Report as a comment, nor why the Reconciliation of

Comments document never mentions or refers to the Report. Not accepting the comments, even two months after the formal comment period closed, nor recognizing the Report as a comment(s), is a critical flaw in the comment and analysis process.

The Request specifically cited this concern as:

"On August 3, 2020, Ben Wudtke, Executive Director of BHFRA, provided the BHFRA Report to Alison Hill, USFS Research Program Manager for the Rocky Mountain Research Station via email and asked that this new information be included as an addition to BHFRA's comments on the Draft GTR. On August 3, 2020, Ms. Hill stated: "I know our authors have seen the report. ¶ I understand you want us to accept this new comment under our public/stakeholder comment period; but as you know the comment period is closed." See ***Exhibit E*** *(Email Correspondence re BHFRA Report), attached hereto and incorporated by this reference. Ms. Hill continued in her email, "Can you tell me if the report underwent a rigorous review and what that review entailed?" Ms. Hill's question regarding review indicates that the FS may be inclined to accept certain types of information or information from certain individuals/groups after the comment deadline."* The Request continued by citing, as an example of ignoring the BHFRA report: *"However, when presenting the Final GTR, the USFS stated (notwithstanding ample evidence) that 3% growth had never been reported on the BHNF and that that percentage was not used in any of their scenarios."*

The Reply assures BHFRA the BHFRA Report was considered by stating: "In the Reconciliation of Comments there were numerous comments, including

those of the BHFRA, on growth and mortality rates with requests to revise the original scenarios in the draft report. Based on the interest to see additional growth and mortality rates, RMRS-GTR-422 was revised and the growth rates, mortality rates, and harvest rates were expanded to create 60 different management scenarios, rather than the 6 initial scenarios in the draft report." This explanation does not constitute due consideration of the BHFRA Report or address the concerns raised in the request.

C. Mortality rates

As evidence to denying the Request regarding the GTR establishing and applying incorrect mortality rates, the Reply provides multiple examples of how the GTR used mortality rates from other regions of the United States, historical BHNF timber resource data, and other literature searches to arrive at varying rates of mortality for the scenarios in the GTR. BHFRA does not dispute the applicability of mortality rates on other regions of the United States to those specific regions or the difficulty in comparing trends between datasets that use different areas or methods. The Request specifically pointed to the GTR not including current USFS reports regarding low mortality rates on the BHNF. The Request read:

"In 2018, 230 acres were affected by bark beetles and was mostly scattered individual trees.[6] *In 2019, 29 acres of forest land in the Black Hills was affected by mountain pine beetle caused tree mortality.*[7] *This same information was presented by State Forester Greg Josten to the Forest Service during an April 3, 2020 recorded meeting to discuss the GTR. Despite the information of the currently low rates of*

[6] *See* Allen, Kurt, Kendra Schotzko, and Alan Dymerski. 2019. Bark Beetle Activity on the Black Hills National Forest. RCSC-19-03.
[7] The 2019 Aerial Detection Survey Summary for the Rocky Mountain Region (R2) of the US Forest Service.

mortality plus the previously documented low rates of mortality, the authors labeled those rates 'unreasonable,' thus eliminating flexibility for agencies to apply any adjustments to reflect current conditions."

Unfortunately, in writing the GTR and the Reply, there continues to be a lack of citing (or acknowledging) current USFS forest health reports for the BHNF that indicate mortality rates are currently very low. This current information is critically important to decision makers making immediate changes to harvest programs. Here again, the Reply points to the GTR emphasizing monitoring for mortality rates. In a November 2021 meeting with BHFRA, the BHNF indicated it does not have any current or expected actions of monitoring mortality or growth rates on the BHNF, and omitting this current data is hindering the ability of responsible officials to make educated decisions.

D. <u>Determination of a sustainable harvest</u>

Ultimately, the GTR arrives at a small range of timber harvest that it labels as sustainable using specific growth and mortality rates on specific acres. The GTR concludes that, *"Based on the scenarios explored, it was evident that rational tree growth and mortality rates interacted with harvest levels to influence the sustainability of sawtimber"* and that *"[t]he 2019 forest conditions and probable growth and mortality estimates suggest that an average annual harvest for the timber program on the BHNF in the range of 72,400 to 90,500 CCF/yr appears to be the best option, in the short-term, for sustainable harvest levels."*

Throughout the Reply, the range of growth and mortality estimates and scenarios are used as evidence to suggest the GTR does not arrive at a recommended

harvest level and instead leaves it in the hands of responsible officials to determine the proper harvest levels for the BHNF. The statements within the GTR, citing specific growth and mortality estimates as *"rational"* and determining a specific range as the *"best option"* for sustainable harvest levels removes the ability for others to utilize the various other scenarios. These statements leave no other option for consideration.

E. Issues not addressed in the Reply

1. Although the Reply mentions the variation in acres of suited base, we find the Reply does not address issue number 5 in the Request. That issue in the Request was described as:

"As part of the background and rationale supporting the flawed conclusions in the GTR, the authors cite a near 50 percent decrease in timber resources on the BHNF; from the all-time high for timber resources in 1999 to the estimate for 2019 (GTR figure 11). This comparison is substantially flawed because the GTR only reviewed timber resources on approximately 60 percent of the acres used for the 1999 estimate.

"…Although the GTR provides footnotes detailing the differences in acres for each comparison in reference to table 4, the GTR does not include the same footnotes for figure 11 which graphs the information in table 4. Additionally, the GTR does not include any substantive in-text discussion of the differences in land area or what impact that may have on proper interpretation or application of the

information in the figure. Further, the authors failed to provide any further means of interpreting the differences in standing timber between different acres of measure, despite recommendations from BHFRA and others to make any comparisons "apples-to-apples". BHFRA recommended a simple solution that would have inserted one additional column in the table within the GTR that would have displayed timber volume per acre. As an example of the impact this has, when comparing timber volume per acre, the results indicate a reduction of available timber resources less than half of that indicated by the authors of the GTR. By not differentiating these acreages, the GTR is, at best, confusing to any reader and, at worst, misrepresenting important data to decisionmakers.

"Adding to the uncertainty and confusion surrounding of the intentions of the authors in their use of figure 11, the authors continue to make statements to media[8] that timber resources have been reduced by 50 percent despite the footnotes in the GTR recognizing the tremendous difference in acres used for comparison.

"'The problem is that the forest changed but logging rates have not,[']' said Mike Battaglia, one of the lead authors.

"'In the late 90's, you had twice as much volume' of trees in the forest, he said. 'To take out the same amount now, you're taking too much.'

[8] *See, e.g.,* https://apnews.com/article/fires-climate-environment-and-nature-forests-business-0cc8e3391c93a3ad8e77346f0610c4f0.

"Not only does the lead author (since the listed lead author passed away six months before publication) grossly misrepresent the factual difference in timber resources but continues by disregarding scientific standards."

This remains a significant issue in the GTR and an issue to which we do not find a direct response from the reviewers. We maintain the position that figure 11, and discussions in the GTR and elsewhere, are confusing at best and grossly misrepresent the impacts to timber resources on the BHNF. The GTR failed to even consider 40% of the timbered acres. Imagine if a scientist proclaimed, and stood by, the assertion that the total population of the United States dropped by 132 million people over the course of a year simply by having a footnote that only the area west of the Mississippi River was considered for comparison to previous years.

F. <u>New issues raised in the Reply</u>

As evidence in some denials for the Request, the Reply cites an email from Jerry Krueger and final questions for FIA analysis in the GTR from the Black Hills National Forest Timber Resource Working Group ("Working Group"). The Reply indicates the Working Group "Consisted of U.S. Forest Service Black Hills National Forest (Jerry Krueger, Kerry Burns, and Blaine Cook), forest products industry (Ben Wudtke, Dan Buehler, and Adam Gahagan), Wyoming Forestry (Josh Van Vlack), and 5 South Dakota Forestry (Marcus Warnke).

That Working Group was created in 2017 to produce specific questions for FIA for their analysis and response at an August 1, 2017 meeting. This is very clear

in an email from Mr. Krueger to the group, titled "proposed FINAL FIA set of questions" and dated July 7, 2017. The email (attached hereto as Exhibit 3) states, *"Modified per our consensus this morning. Please check and validate with me by noon on Monday the 10th. My intent is to forward the list to the FIA analysis group as quickly as we can to give them time to complete the analysis."* The attachment in that email is attached as Exhibit 3(a) and consists of the questions (before modification by Mr. Krueger) which he then disingenuously presented to the authors of the GTR as a request from the Working Group. That Working Group had not met since 2017 and those questions were for the sole use in the August 1, 2017 meeting and presentation by FIA. Below are two examples of those questions:

1. What is the standing live volume estimate for Black Hills NF?
    a. Total volume on timberlands
    b. Total volume on timberlands suitable base
    c. Total volume on timberlands by diameter class
    d. Total volume on timberlands suitable base by diameter class
2. What is the annual gross growth estimate for Black Hills NF?
    a. On timberlands
    b. Within the suitable base
    c. By diameter class on timberlands
    d. By diameter class in suitable base
    e. What is the annual gross growth projection (commercial) for the next decade?

Importantly, those questions specifically request data for timberlands outside the suited base along with the suited base acres.

As a follow-up to the July 7, 2017 email, Jerry Krueger sent an additional email with the final agenda (both attached hereto as Exhibits 4 and 4(a), respectively) for the Working Group meeting with FIA. Among other items, three hours were allocated on the agenda for a *"FIA presentation on answers to working group questions. Plan is for FIA to work through our questions and provided needed*

clarification to help us establish our baseline forest condition for the meeting on the 17th of August with the full group."

Again, it appears that representatives from the BHNF drastically misrepresented the questions from the Working Group as being directed at the authors of the GTR.

Indeed, the 2019 letter from Chief Christiansen (attached hereto as Exhibit 5) reiterated the previous commitments from the BHNF and other FS officials that, *"When the FIA dataset becomes available we will work collaboratively with industry and others to develop a course of action for analysis."* [emphasis added]

Further, the February 2020 draft of the GTR acknowledges the questions Mr. Krueger sent the authors of the GTR were modified unilaterally by the BHNF following the August 1, 2017 report from FIA. It reads, *"The Leadership of the Black Hills National Forest on November 13, 2018 at 2:15 PM and codified by the Leadership of the BHNF on November 26, 2019 at 7:44 AM, expanded and modified the last question developed by the Stakeholder Group to have RMRS address the following questions."*

It is a mischaracterization of the intent of the Working Group or the questions, to insinuate the Working Group was supportive or even had knowledge of the efforts to produce the GTR.

IV. The Reply Fails to Address Compliance with the DQA, USDA, and OMB Standards

BHFRA reiterates its assertion that "[t]he GTR fails to meet quality, objectivity, utility and integrity standards of the DQA, the Guidelines and the additional authorities cited…." Request at 27. The USFS states on page 3 of the Reply, however, that: "RMRS-GTR-422

follows the standards of the Data Quality Act, and it is not a NEPA document; no decision is made in RMRS-GTR-422. Rather, as stated in its title, RMRS-GTR-422 may be used to inform future agency decisions that are supported by requisite environmental analysis. Therefore, the request for correction has been declined."

Yet, as was stated in the Request, the USFS is already taking actions based on the GTR. *See* pp. 17-18. USFS is relying on the conclusions of the GTR, and the GTR is essentially functioning as an unofficial NEPA document. If USFS can make substantive, far-reaching industry- and forest-altering decisions based only on a document that makes "no decision," when is USFS actually required to follow NEPA?

In addition, BHFRA disagrees with the Reply's position that the GTR complies with DQA quality standards of objectivity, as well as utility, and integrity. The Reply states that *"To fulfill the standards of objectivity, [the GTR] provides details associated with data from past reports and Forest Inventory and Analysis (FIA) data presented in the tables (Tables 1, 2, 3, 4, and 5) either in the text and/or as footnotes."* Reply at 3. The Reply also asserts that it: *"is substantively accurate, reliable, and unbiased and presented in an accurate, clear, complete, and unbiased manner. In addition, RMRS-GTR-422 identifies the source of the information it contains so that the public can assess whether the information is objective. RMRS-GTR-422 discloses uncertainties (confidence intervals), uses unbiased data (NRS-FIA Response), and other information so that the public knows the analysis and information in the report is objective."* Reply at 25. While BHFRA acknowledges that the Reply provides data in the GTR, that does not address the inaccuracies and biases discussed in the Request, particularly as identified in the BHFRA Report.

V. The GTR is Highly Influential Information

Pursuant to the USDA Correction of Information webpage: *"For requests for reconsideration that involve influential scientific, financial, or statistical information, or regulatory information, USDA will designate a panel of officials to perform this function. Typically, such a panel would include a Reconsideration Official from the USDA agency that made the initial determination and two from other USDA agencies."*[9] The USFS must follow USDA's Correction of Information guidelines.

The OMB DQA Guidelines define "influential information" to mean that:

> [T]the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions. Each agency is authorized to define "influential" in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible.[10]

BHFRA reiterates the many negative and dramatic impacts the GTR will have on industry, the health of the forest, and the increasing incidence of wildfires, as was described in the Request. The dissemination of the GTR's information will have a "clear and substantial impact." As such, the GTR qualifies as highly influential information[11] and, if uncorrected, will cause substantial harm to Petitioner and other stakeholders. As a result, the review of a panel of officials should be required for this Request for Reconsideration.

VI. Conclusion

The GTR is a highly influential document, as the USFS is using it and citing it for substantial land use decisions in the BHNF. As such, USFS must adhere to the standards of quality, integrity, objectivity and utility under the DQA as well as administration standards of scientific integrity and transparency.

---

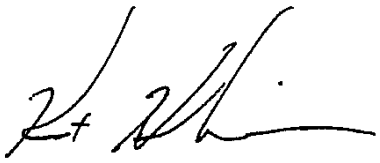
[9] https://www.usda.gov/ocio/guidelines-and-compliance-resources/information-quality-activities/correction-of-information.
[10] OMB DQA Guidelines, 67, Fed. Reg. 8242, 8460 (Feb. 22, 2002).
[11] OMB Guidelines, 67 Fed. Reg. 8452, 8455 (Feb. 22, 2002).

The GTR violates the DQA, USDA Guidelines, and OMB guidance cited herein as the information it conveys is inaccurate. Nonetheless, the GTR is serving as the basis for USFS decision-making regarding management of the BHNF. Reliance on this biased and faulty information has and will continue to harm the BHNF. In addition to the damage to BHFRA, the forests, the timber industry, the public, and the economy will be negatively impacted.

BHFRA respectfully requests the USFS reconsider BHFRA's Request and retract the GTR and correct it consistent with the tenets of quality, objectivity, utility and transparency in the DQA.

Respectfully submitted this 29th day of April, 2022.

HOLSINGER LAW, LLC



Kent Holsinger

On behalf of:
Black Hills Forest Resource Association, Petitioner

Exhibit 1

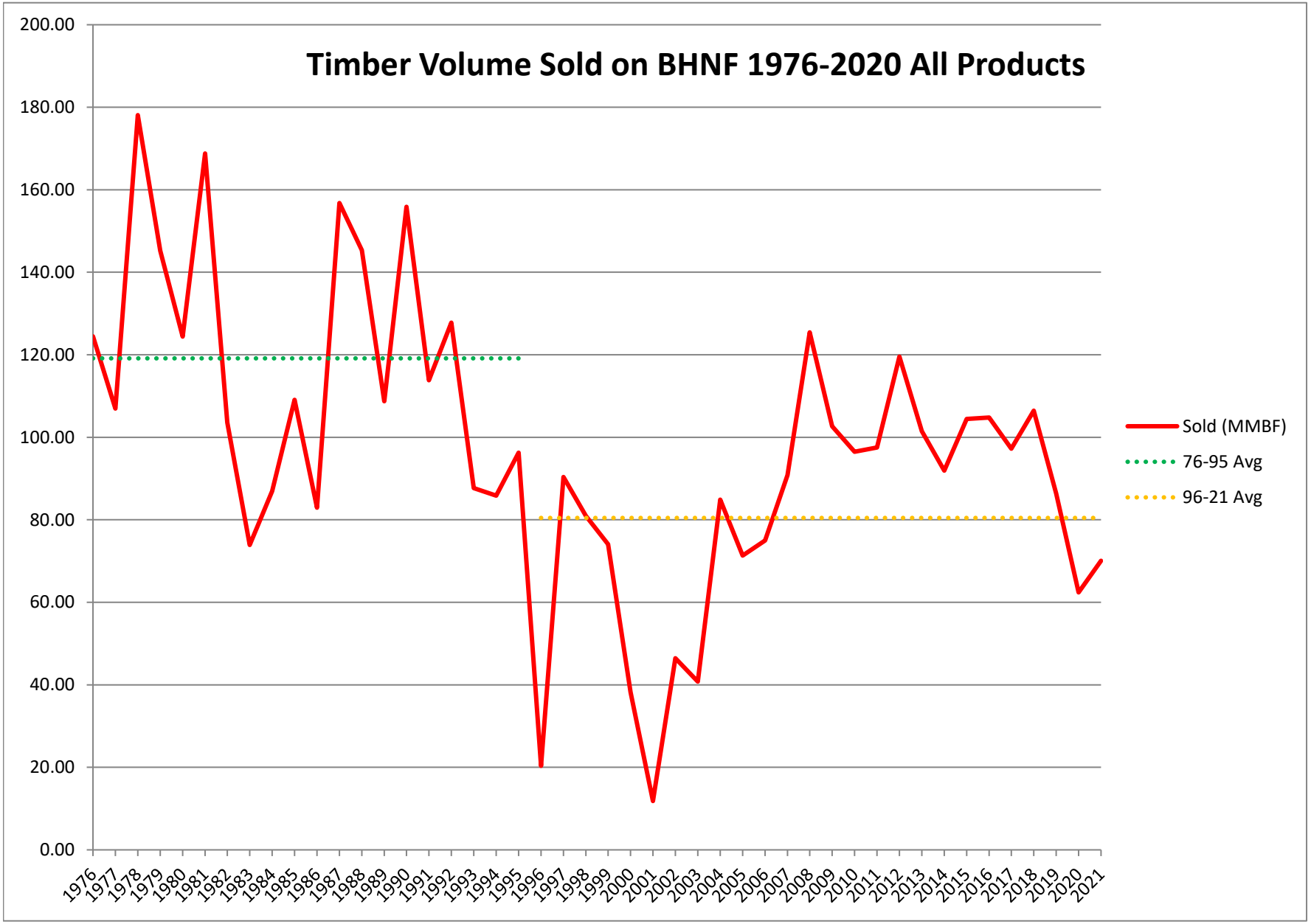

Timber Volume Sold on BHNF 1976-2020 All Products
200.00
180.00
160.00
140.00
120.00
100.00
80.00
60.00
40.00
20.00
0.00
1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021
Sold (MMBF)
76-95 Avg
96-21 Avg

Exhibit 1

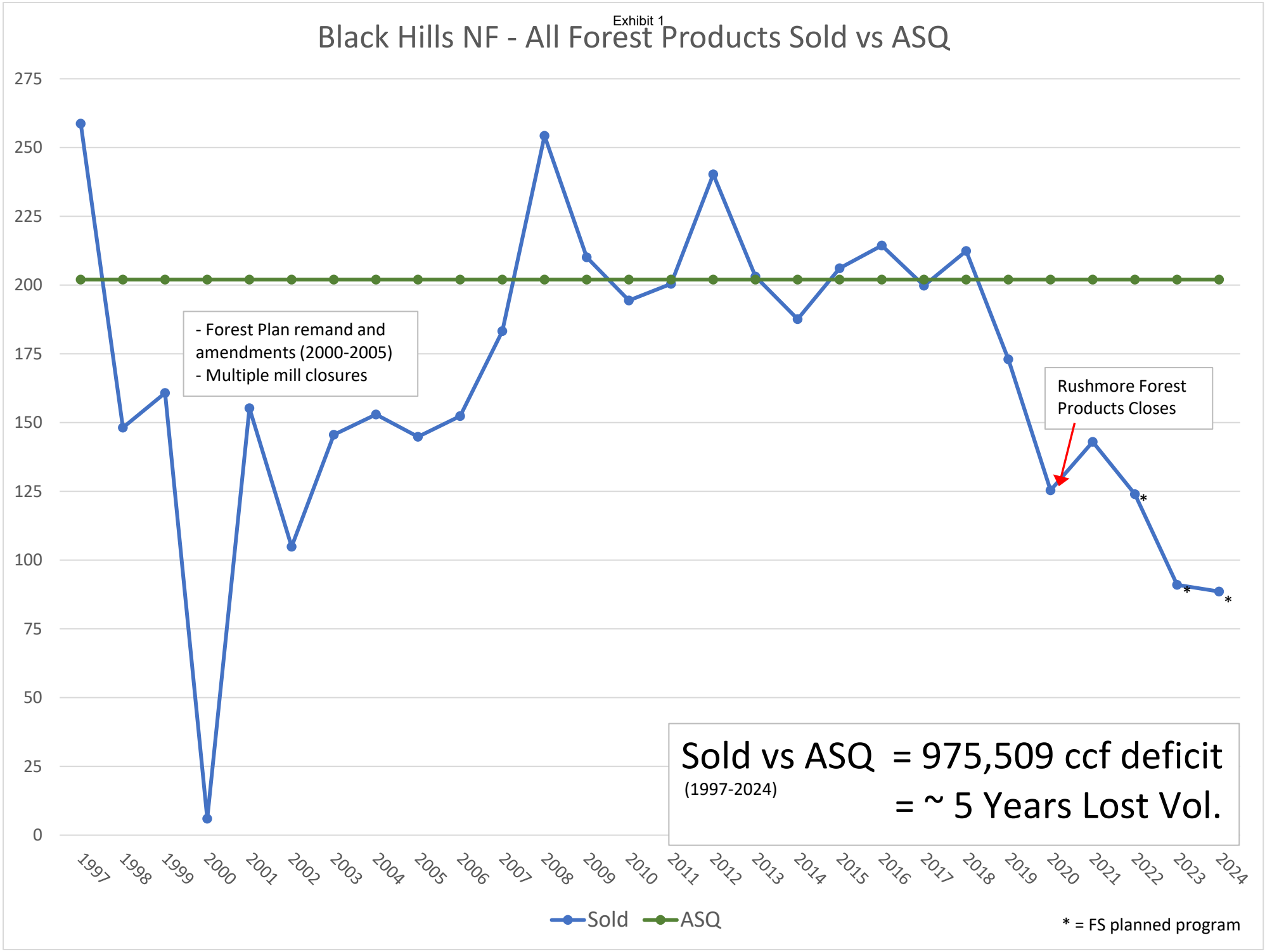
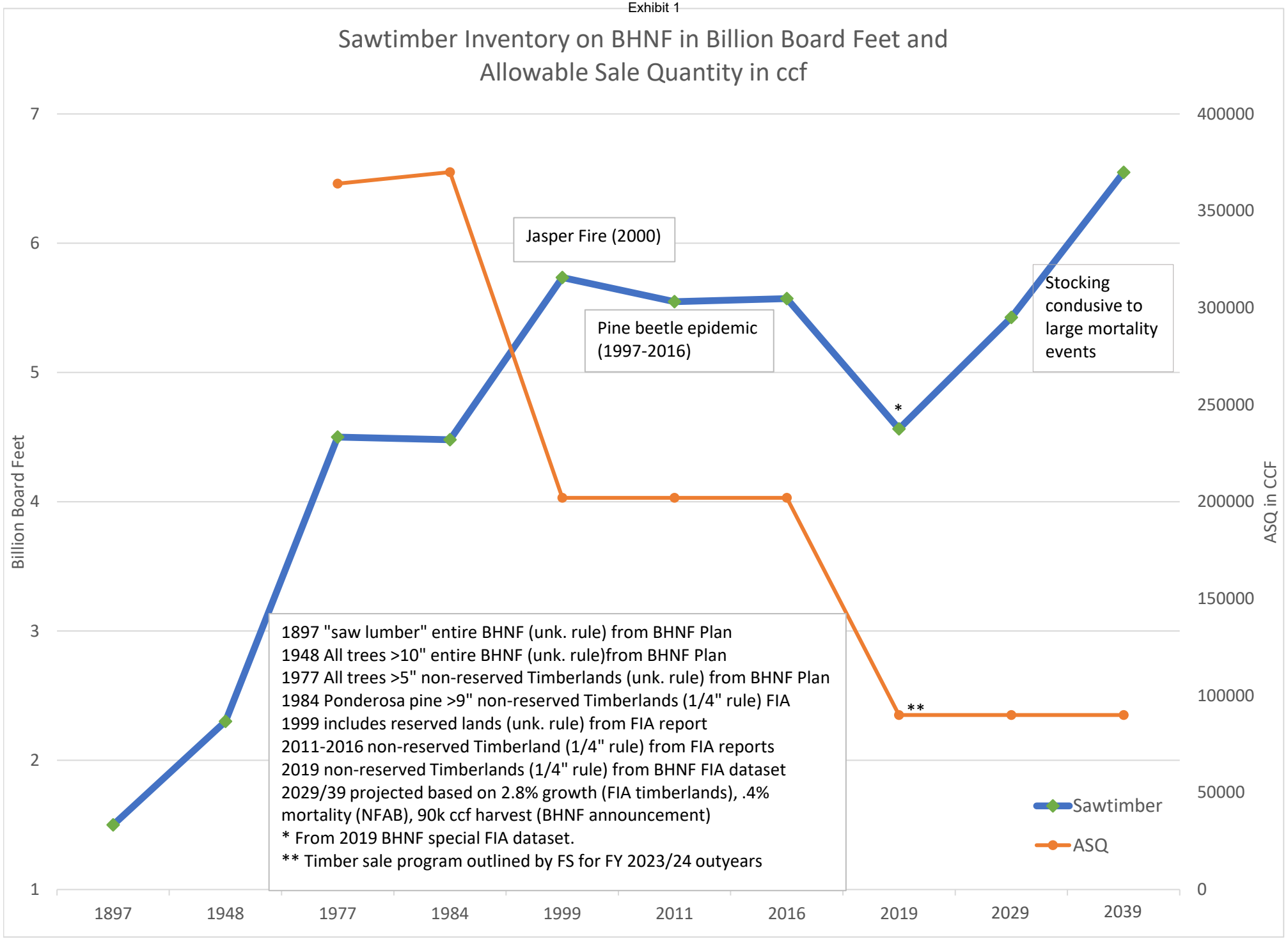

Black Hills NF - All Forest Products Sold vs ASQ
275
250
225
200
175
150
125
100
75
50
25
0
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
2024
- Forest Plan remand and amendments (2000-2005)
- Multiple mill closures
Rushmore Forest Products Closes
*
*
*
Sold vs ASQ = 975,509 ccf deficit
(1997-2024)
= ~ 5 Years Lost Vol.
Sold
ASQ
* = FS planned program

Exhibit 1


Sawtimber Inventory on BHNF in Billion Board Feet and Allowable Sale Quantity in ccf
Billion Board Feet
ASQ in CCF
7
6
5
4
3
2
1
400000
350000
300000
250000
200000
150000
100000
50000
0
1897
1948
1977
1984
1999
2011
2016
2019
2029
2039
Jasper Fire (2000)
Pine beetle epidemic (1997-2016)
Stocking condusive to large mortality events
*
**
1897 "saw lumber" entire BHNF (unk. rule) from BHNF Plan
1948 All trees >10" entire BHNF (unk. rule)from BHNF Plan
1977 All trees >5" non-reserved Timberlands (unk. rule) from BHNF Plan
1984 Ponderosa pine >9" non-reserved Timberlands (1/4" rule) FIA
1999 includes reserved lands (unk. rule) from FIA report
2011-2016 non-reserved Timberland (1/4" rule) from FIA reports
2019 non-reserved Timberlands (1/4" rule) from BHNF FIA dataset
2029/39 projected based on 2.8% growth (FIA timberlands), .4% mortality (NFAB), 90k ccf harvest (BHNF announcement)
* From 2019 BHNF special FIA dataset.
** Timber sale program outlined by FS for FY 2023/24 outyears
Sawtimber
ASQ

From: Krueger, Jerome A -FS <jerome.krueger@usda.gov>
Sent: Wednesday, January 15, 2020 4:02 PM
To: bwudtke@hills.net
Cc: Johnson, Andrew -FS <andrew.k.johnson@usda.gov>
Subject: Suitable base evaluation

Ben,

Not having anyone on staff with corporate knowledge about the production of a suitable base land evaluation report I reached out to Blaine Cook.

Blaine indicated that in the last decade there has been no formal report generated on this topic; however, he indicated that as Districts did unit analysis they have the opportunity to modify two coding fields in the FACTS database related to timber production – one field describes present/past designation and the other field describes a planned condition. In this regard the number of suitable acres would vary up or down based on changes to these two fields.

Based on the information from Blaine, it is likely that suitable base acres changes over time, but that the quantity of gain or loss in suitable base acreage resulting from modifying one or both of the FACTS fields mentioned is slight.

In discussion, the FIA data produced over the last four years broken out by timberlands and suitable base likely contain accurate estimates of opportunity in the timberlands outside the current designated suitable base.

Hope this helps clarify.

Jerry

Jerome Krueger, PhD
Deputy Forest Supervisor

Forest Service
Black Hills National Forest

p: 605-673-9202
jerome.krueger@usda.gov

1019 N. 5th St
Custer, SD 57730
www.fs.fed.us

Caring for the land and serving people

From: Ben Wudtke [mailto:bwudtke@hills.net]
Sent: Wednesday, January 15, 2020 2:59 PM
To: Krueger, Jerome A -FS <jerome.krueger@usda.gov>
Subject: Suitable base evaluation

Jerry,

It was good to see you at NFAB last week. I'm in the process of reviewing some documents and I seem to be missing information on any review of non-suited lands the BHNF has undertaken in the last 10 years. I would appreciate any documentation on that review you could provide. Feel free to call or email with any questions.

Thanks,

Ben

Ben Wudtke
Executive Director
Black Hills Forest Resource Association
605-341-0875

[redacted]

[redacted]

[redacted]

From: Krueger, Jerome A -FS <jakrueger@fs.fed.us>
Sent: Friday, July 7, 2017 12:17 PM
To: Burns, Kerry -FS <kburns@fs.fed.us>; Cook, Blaine -FS <bcook@fs.fed.us>; Warnke, Marcus <Marcus.Warnke@state.sd.us>; Josh.vanvlack@wyo.gov; bwudtke@hills.net; adam.gahagan@gmail.com; danb@rapidnet.com
Cc: Van Every, Mark -FS <mvanevery@fs.fed.us>
Subject: proposed FINAL FIA set of questions

All,

Modified per our consensus this morning. Please check and validate with me by noon on Monday the 10th. My intent is to forward the list to the FIA analysis group as quickly as we can to give them time to complete the analysis.

Jerry

Jerry Krueger, PhD
Deputy Forest Supervisor

Forest Service
Black Hills National Forest

p: 605-673-9202
c: 605-440-0262
f: 605-673-9208
jakrueger@fs.fed.us

1019 North Fifth St
Custer, SD 57730
www.fs.fed.us

Caring for the land and serving people

Round 2: Refining the Questions for FIA Analysis

Timber Resource Meeting FIA Working Group Follow Up

Team Lead: Jerry Krueger

Forest Service: Kerry Burns and Blaine Cook

Industry: Ben Wudtke, Dan Buehler, and Adam Gahagan

Wyoming Forestry: Josh Van Vlack

South Dakota Forestry: Marcus Warnke

FIA Database Analysis Requests

When possible; request data/answers be presented in the same units for comparison (CCF). Also consistent volume rule (Int.1/4 or Scribner)

Species of interest is Ponderosa pine, if possible, isolate data by this species.

Use Timberland data for general answers and truncate by suitable base where requested.

Present answers with values combined for Wyoming and South Dakota Black Hills NF.

Present data sets used for each question.

Provide information on number of FIA plots used in calculations.

Category 1: Long Term Trends in Forest Resource Condition

Available data: a. FIA database 1999 to present (2002 report through 2016 report)

b. Forest Service Stage 1 permanent plot database (pre-1999).

FIA team has no knowledge of Stage I data from 1980-1999. Blaine is exploring with WO/RO on its location now.

1. What is the long-term trend in mortality on the Black Hills NF?
    a. Total by year available
    b. By diameter class
    c. By Timberlands and suitable base
2. What is the long-term trend in annual net growth on the Black Hills NF?
    a. Total by year available
    b. By diameter class
    c. By Timberlands and suitable base
3. What is the long-term trend in annual gross growth on the Black Hills NF?
    a. Total by year available

   b. By diameter class
   c. By Timberlands and suitable base
4. What is the estimate for trend in standing live volume on the Black Hills NF (1950, 1960, 1970, 1980, 1990, 2000, 2010)? Can these estimates be made for suitable base? (FIA team may need to start with year 1999. Prior to that is the number documented in forest plans and timber management plans.)

Category 2: Current Forest Resource Condition

Available data: FIA database (2016 report) plus FIA additional database analysis

Provide FIA with GIS layer to provide information truncated by suitable base.

1. What is the standing live volume estimate for Black Hills NF?
   a. Total volume on timberlands
   b. Total volume on timberlands suitable base
   c. Total volume on timberlands by diameter class
   d. Total volume on timberlands suitable base by diameter class
2. What is the annual gross growth estimate for Black Hills NF?
   a. On timberlands
   b. Within the suitable base
   c. By diameter class on timberlands
   d. By diameter class in suitable base
   e. What is the annual gross growth projection (commercial) for the next decade?
3. What is the annual net growth estimate for Black Hills NF?
   a. On timberlands
   b. Within the suitable base
   c. By diameter class on timberlands
   d. By diameter class in suitable base
   e. What is the annual net growth projection (commercial) for the next decade?
4. What is the net growth to removal ratio on Black Hills NF?
   a. Within the suitable base
   b. Within timberlands
5. What is the ability to produce an available sustained yield on the Forest (timberlands/suitable base) for the next decade?
   a. What is the methodology for producing this estimate?

[redacted]

[redacted]

From: Krueger, Jerome A -FS <jakrueger@fs.fed.us>
Sent: Tuesday, July 25, 2017 3:28 PM
To: Van Every, Mark -FS <mvanevery@fs.fed.us>; Burns, Kerry -FS <kburns@fs.fed.us>; Cook, Blaine -FS <bcook@fs.fed.us>; bwudtke@hills.net; danb@rapidnet.com; adam.gahagan@gmail.com; Warnke, Marcus <Marcus.Warnke@state.sd.us>; greg.josten@state.sd.us; Josh.vanvlack@wyo.gov
Cc: Heath, Linda - FS <lheath@fs.fed.us>; Lohr, Steve -FS <slohr@fs.fed.us>; Morris, Twila G -FS <tmorris@fs.fed.us>
Subject: Black Hills NF FIA Working Group Agenda for 1 August meeting

All,

Attached is our agenda for the 1 August FIA Working Group meeting.

It will be held at our Mystic Ranger District office. We plan to have a working lunch.

Please note that the FIA Analysis team led by Dennis May will sit in on the whole day. Linda Heath the Director for Inventory, Monitoring & Assessment Research (Research & Development-WO, Office of Deputy Chief), will attend. Kendrick Greer, Forest Planning Analyst from Mason, Bruce & Gerrard will be attending the full day as well. Steve Lohr, R2 Director of Renewable Resources will join by phone. Twila Morris will attend as notetaker.

While this is a Working Group meeting I recognize that others are very interested in the subject matter being discussed and may want to attend and participate. Please let me know if you are inviting others so that we can plan appropriately.

Thank you.

Jerry

Jerry Krueger, PhD
Deputy Forest Supervisor

Forest Service
Black Hills National Forest

p: 605-673-9202
c: 605-440-0262
f: 605-673-9208
jakrueger@fs.fed.us

1019 North Fifth St
Custer, SD 57730

www.fs.fed.us

Caring for the land and serving people

Timber Resource FIA Working Group

Agenda for 1 August 2017 Meeting

Meeting will be held in the conference room at our Mystic Ranger District offices located south of Rapid City on Hyw 16.

We have a full days' worth of conversation and presentations so we plan on a working lunch – pizza, salads, cookies, coffee will cost you $7 for the day (what a bargain!). Please bring cash.

Jerry Krueger, Deputy Forest Supervisor will host/facilitate the meeting.

0830-0900 Check in – coffee meet and greet.

0900-1200 FIA presentation on answers to working group questions

Plan is for FIA to work through our questions and provided needed clarification to help us establish our baseline forest condition for the meeting on the 17th of August with the full group.

1200-1300 Working lunch –

1300-1500 Kendrick from Mason, Bruce and Gerrard

Kendrick will be present to discuss the FIA data analysis and scenario development commissioned by the Black Hills NF. He will present and provide clarification to the group about methodology and modeling. Time is available to discuss Timber Industry work with the contractor and the modeling process.

1500-1600 Day's recap and moving forward to the August 17th meeting.

Exhibit 5

USDA United States Department of Agriculture Forest Service Washington Office 1400 Independence Avenue, SW Washington, D.C. 20250

File Code: 2430; 1510 (8512368)
Date: APR 03 2019

The Honorable John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Thune:

Thank you for your letter of November 28, 2018, co-signed by your colleagues regarding the timber sale program on the Black Hills National Forest. I apologize for the delayed response.

I understand and appreciate your concerns about maintaining the timber harvest levels on the Black Hills National Forest. Supporting rural economies is very important to me.

The Black Hills National Forest is committed to maintain harvest levels at 197,000 ccf in Fiscal Year 2019; the motivated staff on the Forest have exceeded the annual targets averaging 208,000 ccf over the past three years.

The Black Hills National Forest plan is being assessed to determine the need for a plan revision or amendment. If a revision or amendment is called for, the complete 2019 Forest Inventory and Analysis (FIA) dataset will be utilized for the planning efforts. When the FIA dataset becomes available we will work collaboratively with industry and others to develop a course of action for analysis.

Thank you for your continued interest and support of the work taking place on the Black Hills National Forest. If you have any questions, please contact Jacqueline Buchanan, Rocky Mountain Deputy Regional Forester at (303) 275-5450. A similar response is being sent to your colleagues.

Sincerely,

Victoria Christiansen

VICTORIA CHRISTIANSEN
Chief