Request for Reconsideration

Request for Correction Nos. 3001-3005

September 4, 2003

Mr. Glen Contreras
USDA Forest Service
Data Quality Team Leader ORMS Staff
Mail Stop 1150 1S Yates Building
14th & Independence Avenue SW
Washington, DC 20250-1150

Dear Mr. Contreras,

We request that the USDA Forest Service initial decision for the following five requests for correction be reconsidered, as provided by the USDA's "Procedure to Seek Correction of Information Disseminated by USDA" (http://www.ocio.usda.gov/irm/qi_guide/corrections.htm), and OMB's "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies", paragraph III.3.ii (66 FR 8459).

The petitions were received by the USDA Forest Service on January 21, 2003. The decision/response letter from the USDA Forest Service, Rocky Mountain Research Station (RMRS), dated July 25, 2003, is enclosed as Attachment 1. The five petitions, as referenced by the USDA Forest Service, are:

#3001. Management Recommendations for the Northern Goshawk in the Southwestern United States, Rocky Mountain Forest and Range Experiment Station, (GTR-RM-217, August 1992)

#3002. Black Hills National Forest Phase I Goshawk Analysis, Black Hills National Forest (2000)

#3003. Expert Interview Summary for the Black Hills National Forest Land and Resource Management Plan Amendment, Black Hills National Forest (2000)

#3004. Record of Decision for Amendment of Forest Plans Arizona and New Mexico Southwestern Region (June 5, 1996)

#3005. Conservation Assessment for the Northern Goshawk in Southeast Alaska, Pacific Northwest Research Station (GTR-PNW-387, November 1996).

A copy of each petition is enclosed.

An outline of this reconsideration request follows:

I. Petitions Timeline

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(1) The RMRS Response
(2) RMRS response to petition body (RM-217 Petition #3001, Sections I-XII) is arbitrary and capricious.
(3) Process does not substitute for quality.
(4) Utility violations are not necessarily propagated from, or dependent on, the existence of errors.
(5) Peer review failed to ensure and maximize quality of the disseminated information.
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(8) Review of RM-217 errors and quality violations and their relationship to RM-217 analysis, discussion, and results, including desired forest conditions and specific management recommendations.

III. Basis for Request for Reconsideration - Petitions Nos. 3002-3005

Attachments 1-8
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I. Petitions Timeline

Dates of significant events and actions pertinent to petitions 3001-3005 are outlined below.

January 17, 2003: all five petitions were sent by FedEx to the USDA Forest Service, Chief's Office.

January 21, 2003: petitions, including PDF file enclosures on CD, received at USDA FS, Washington Office. FedEx proof of delivery attached (Attachment 2).

January 21, 2003: PDF files of petitions on CD received by Forest Service for John King. FedEx proof of delivery attached (Attachment 3).

January 21, 2003: sent petition notification to webmaster@fs.fed.us.

March 21, 2003: date of acknowledgement letter from USDA FS, Rocky Mountain Research Station (Attachment 4).

April 18, 2003: sent signed letter, dated April 17, to USDA FS Chief Bosworth, asking for his attention to several issues surrounding the goshawk petitions (FedEx proof of delivery, Attachment 5). No response was received from the Chief's Office.

Because the USDA FS had demonstrated it was experiencing difficulty with tracking FedEx deliveries to the Chief's Office, an unsigned copy (Attachment 6) was sent to Senator Ben Nighthorse Campbell, asking for his intervention in an effort to assure the Forest Service would indeed receive, and respond to, the letter.

May 13, 2003: date of USDA FS response to April 17 letter to Chief (Attachment 7), in response to Sen. Campbell's inquiry.

June 13, 2003: date of letter from the USDA FS, Office of Regulatory and Management Services (Attachment 8). "In your letter to Senator Campbell you state that you sent the letter to the Chief... we have no record of receiving your April 17 letter in the Chief's Office." Refer to FedEx proof of delivery, Attachment 5.

July 25, 2003: date of USDA FS RMRS decision, "Response to Request for Correction Nos. 3001-3005" (Attachment 1).

II. Basis for Request for Reconsideration - RM-217 Petition (#3001)

(1) The RMRS Response

The RMRS response consists of three parts.

(a) Processes that were used to create and disseminate the information.

RMRS provided a brief accounting of the review process used for RM-217, concluding

> These reviews meet the criteria stated in the USDA Information Quality Guidelines "Objectivity of Scientific Research Information" that require a high quality and objective peer review.

(b) Information being challenged.

RMRS addressed none of the errors and quality violations, whatsoever, presented in the body of the RM-217 petition. RMRS concluded only that (Attachment 1, p. 2.):

> The request to retract (withdraw) is denied because no significant errors were found and no substantive changes needed.

RMRS claimed to have validated eight errors explained in Appendix 3 of the RM-217 petition, but failed to identify or discuss seven of those errors, even though it is specified that

> An errata will be distributed with the publication that corrects these eight errors.

On p. 2 of the response, RMRS provided a conclusion to support its decision for petitions 3002-3005:

> Since no significant errors were found in RM-217, no substantive changes are needed; your requests to retract (withdraw) these documents and/or expunge sections of the documents are denied.

(c) Conformity of the information and those processes with both OMB and USDA Information Quality Guidelines.

RMRS listed selected *process* statements from USDA guidelines, but failed to address RM-217 conformity with OMB and USDA guidelines regarding the *quality* of the disseminated information - the subject of the petitions.

(2) RMRS response to petition body (RM-217 Petition #3001, Sections I-XII) is arbitrary and capricious

RMRS failed to address any of the errors and quality violations carefully documented and fully explained in the body of the RM-217 petition, sections I-XII. RMRS also failed to address section XIII of the RM-217 petition, "Recommendations and justification for how the information should be corrected".

Instead, RMRS chose only to state (Attachment 1, p. 3.):

> In conclusion, the Forest Service carefully considered the information you provided. However, after full consideration and careful, thorough review we find no substantive merit to your claims. The information you provided does not demonstrate that RM-217 is inconsistent with USDA's Information Quality Guidelines.

We believe the RMRS summary conclusion, that there is "no substantive merit to your claims" in the RM-217 petition, is wholly incorrect, and the review process implemented by RMRS is arbitrary and capricious.

The decision is arbitrary because RMRS failed to address the errors and quality violations documented in the RM-217 petition within the context of both USDA's Information Quality Guidelines and OMB guidelines; the decision is capricious because RMRS selectively chose errors from RM-217 petition Appendix 3 to validate, and then chose but one validated error to disclose and explain.

RM-217 is *not* consistent with USDA's Information Quality Guidelines, and RM-217 is *not* consistent with OMB guidelines.

Public Law 106-554 § 515(b)(2)(B) requires establishment of

> administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a),

where in Public Law 106-554 § 515(a), OMB is directed to

> provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.

In OMB's Supplementary Information accompanying its "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies", the purpose of the guidelines is stated (67 FR 8452):

> In accordance with section 515, OMB has designed the guidelines to help agencies ensure and maximize the quality, utility, objectivity and integrity of the information that they disseminate (meaning to share with, or give access to, the public). It is crucial that information Federal agencies disseminate meets these guidelines.

> Second, OMB designed the guidelines so that agencies will meet basic information quality standards. Given the administrative mechanisms required by section 515 as well as the standards set forth in the Paperwork Reduction Act, it is clear that agencies should not disseminate substantive information that does not meet a basic level of quality.

We submitted the petitions to request corrections regarding the quality of RM-217 and its conformity with OMB and USDA information quality standards.

When providing for the establishment of administrative mechanisms, OMB states that disseminated information must comply with OMB guidelines in paragraph II.2. (67 FR 8458):

> Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines.

Accordingly, on p. 2 of "Background of the U.S. Department of Agriculture's Quality of Information Guidelines" (http://www.ocio.usda.gov/irm/qi_guide/January_03_report.html), USDA also states that information disseminated by USDA agencies must meet both OMB and USDA information quality guidelines:

> OMB's guidelines stipulate that information that agencies first disseminate on or after October 1, 2002 **must comply with OMB and agency information quality guidelines.** Agency administrative mechanisms shall apply to information that the agency disseminates on or after October 1, 2002, regardless of when the agency first disseminated the information. (Emphasis added.)

USDA incorporated OMB's guidelines into the USDA information quality guidelines, and therefore violations of OMB guidelines (i.e., nonconformity with OMB information quality guidelines) are also violations of USDA guidelines:

> USDA's information quality guidelines and administrative mechanisms conform to the requirements of OMB's information quality guidelines. In addition to revisions made in response to public comments, USDA's guidelines include revisions to incorporate the detailed guidance contained in OMB's supplemental guidance of June 10, 2002. USDA's information quality guidelines adopt the definitions included in OMB's guidelines.

Whereas OMB (67 FR 8458-8459)

> provides guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies,

and definitions in section V (67 FR 8459-8460), USDA incorporates the same language from Public Law 106-554 § 515 and the OMB guidelines into "General Guidelines for the Quality of Information Disseminated by USDA Agencies and Offices" (http://www.ocio.usda.gov/irm/qi_guide/General_Guidelines.html) on page 1:

> These general information quality guidelines apply to all types of information disseminated by USDA agencies and offices.
>
> - USDA will strive to ensure and maximize the quality, objectivity, utility, and integrity of the information that its agencies and offices disseminate to the public.

On the same page, USDA proceeds to define objectivity, utility and integrity (in accordance with the OMB definitions in section V (67 FR 8459-8460)) after stating:

> The following information quality criteria comprise the general quality standards that USDA agencies and offices will follow in developing and reviewing information and disseminating it to the public.

In the RM-217 petition, numerous errors and quality violations are documented and described in the context of OMB's and USDA's information quality guidelines, including objectivity and utility violations. In its response, RMRS never discussed relevant OMB guidelines, nor the inclusion of and reference to OMB information quality guidelines in USDA guidelines, even though RMRS included the subheading "Conformity of the information and those processes with both OMB and USDA Information Quality Guidelines". Instead, RMRS chose to arbitrarily list and acclaim conformance to selected bulleted process guidelines from USDA's "Supplementary Guidelines for the Quality of Scientific Research Information Disseminated by USDA Agencies and Offices" (http://www.ocio.usda.gov/irm/qi_guide/General_Guidelines.html). Immediately following the same bulleted items in the USDA Supplementary Guidelines, RMRS chose to overlook objectivity and utility standards listed immediately afterward. RMRS chose to overlook objectivity and utility standards in "General Guidelines for the Quality of Information Disseminated by USDA Agencies and Offices" (http://www.ocio.usda.gov/irm/qi_guide /General_Guidelines.html). RMRS chose to overlook objectivity and utility standards in OMB guidelines (67 FR 8458-8460). RMRS chose to overlook the mandate of Public Law 106-554 § 515 - to ensure and maximize "quality, objectivity, utility, and integrity of information" disseminated by the agency.

The errors and quality violations documented and described in the RM-217 petition are violations of objectivity and utility requirements, as is stated in each petition section in accordance with USDA procedures for correction requests.

For the main body (Sections I-XII) of the RM-217 petition, RMRS chose only to make an arbitrary statement of alleged conformance to selected bulleted process guidelines, as discussed above. RMRS failed to explain its findings of conformance to the bulleted process items, and it remained silent on quality and its constituents, objectivity and utility, for RM-217.

Regarding our claims in Sections I-XII of the RM-217 petition, and repeating from within the first quote of this section of this request, RMRS stated only that:

> However, after full consideration and careful, thorough review we find no substantive merit to your claims.

In the USDA document "Procedure to Seek Correction of Information Disseminated by USDA" (http://www.ocio.usda.gov/irm/qi_guide/corrections.html), it is stated that:

> After the responsible USDA agency has made its final determination pertaining to a request for correction of information, that agency will respond to the requestor in writing by letter, e-mail, or fax, normally within 60 calendar days of receipt. The response will **explain the findings** and the actions the agency will take (if any) in response to the complaint. (Emphasis added.)

The USDA procedure is consistent with OMB information quality guidelines in III.3.i (67 FR 8458-8460):

> i. Agencies shall specify appropriate time periods for agency decisions on whether and how to correct the information, and **agencies shall notify the affected persons of the corrections made.** (Emphasis added.)

The guidelines do not state the agency is to "report the finding" and do so without explanation, whatsoever. The petitioners are to be notified of corrections made, rather than simply be privy to a report of seven unspecified unexplained validated errors from a supporting petition Appendix, with one additional validated error in the same Appendix explained at whim.

The RMRS response is arbitrary because it was constructed in total disregard of OMB and USDA guidelines, and it is capricious because RMRS selected, at whim, the findings it chose to explain. RMRS followed no rules, and responded in a random and incomplete manner.

It is inconceivable that with more than 6 months to give the petitions "full consideration and careful, thorough review", RMRS failed to explain the findings that culminate in the RMRS statement that our claims are of "no substantive merit".

RMRS acknowledged validating 8 errors in RM-217 Petition Appendix 3, but for the 26 errors summarized in Section X in regard to citations, RMRS failed to specify which it verified and intends to correct. Seven errors are unidentified and unexplained; the eighth error, an errant numeric range for PFAs, was acknowledged by RMRS. This acclaimed "misquote" is but the leading edge of serious errors and quality violations explained in Section II of the RM-217 petition that was summarily rejected by RMRS, without explanation. (The 8 validated errors are further discussed in subsection (6) below.)

By presenting only a shield of silence, RMRS has failed, in every instance, to explain their finding that the demonstrated errors and quality violations in the RM-217 petition sections are mere assertions of "no substantive merit".

By failing to review and address our claims in the RMRS response, and by doing so in an arbitrary and capricious manner, the documented errors and quality violations in our RM-217 petition remain unrefuted and unchallenged by the Forest Service.

Consequently, the arbitrary and capricious RMRS response and decision implicates 5 USC § 706(2)(A) by failing to provide a rational connection between the RMRS findings and the facts presented in the RM-217 petition.

(3) Process does not substitute for quality

Claims made by RMRS regarding processes used to create the disseminated information can not, and must not, substitute for consideration of the quality of that information.

On page 2 of "Procedure to Seek Correction of Information Disseminated by USDA", under the subheading "USDA Review of the Request for Correction", differentiation is made between the quality of the information, and the processes used to create and disseminate the information:

> The request for correction will be processed by the USDA agency that disseminated the information or information product in question. Based on the explanation and evidence submitted with the request for correction, the USDA agency will conduct a review of the information being challenged, the processes that were used to create and disseminate the information, and the **conformity of the information and those processes** with both OMB's and USDA's Information Quality Guidelines. (Emphasis added.)

On p. 2 of the RMRS response, under the subheading "Conformity of the information and those processes with both OMB and USDA Information Quality Guidelines", 12 bulleted items are reiterated from USDA and Forest Service guidelines in its claim that RM-217 conforms to guidelines for ensuring and maximizing information quality. All of the items are process requirements, and as described previously, RMRS stopped short of specifying that the RM-217 petition was considered in the context of conformity with objectivity and utility standards as defined by both USDA and OMB. Three of the process guidelines specified by RMRS, in particular, when violated, will result in direct consequences inherent in the quality of the disseminated information. Excerpting from "USDA Information Quality Guidelines for Scientific Research Information":

> To ensure the objectivity of scientific research information developed and disseminated by USDA, its agencies and offices will:
>
> - Require a clear statement of the research objectives and a description of the approaches and methods used in conducting the research.
> - Provide research information to the public that is reliable, unbiased, accurate, and presented clearly.
> - Provide an explanation that accompanies all research information detailing how it was obtained, what it is, the conditions to which it applies, and the limitations or reservations that should be applied in using the information.

However, RMRS did not proceed forward beyond processes. The information quality guidelines are intended to ensure and maximize the quality of disseminated information. It is the *outcome* of the processes, the disseminated information, that must conform to information quality standards. The differentiation between *quality processes* and *information quality* is also made clear in "Background of the U.S. Department of Agriculture's Quality of Information Guidelines":

> OMB's guidelines require Federal agencies subject to the Paperwork Reduction Act (44 U.S.C. Chapter 35) to: (1) issue information quality guidelines for the information the agencies disseminate; (2) establish administrative

> mechanisms allowing affected persons to seek and obtain correction of information disseminated by the agencies on or after October 1, 2002 that does not comply with OMB or agency guidelines...

The first item (1) applies to *quality processes*, and the second item (2) refers to *information quality* and conformity of the disseminated information to quality standards.

It is "information quality" that is the ultimate measure of process adherence and function. The disseminated information may, or may not, meet required quality standards, regardless of whether or not the development of that information adhered to process guidelines.

RMRS, therefore, has declared in its response that RM-217 meets process requirements, but RMRS failed to address quality conformity for the disseminated information in RM-217, i.e. the errors and quality violations documented and described in the RM-217 petition.

Information disseminated by the Forest Service must not only be subject to the process guidelines, but the disseminated information product must comply with OMB and USDA information quality standards.

According to Section I of OMB's information quality guidelines (67 FR 8458), OMB issued

> government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." (Emphasis added.)

In OMB's Supplementary Information accompanying the OMB guidelines, OMB states (67 FR 8452) that

> It is crucial that information Federal agencies disseminate meets these guidelines.

In II.2 of the OMB guidelines (67 FR 8458), it is stated that it is an agency responsibility to

> Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines.

In V.1 (67 FR 8459), OMB defines "quality" as

> an encompassing term comprising utility, objectivity, and integrity.

OMB defines utility in V.2 (67 FR 8459):

> "Utility" refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to reconsider the uses of the information not only from perspective of the agency but also from

> the perspective of the public. As a result, when transparency of information is relevant for assessing the information's usefulness from the public's perspective, the agency must take care to ensure that transparency has been addressed in its review of the information.

For objectivity, OMB defines two elements in V.3, for presentation and substance. For presentations, in V.3.a (67 FR 8459):

> "Objectivity" includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner.

Regarding substance, in V.3.b (67 FR 8459):

> In addition, "objectivity" involves a focus on ensuring accurate, reliable, and unbiased information.

Given the above definitions for information quality, it is imperative to again discuss the difference between quality processes intended to assure there is goal-oriented structure in information production, and the quality standards the final information product must meet.

The differentiation between *quality processes* and *quality information* in OMB guidelines is derived directly from Public Law 106-554 § 515(a):

> The Director of the Office of Management and Budget shall, by not later than September 30, 2001, and with public and Federal agency involvement, issue guidelines under sections 3504(d)(1)and 3516 of title 44, United States Code, that provide policy and procedural guidance to Federal agencies for **ensuring and maximizing** the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of chapter 35 of title 44, United States Code, commonly referred to as the Paperwork Reduction Act. (Emphasis added.)

To "ensure" is to *guarantee* the quality of disseminated information. To "maximize" is *to act* so as to "increase to the maximum" and "raise to the highest possible degree". Process guidelines guide actions to maximize information quality. The quality of the disseminated information is to be guaranteed, or ensured. OMB guidelines set standards for the quality guarantee, and OMB also sets the framework for processes enacted to maximize quality in support of the guarantee.

In our RM-217 petition, numerous errors and quality violations are documented in RM-217 that violate OMB's objectivity and utility standards, including many inaccuracies in presentation and substance, numerous presentations of unclear and incomplete information that is unreliable in substance (such as numerous citation errors documented in petition Section X, supported by Appendix 3), and documented bias present in both presentation and substance (collectively described in petition Section XI).

In its response, RMRS failed to address documented utility violations, including substantive transparency violations that result in the failure of RM-217 to reveal how crucial data, models, analysis, decisions and conclusions, including presented qualitative decision models of petition Section V, were developed and applied. (RMRS never mentioned "utility", and just once mentioned "transparency", but only in the context of *quality processes*, and never in regard to *information quality* and the conformity of

RM-217 to utility guidelines.) Subsequently, we show in the RM-217 petition how transparency violations disguise substantive errors that are tightly integrated into the development and presentation of required and recommended forest conditions and management recommendations in RM-217.

It is clear that in our RM-217 petition, numerous documented violations of objectivity requirements, for both presentation and substance, are described, as is the magnitude of each violation and the impact on outcomes in RM-217: the disseminated information is presented in an inaccurate, unclear, incomplete and biased manner. In addition, the substance of RM-217 is inaccurate, unreliable and biased.

It is the quality of disseminated information in RM-217, inherent in the outcomes and results therein, as defined by OMB and USDA for objectivity and utility to ensure and maximize the quality of disseminated information, that has been challenged in the RM-217 petition.

For RM-217, RMRS has failed to ensure and maximize "the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies", as specified in the OMB Guidelines.

The purpose of the RMRS process review should have been to identify flaws in institutional processes that allowed documented errors and quality violations to become integrated into RM-217. RMRS should have first reviewed RM-217 and the RM-217 petition for conformity of the disseminated information with quality guidelines. Instead, it has given no indication whatsoever that it did so, save for the arbitrary statement, "In conclusion, the Forest Service carefully considered the information you provided." (Attachment 1, p. 3.) RMRS indicates only that it investigated selected "errors" in supporting Appendix 3 of the RM-217 petition. For the quality tripod of objectivity, utility and integrity that OMB and Congress intended to support disseminated information, objectivity and utility collapsed, and RM-217 has no support. The errors and quality violations involved in citations, explained in petition Appendix 3, are tremendously serious in and of themselves, and hence the reason for petition Section X. But the serious citation errors and quality violations are embedded into the data, analysis, models, results, conclusions, discussion, requirements and recommendations of RM-217 - the subject of the other petition sections. Somehow, RMRS decided it was unnecessary to investigate, present and explain its findings for the body of the petition, and instead attempted to escape scrutiny by presenting only a recitation of unsupported, unexplained process bullets, sprinkled with a few unexplained error validations.

For the main body of the RM-217 petition, RMRS failed to demonstrate it had considered the conformity of RM-217 with OMB and USDA guidelines, given the facts provided in the RM-217 petition. The listing of selected process guidelines, in the absence of substantive explanation regarding the "conformity of the information" with OMB and USDA guidelines, indicates RMRS intended to substitute process findings for conformity findings. The RMRS response and decision implicates 5 USC § 706(2)(D) through its failure to observe OMB and USDA review procedures for the RM-217 petition.

(4) Utility violations are not necessarily propagated from, or dependent on, the existence of errors.

As shown in the RM-217 petition, numerous RM-217 quality violations involve utility standards. Diminished utility, including transparency and reproducibility deficiencies, may, or may not, be propagated from or otherwise dependent on existing errors. Violations of utility guidelines, however, may result in the masking of objectivity violations that should have otherwise been discoverable. RMRS contends that they "found no significant errors requiring substantive change to RM-217", implying that absent of inaccuracies, all quality guidelines are met, and utility standards need not be reviewed and addressed. This RMRS notion is incorrect.

Under OMB guidelines, the absence of objectivity violations does not automatically imply and confirm adherence to utility requirements. The importance of transparency and reproducibility to both objectivity and utility in OMB guidelines is clear.

In the OMB guidelines, OMB defines utility in V.2 (67 FR 8459):

> "Utility" refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to reconsider the uses of the information not only from perspective of the agency but also from the perspective of the public. As a result, **when transparency of information is relevant for assessing the information's usefulness from the public's perspective**, the agency must take care to **ensure that transparency has been addressed in its review of the information**.
> (Emphasis added.)

OMB specifies that a "high degree of transparency" is necessary to facilitate reproducibility of analytic results (V.3.b.ii, 67 FR 8460):

> ii. If an agency is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall include a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties.

OMB expounds on the importance of transparency to reproducibility in V.3.b.ii.B (67 FR 8460):

> B. With regard to analytic results related thereto, agency guidelines shall generally require sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public. **These transparency standards apply to agency analysis of data from a single study as well as to analyses that combine information from multiple studies.**
> I. Making the data and methods publicly available will assist in determining whether analytic results are reproducible...
> ii. ...**Agency guidelines shall, however, in all cases, require a disclosure of the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed**...
> (Emphasis added.)

"Reproducibility" is defined in V.10 (67 FR 8460). OMB further explains reproducibility in Supplementary Information (67 FR 8455-8457), including, from 67 FR 8455,

> The reproducibility standard applicable to influential scientific, financial, or statistical information is intended to ensure that information by agencies is sufficiently transparent in terms of data and methods of analysis that it

> would be feasible for a replication to be conducted. The fact that the use of original and supporting data and analytic results have been deemed "defensible" by peer-review procedures does not necessarily imply that the results are transparent and replicable.

and from 67 FR 8456:

> The primary benefit of public transparency is not necessarily that errors in analytic results will be detected, although error correction is clearly valuable. The more important benefit of transparency is that the public will be able to assess how much an agency's analytic result hinges on the specific analytic choices made by the agency. Concreteness about analytic choices allows, for example, the implications of alternative technical choices to be readily assessed. This type of sensitivity analysis is widely regarded as an essential feature of high-quality analysis, yet sensitivity analysis cannot be undertaken by outside parties unless a high degree of transparency is achieved. The OMB guidelines do not compel such sensitivity analysis as a necessary dimension of quality, but the transparency achieved by reproducibility will allow the public to undertake sensitivity studies of interest.

RMRS states in its response (Attachment 1, p. 2):

> **Information being challenged**
>
> In our review of the information being challenged in request #3001, we found no significant errors requiring substantive change to RM-217. The review discovered eight errors. None of the errors affected the desired forest conditions or the specific management recommendations.
>
> The request to retract (withdraw) is denied because no significant errors were found and no substantive changes needed.

Regarding petitions 3002-3005, RMRS further states (Attachment 1, p. 2):

> These requests are denied because the requests use the rationale of errors identified in Petition #3001.

Rather than adhere to OMB and USDA guidelines by evaluating RM-217 for conformity to information quality guidelines for objectivity and utility, RMRS arbitrarily narrowed the review process to selected errors explained in petition Appendix 3, avoiding the errors and quality violations of objectivity and utility criteria documented and explained in the RM-217 petition.

By avoiding discussion of the information provided in the RM-217 petition regarding utility violations, it is clear RMRS did not evaluate information provided to document and explain transparency and reproducibility inadequacies. Therefore, RMRS did not adhere to established

> administrative mechanisms allowing affected persons to seek and obtain correction of information disseminated by the agencies on or after October 1, 2002 that does not comply with OMB or agency guidelines...

as stated on page 1 of "Background of the U.S. Department of Agriculture's Quality of Information Guidelines".

Utility violations documented and described in the RM-217 petition include, but are not limited to, nest area size, quantity and stand structure in Section I; PFA size in Section II; the arbitrary increase in nest site buffer described in Section III; canopy cover in Section IV; development of foraging

area conditions, including qualitative decision models, in Section V; development and application of the VSS model and classification system in Section VI; extrapolation of nest stand and foraging area requirements and recommendations from targeted populations in cited literature, explained in Section VII; grazing/forage utilization restrictions in Section VIII; and minimization of road densities, Section IX. The transparency and reproducibility violations are explicitly stated at the end of each petition section, under "Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines".

RMRS limited its response and decision to the "discovered eight errors", concluding that "no significant errors were found and no substantive changes are needed." RMRS did so while failing to demonstrate it had considered RM-217 conformity with utility guidelines. Its implied rationale is that the RMRS finding of "no significant errors" precludes any possible validity to our utility claims, including transparency and reproducibility violations, in RM-217.

The RMRS review methods are incorrect because RMRS failed to observe OMB and USDA review procedures that require a review of both process guidelines, *and* conformity of the disseminated information with OMB and USDA quality guidelines, including objectivity and utility.

(5) Peer review failed to ensure and maximize quality of the disseminated information.

RMRS contends that RM-217 meets "the criteria stated in the USDA Information Quality Guidelines 'Objectivity of Scientific Research Information' that require a high quality and objective peer review." (Attachment 1, p. 2.) RMRS discussion ends with the aforementioned quote, without addressing peer review issues that were discussed and documented, in detail, in Section XII of our RM-217 petition.

In its response, RMRS continues on pages 2 and 3 (Attachment 1) to describe the peer review *process*. RMRS did not address the substantive peer review process failures documented and discussed in the RM-217 petition that are evident in the outcome - the disseminated information. Further, even though RMRS states in its response that "These reviewers' comments were reconciled into the final document", by failing to explain its finding, RMRS has demonstrated that it failed to consider the critical links between peer reviews of the initial manuscript, and rational expectations that substantive reviewer concerns should be, and must be, properly addressed. Errors and quality violations in RM-217 are the result.

RMRS failed to provide any link between its discussion of the peer review *process* and its final conclusion that there is "no substantive merit to your claims." RMRS on p. 3 (Attachment 1) saw fit to state:

> It is important to also note that the USDA Supplemental Guidelines states that "if the data and analytic results have been subjected to such a review, the information can generally be presumed to be of acceptable objectivity. However, in accordance with the OMB standard, this presumption is rebuttable based on a persuasive showing by a petitioner in a particular instance, although the burden of proof is on the complainant."

The RMRS observation is neither new nor novel. OMB's Supplementary Information to the OMB Guidelines include extensive attention to peer review

issues in the section titled "The Presumption Favoring Peer-Reviewed Information", including an explanation of objectivity and utility concerns regarding "formal, independent, external peer review" (67 FR 8454-8455). To address concerns that "peer review was not accepted as a universal standard that incorporates an established, practiced, and sufficient level of objectivity", and that "peer review does not establish whether analytic results are capable of being substantially reproduced", OMB included the following statement in paragraph V.3.b.i of its quality guidelines (67 FR 8459):

> However, this presumption is rebuttable based on a persuasive showing by the petitioner in a particular instance.

We stated on p. 125 of the RM-217 petition "that each section of this petition (I-XII) is a 'persuasive showing' that any presumption of acceptable objectivity is rebuttable." RMRS claims in its response that RM-217 followed the peer review *process* specified in Forest Service Manual 1600 Chapter 1631.15, but RMRS failed to show it had considered and addressed our documented review of RM-217 in regard to the *quality* of the disseminated information and non-conformance with OMB and USDA quality guidelines that is, in part, a result of the failed peer review process.

Peer reviews (referred to as "technical reviews" in RM-217), not all of which were made available to the petitioners by RMRS, are discussed in depth in the RM-217 petition in Section XII, pp. 125-145. Explicit comments of reviewers are linked in Section XII directly to topical sections I-X of the petition. It is clear that many of the errors and quality violations described and documented in petition sections I-X were addressed by reviewers, but corrections were not incorporated into the final RM-217 publication. In addition, many other errors and quality violations revealed in the RM-217 petition were not addressed in the technical reviews.

The results and implications are two-fold. First, the peer review process failed because reviewers did not show necessary diligence that was required to discover certain errors and substandard quality issues. Second, many problems that were discovered and discussed by reviewers in the draft manuscript *should have been* but *were not* addressed in the final RM-217 publication. Failure of the authors to correct errors and quality violations in the final manuscript must not be excused by a Forest Service claim that a peer review *process* can supersede and justify the publication and dissemination of errant information of substandard *quality* that does not conform to information quality guidelines.

RMRS failed to discuss, or even demonstrate it had considered, that many errors and quality violations in RM-217 exist, as documented in the RM-217 petition, in spite of the peer review *process* RMRS describes as "scrutiny above and beyond what would be termed normal in the scientific peer review process" (Attachment 1, p. 1). Not once did RMRS demonstrate it had considered outcomes and results, published in RM-217 and the subject of the RM-217 petition, to be as important, if not more so, than its summary declarations regarding processes.

There are many instances where errors and quality violations in RM-217 not only escaped the peer review process, but were also ignored by RMRS in its decision letter. One example is the incorrect canopy cover measurement

methodology defined by the GSC in RM-217 that differs completely from the very methods described in literature cited by the RM-217 authors. In Section IV of our RM-217 petition, we carefully document and explain the canopy cover error, as well as the magnitude of the error and its impacts on the discussion, methods, analysis, and recommendations in RM-217. As we state on p. 130 of the petition, "No reviewer was found to have discussed the bias introduced in RM-217 for defined canopy cover measurement procedures."

Another example involves nest area size, quantity and stand structure, (Section I of the RM-217 petition), and incorrect extrapolation from targeted populations in cited literature (Section VII). In petition Section XII, it is shown that reviewers questioned the basis for the size, quantity, and stand structure required and recommended in RM-217. In the RM-217 petition, it is fully documented that extrapolation resulted in impossible requirements and mandates not supported by references cited to explicitly support them. No reviewer explained or noted the 180-degree conflict between even-aged nest stand structure requirements and uneven-aged conditions shown in the same cited literature used in RM-217 to support nest stand requirements and recommendations.

No reviewer identified the errors involved with extrapolating foraging area conditions from tightly-focused studies, centered on small-scale attributes of special interest to cited authors, used to support the GSC's recommended foraging area conditions across forest landscapes (RM-217 petition, Section VII).

No reviewer explicitly identified the bias in qualitative decision models used to justify the very core of the GSC's goshawk foraging area recommendations based on purported goshawk prey species habitat requirements (RM-217 Petition, Section V). However, numerous reviewers were dissatisfied with the GSC's modeling approach, and transparency and reproducibility issues were flagged (RM-217 Petition, p. 130-133). The authors failed to address these reviewer concerns in RM-217.

As explained in RM-217 Petition Section V, the qualitative decision models in RM-217 are not transparent and results cannot be reproduced. The failure by the GSC to explain model inputs, details and methods masks the bias in model results and GSC conclusions and recommendations. OMB set standards that supersede any general claim by RMRS that RM-217 is correct and of high quality simply because the draft manuscript was subject to technical reviews (67 FR 8455):

> The reproducibility standard applicable to influential scientific, financial, or statistical information is intended to ensure that information disseminated by agencies is sufficiently transparent in terms of data and methods of analysis that it would be feasible for a replication to be conducted. The fact that the use of original and supporting data and analytic results have been deemed "defensible" by peer-review procedures does not necessarily imply that the results are transparent and replicable.

The RMRS finding that there is "no substantive merit" to our claims is incorrect, and cannot be supported by its vague citation of and dependence on the peer review process.

(6) Validated errors not identified.

Eight errors were validated by RMRS, but RMRS failed to identify seven of those errors.

RMRS claims the seven unidentified errors are "minor errors revealed in Appendix 3 of your request" (Attachment 1, p. 2). The eighth error, described by RMRS as a "misquote", is identified in the RM-217 petition in Appendix 3.

Appendix 3 includes supporting information cited in the main body of the petition. Further, section X of the RM-217 petition explicitly summarizes errors and quality violations described in Appendix 3 in support of our claim in the introductory paragraph of the section:

> *Numerous erroneous statements, low-quality supporting citations and misrepresentation of cited references were used in RM-217. The quantity of these problems seriously degrades the quality of the publication. The good faith requested of the reader by the authors in their ability to reliably convey supporting information, is, indeed, lost.*

The violations of OMB Guidelines are explained on p. 121 of the RM-217 petition:

> Errors in statements using supporting citations are a violation of the objectivity requirement as defined in V.3.a. Information presented in RM-217 is inaccurate, unclear and incomplete.

RMRS failed to demonstrate it considered the 26 citation errors identified on pages 116-119 of section X of the RM-217 petition, and detailed in Appendix 3, in the context of OMB guidelines.

By failing to disclose or discuss the errors validated, it is not possible here to address the RMRS decision regarding them (Attachment 1, p. 2):

> The request to retract (withdraw) is denied because no significant errors were found and no substantive changes needed. An errata will be distributed with the publication that corrects these eight errors.

USDA Guidelines suggest that petitioners include a section titled "Recommendation and Justification for How the Information Should be Corrected". This was done in the RM-217 petition in section XIII.

Because RMRS chose to withhold information specifying which errors it validated, and which were not validated, RMRS failed to explain its findings and incorrectly negated our ability to evaluate, address and refute their contention that the errors are "minor" and not significant, and that "no substantive changes are needed". Given the limited timeframe available for this request for reconsideration, the withholding of critical decision information is particularly abhorrent. RMRS, having decided it needed 6 months and 10 days to provide an "in-depth" response to the RM-217 petition ("It will require a more in-depth technical and legal evaluation. Therefore, you can expect a more in-depth response to your first petition by July 31, 2003." (Attachment 4, p. 1)), failed to meet its responsibility to notify us and fully disclose and explain, in a timely manner, exactly what decisions had been made. OMB states in III.3.i of the OMB guidelines (67 FR 8459):

> Agencies shall specify appropriate time periods for agency decisions on whether and how to correct the information, and agencies shall notify the affected persons of the corrections made.

RMRS failed to identify 7 errors it validated. Therefore, it is not possible to evaluate the RMRS decision for the errors it did not validate, and further, it is impossible to address an RMRS explanation of the magnitude of the 7 errors that caused it to classify said errors as being so "minor" as to "not affect the desired forest conditions or the specific management recommendations". RMRS has made it impossible to trace the impact of the RMRS decision on the disseminated information covered by the four additional petitions (#3002-#3005).

(7) Errors and quality violations are universally incorporated into RM-217 methods, analysis, discussion and results.

The RMRS response failed to disclose decisions regarding the validity of our documented claims of errors and quality violations specified in the main body of the RM-217 petition (Sections I-XI). Instead, RMRS justified its correction decision based on petition Appendix 3 errors it validated by creating its own custom quality criteria for RM-217:

> None of the errors affected the desired forest conditions or the specific management recommendations.

In fact, the errors and quality violations documented in RM-217, both in the main body of the petition and in supporting Appendix 3, are universally incorporated into RM-217 methods, analysis, discussion and results, including desired forest conditions and specific management recommendations. Upon reconsideration, the universal incorporation of errors and quality violations into RM-217 must be considered in conjunction with the scope and influence of RM-217 for determination of how the information should be corrected.

In addressing the validity of error and quality violation claims in the RM-217 petition, there are three steps that should be logically followed in the determination of conformance to USDA and OMB data quality guidelines and subsequent determination of corrective actions. These steps, outlined below, simply follow OMB direction in III.3.i (67 FR 8459):

> Agencies shall specify appropriate time periods for agency decisions on **whether and how** to correct the information, and agencies shall notify the affected persons of the corrections made. (Emphasis added.)

The Forest Service must, based on the information provided in the RM-217 petition, for our claims in each petition section:

1. Determine the validity of the error and quality violation claim.

2. For each validated error and quality violation, determine the impact or extent of the violation within the publication, and

upon publication results, outcomes and conclusions, including consideration for objectivity, utility and integrity requirements.

3. Decide how to correct the information, given the impact or extent of the error/quality violation, and the scope and influence of RM-217.

Step 1 is "whether" to correct the information, and Step 2 is a necessary prerequisite for implementing "how" to correct information in Step 3.

For the main body of the RM-217 petition and the sections contained therein (pages 10-147), RMRS responded only that (Attachment 1, p. 2):

> In our review of the information being challenged in request #3001, we found no significant errors requiring substantive change to RM-217. The review discovered eight errors [in Appendix 3]. None of the errors affected the desired forest conditions or the specific management recommendations... The request to retract (withdraw) is denied because no significant errors were found and no substantive changes needed. An errata will be distributed with the publication that corrects these eight errors.

Attachment 1, p. 3:

> In conclusion, the Forest Service carefully considered the information you provided. However, after full consideration and careful, thorough review we find no substantive merit to your claims.

RMRS has concluded it must only report the results of Step 3, without explaining the details of, and the factual basis for, its decisions in Steps 1 and 2.

By attempting to merge steps 1, 2 and 3 for all petition sections into the single concluding statement that there is "no substantive merit to your claims", RMRS chose to avoid both discussion of the validity of our error and quality violation claims (Step 1) and their impact on RM-217 results, outcomes and conclusions (Step 2).

We are left only with the RMRS conclusion that whether or not there is merit to any and all error and quality violation claims in the main body of the petition, there is inadequate substance to our claims if there are any errors and quality violations, and as such, if there are errors and quality violations, they are not actionable (Step 3) because they do not "affect the desired forest conditions or the specific management recommendations."

We petitioners, and the public, have absolutely no idea which of our error and quality violation claims in the body of the RM-217 petition, if any, were validated by the FS (Step 1). For claims judged by RMRS to be invalid, we do not know why. For those unknown claims judged by the FS to be valid, we do not know why the FS decided there was "no substantive merit" (Step 2), and we are unable to directly evaluate, understand and address the FS claim that those unknown validated errors and quality violations "do not affect the desired forest conditions or the specific management recommendations" (Step 2 and 3), since the FS did not disclose and explain any details of its decisions.

The failure of RMRS to reveal and explain the precise nature of their decisions prevents the petitioners, and the public, from evaluating and understanding the substance and reasoning of their summary decision for each section of the RM-217 petition.

The RMRS decision is incorrect, just as is its review approach, decision and response methodology are incorrect and incomplete.

First, we believe that the errors and quality violations described in each section of the RM-217 petition have been fully documented and hence validated. Corresponding to Step 1 above, in reconsidering the RMRS decision and the RM-217 petition, the errors and quality violation claims in each section must be reviewed and reconsidered for validation by the Forest Service. If any of our claims are deemed incorrect and not validated, it is critical that the Forest Service reveal and explain its decisions.

Second, and corresponding to Step 2 above, the impact or extent of the errors and quality violations are discussed and documented in each topical section (I-X) of the RM-217 petition. Section XI explicitly assembles and summarizes the collective impact of the errors and quality violations documented in previous sections. RMRS claimed only that (Attachment 1, p. 2)

None of the errors affected the desired forest conditions or the specific management recommendations...

without offering any documentation or explanation of their decision. Under item (7) below, to address this simplistic and incorrect RMRS conclusion, the ramifications of our documented claims are further explained by showing where the errors and quality violations affect "desired forest conditions or the specific management recommendations" in RM-217.

Third, the corrective action offered by RMRS ("An errata will be distributed with the publication that corrects these eight errors." - Attachment 1, p. 2) falls far short of what must be implemented to notify the public and affected persons of the errors and quality violations. In requesting reconsideration, we ask that the corrective action specified by RMRS be reevaluated in conjunction with Section XIII ("Recommendation and justification for how the information should be corrected") of the RM-217 petition. In her letter of May 13, 2003, Ms. Patton-Mallory, Station Director, emphasized her concurrence with the broad impacts and influence of RM-217 and dependent documents on forest management policies in the West (Attachment 7, last paragraph). The proposed RMRS corrective action falls far short of recognizing even the scope and influence acknowledged by Ms. Patton-Mallory.

(8) Review of RM-217 errors and quality violations and their relationship to RM-217 analysis, discussion, and results, including desired forest conditions and specific management recommendations.

RMRS summarily rejected the errors and quality violations specified in the main body of the RM-217 petition by explaining only that (Attachment 1, p. 3)

> ...we find no substantive merit to your claims.

and (Attachment 1, p. 2)

> The request to retract (withdraw) is denied because no significant errors were found and no substantive changes needed.

The RMRS decision to reluctantly correct 8 errors specified in Appendix 3 of the RM-217 petition is located on p. 3 of their response:

> We will release an errata on the eight errors discovered, even though they do not affect the desired forest conditions or the specific management recommendations.

RMRS is incorrect to state that our claims are of "no substantive merit", and the acclaimed standard that said claims "do not affect the desired forest conditions or the specific management recommendations" is without basis, absent of explanation, and is incorrect.

In addition to the explanations of the substantive nature of the errors and quality violations explained in the RM-217 petition, it is pertinent here to show, by petition section, how the errors and violations are extensively integrated into RM-217, including "desired forest conditions and specific management recommendations".

The format below includes RM-217 petition section number and name, the italicized introductory summary from each petition section, the page locations of petition components for the section, followed by RM-217 statements demonstrating the incorporation of the errors and quality violations into the document. The contextual location of RM-217 passages below are also summarized by RM-217 petition section in Table RQR-1 (attached).

Clearly, and contrary to the RMRS claim, the RM-217 errors and quality violations are tightly integrated into RM-217 results and outcomes.

Section I. Nest area size, quantity and stand structure

RM-217 petition, p. 12:

> *The required nest area size in RM-217 originated with a substandard reference that offered only speculation in support of a nest stand area of 20 to 25 acres in size. The GSC incrementally inflated this speculative value to finally include 6 nest areas, each 30 acres in area, or 180 acres total, and it did so by misrepresenting cited literature and/or without providing substantive explanations.*

For nest area size and quantity, the **Explanation of substandard quality issues, with supporting documentary evidence**, is located on pp. 12 and 14-17 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on pp. 13 and 17-18 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on p. 28 of the RM-217 petition.

Statements showing the incorporation of nest area size and quantity errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range*:

Nest area size

RM-217 p. 3, Executive Summary, Components of the Nesting Home Range:

> The nest area (approximately 30 acres), which may include more than one nest, is typically located on a northerly aspect in a drainage or canyon, and is often near a stream.

RM-217 p. 6, Management Recommendations, Nest Areas:

> **Nest Areas (30 acres each)**
> Three suitable nest areas should be maintained per home range. In addition, three replacement nest areas per home range should be in a development phase, using intermediate treatment and prescribed fire... Nest areas are typified by one or more stands of mature or old trees and dense forest canopies. No adverse management activities should occur at any time in suitable nest areas. Desired forest conditions for the nest stands and management recommendations for maintaining and developing nest stands within nest areas are presented in Tables 1 and 2.

RM-217 p. 7, Table 2, Executive Summary, Management Recommendations:

> Size of nest area: "30 (Total=180)"

RM-217 p. 13, Conservation of the Northern Goshawk: Approach, Nest Area:

> The size (20-25 acres) and shape of nest areas depend on topography and the availability of patches of dense, large trees (Reynolds 1983).

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area:

> **Size:** Approximately 30 acres (3 suitable and 3 replacement totaling 180 acres per home range).

Nest area quantity

RM-217 p.3, Executive Summary, Components of the Nesting Home Range:

> Most goshawks have two to four alternate nest areas within their home range; alternate nest areas may be used in different years, and some may be used for decades.

RM-217 p. 6, Executive Summary, Management Recommendations, Nest Areas:

> **Nest Areas (30 acres each)**
> Three suitable nest areas should be maintained per home range. In addition, three replacement nest areas per home range should be in a development phase, using intermediate treatment and prescribed fire... Nest areas are typified by one or more stands of mature or old trees and dense forest canopies. No adverse management

activities should occur at any time in suitable nest areas. Desired forest conditions for the nest stands and management recommendations for maintaining and developing nest stands within nest areas are presented in Tables 1 and 2.

RM-217 p. 7, Table 2, Executive Summary, Management Recommendations:

Number of nest areas, suitable and replacement (6, including 3 suitable and 3 replacement).

RM-217 p. 13, Conservation of the Northern Goshawk: Approach, Nest Area:

Many pairs of goshawks have two to four alternate nest areas within their home range.

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area:

Size: Approximately 30 acres (3 suitable and 3 replacement totaling 180 acres per home range).

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area:

Maintain at least 3 suitable nest areas per home range

Provide at least 3 replacement nest areas (in addition to the 3 suitable nest areas) per home range

Nest area/nest stand structure

RM-217 petition, p. 19:

Even-aged goshawk nest area and nest stand structure is recommended in RM-217. No documentation was offered to support this requirement. All references are inadequate for empirical determination of nest stand structure. Four cited references provide diameter distributions for sampled nest sites and strongly contradict RM-217.

For nest area stand structure, the **Explanation of substandard quality issues, with supporting documentary evidence,** is located on pp. 19-27 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on pp. 27-28 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on p. 28 of the RM-217 petition.

Statements showing the incorporation of nest area stand structure errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range*:

RM-217 p. 7, Table 1, Executive Summary, Management Recommendations:

Specification of stand structure in nest areas is even-aged, through designation of VSS classes 5 and 6.

RM-217 p. 7, Table 2, Executive Summary, Management Recommendations:

"Thinning from below" is an even-aged silvicultural treatment.

RM-217 p. 16, Synthesis of Desired Forest Conditions, Nest Area:

Fig. 7 shows even-aged conditions required (RM-217 Table 5) for nest areas in ponderosa pine forests.

Fig. 8 shows even-aged conditions required (RM-217 Table 5) for nest areas in mixed-species forest.

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area, where "thin unwanted understory trees" and "thin from below" are even-aged silvicultural treatments:

Preferred treatments for maintaining stand structure in nest areas:

In suitable nest areas: thin unwanted understory trees, with non-uniform spacing, in using prescribed fire (except for spruce-fir), and/or hand operated tools

In replacement nest areas:
1) thin from below (remove trees from the understory), with non-uniform spacing in the three youngest VSS to maintain low densities to promote faster tree growth and crown development, and
2) allow for stand density increases in the three older VSS to develop interlocking crowns (Fig. 10).

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area. In RM-217 Table 5, specification of stand structure in nest areas is even-aged, through designation of VSS classes 5 and 6:

Stand structure: See Table 5, page 14.

Section II. Post-fledging Family Areas (PFAs)

RM-217 petition, p. 29:

The concept of the post-fledging family area (PFA) was arbitrarily created by the GSC. PFAs have no demonstrated basis in cited literature. References were misrepresented and results distorted to achieve a preconceived outcome - the expansion of buffers already offered by nest areas. Because there is no basis for the existence of PFAs, there could be no empirical or research record for either a quantitative or qualitative designation of PFA characteristics. In RM-217, all desired PFA characteristics appear to have been presented without any demonstrated basis in science or the literature record.

For PFAs, refer to **Explanation of substandard quality issues, with supporting documentary evidence,** located on pp. 29-38 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on p. 38 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on p. 38 of the RM-217 petition.

Statements showing the incorporation of PFA errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range*:

Post-fledging Family Areas (PFAs)

RM-217 p. 3-4, Executive Summary, Components of the Nesting Home Range:

> The post fledging-family area (PFA) (approximately 420 acres) surrounds the nest area. Because of its size, it typically includes a variety of forest types and conditions. The PFA appears to correspond to the territory (defended area) of a goshawk pair, and represents an area of concentrated use by the family from the time the young leave the nest until they are no longer dependent on the adults for food (up to two months). PFAs have patches of dense trees, developed herbaceous and/or shrubby understories, and habitat attributes (snags, downed logs, small openings) that are critical for many goshawk prey (Fig. 4).

RM-217 p. 7, Table 1, Executive Summary, Management Recommendations:

Specification of desired forest conditions for PFAs.

RM-217 p. 7, Table 2, Executive Summary, Management Recommendations:

PFA size of 420 acres is specified.

RM-217 p. 6, Executive Summary, Management Recommendations, Post-Fledging-Family Areas: PFA size and conditions are specified in the section

> **Post Fledging-Family Areas (PFA) (420 acres)**

Management recommendations for foraging areas are specified as being identical to PFA recommendations:

RM-217 p. 6, Executive Summary, Management Recommendations, Foraging Area.

> Specific management recommendations to obtain the desired conditions for the foraging area are identical to the PFA (Table 2).

RM-217 p. 6, Executive Summary, Management Recommendations, Foraging Area:

> The distribution and proportion of vegetative structural stages and the requirements for habitat attributes such as reserve trees, snags, and downed logs are the same as the PFA.

Additional statements describing PFA conditions, when PFAs have no demonstrated basis in literature cited to support them:

RM-217 p. 13-14, Conservation of the Northern Goshawk: Approach, Post-fledging Family Area (PFA):

> In a radio-telemetry study of the post-fledging behavior of goshawks, Kennedy (1989, 1990) described an area used by the adults and young from the time the young leave the nest until they are no longer dependent on the adults for food. This "post-fledging family area (PFA)" surrounds the nest area and, although it generally includes a variety of forest conditions, the vegetation structure resembles that found within nest stands. PFAs vary in size from 300 to 600 acres (mean = 415 acres) and may correspond to the territory (a defended area) of a pair of goshawks (Kennedy 1989). PFAs provide the young hawks with cover from predators, and sufficient prey to develop hunting skills and feed themselves in the weeks before juvenile dispersal.

RM-217 p. 15, Synthesis of Desired Forest Conditions, Post-fledging Family Area (PFA):

> Post-fledging family areas (PFAs) contain patches of dense, large trees that provide protection for fledglings and small trees for hiding cover near the ground.

RM-217 p. 16, Synthesis of Desired Forest Conditions, Post-fledging Family Area (PFA):

> Features of prey habitat in the PFA include:
>
> 3) patches of mid-aged forests with high canopy cover (up to 70%) that provide mesic conditions for fungi

PFA conditions are an average of nest stand and foraging area conditions.

RM-217 p. 16, Synthesis of Desired Forest Conditions, Post-fledging Family Area (PFA):

> The PFA is an intermixture of forest conditions intermediate between the high foliage volume and canopy cover of the nest stands and the more open foraging habitats.

PFA conditions are the same as in nest stands.

RM-217 p. 13, Conservation of the Northern Goshawk: Approach, Post-fledging Family Area (PFA):

> This "post-fledging family area (PFA)" surrounds the nest area and, although it generally includes a variety of forest conditions, the vegetation structure resembles that found within nest stands.

PFA conditions are the same as in foraging areas.

RM-217 p. 6, Executive Summary, Foraging Area:

> Both the desired conditions and the management recommendations for the foraging area are similar to the PFA.

Portions of PFAs are the same as nest stands.

RM-217 p. 22, Management recommendations for the Home Range, Nest Area, Management Recommendations:

Replacement nest areas should be first selected from stands in the PFA that resemble vegetation and landform of suitable nest areas.

RM-217 pp. 22-26, Management recommendations for the Home Range, Post-fledging Family Area (PFA):

> Errors and quality violations are incorporated throughout this section. PFA conditions have no basis, because PFAs had not been identified and documented prior to RM-217.

Section III. Nest tree buffer arbitrarily increased

RM-217 petition, p. 39:

> *As explained in Section II, the arbitrary creation of PFAs was incorrectly used as justification by the GSC to capriciously expand nest area buffers far beyond the 20-25 acres offered in referenced speculatory discussion reviewed in Section I. The cumulative result of inflated nest area size, nest area quantity, fabricated PFA area and desired PFA forest conditions, together, represent a significant policy mandate not adequately explained or substantiated in RM-217.*

For the nest tree buffer increase, refer to **Explanation of substandard quality issues, with supporting documentary evidence**, located on pp. 39-41 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on pp. 41-42 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on p. 42 of the RM-217 petition.

Statements showing the incorporation of nest tree buffer errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range*:

Nest tree buffer arbitrarily increased

RM-217 p. 7, Table 2, Executive Summary, Management Recommendations, total of 600 acres:

> Nest areas: 6
>
> Nest area size of 30 acres, 180 acres total
>
> PFA area of 420 acres

RM-217 p. 22, Management Recommendations for the Home Range, Post-fledging Family Area (PFA), Desired Conditions, All Forest Types:

Size: Approximately 420 acres (not including the acres in suitable and replacement nest areas).

Section IV. Canopy cover

RM-217 petition, p. 47:

For canopy cover, application of the vertical projection technique specified in RM-217 introduces severe bias that forces forest managers to carry residual stand stocking that is approximately twice as high as any legitimate interpretation of supporting literature substantiates. As described above, the reason for the error lies in the incorrect departure the GSC made from canopy cover definitions and measurement methods used in cited references to legitimate and original research. Here, the fundamental reasons for the errant canopy cover requirements are quantitatively explained and demonstrated.

The result of the publication of errant canopy cover requirements is to force irrational, incorrect and unsubstantiated stand density mandates across the National Forests of the southwest that are directly contradictory with the forest utilization needs of goshawks. The errant requirements and recommendations mandate the implementation of nonsensical stand densities that diminish the utility and effectiveness of sound, science-based forest management practices.

For canopy cover, refer to **Explanation of substandard quality issues, with supporting documentary evidence**, located on p. 43-49 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on p. 51 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on p. 51 of the RM-217 petition.

Statements showing the incorporation of canopy cover errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions*, and *Management Recommendations for the Home Range*:

Canopy cover

RM-217 p. 7, Table 1, Executive Summary, Management Recommendations:

Includes entries for canopy cover for nest areas, PFAs and Foraging Areas, all specified forest types.

RM-217 p. 6, Executive Summary, Management Recommendations, Post-Fledging-Family Areas (PFA):

Because the foraging area need not provide hiding cover for fledgling goshawks, a more open canopy is preferred – 40 percent in the mid-aged forests and 40 to 60 percent in the mature and old forests, depending on the forest type.

RM-217 p. 14, Table 5, Conservation of the Northern Goshawk: Approach, Nest Area:

> For nest stands, the "minimum attributes required for goshawks on locations with 'low' and 'high' site productivity" (RM-217 p. 14) include canopy cover requirements for five forest types as specified in Table 5.

RM-217 p. 14, Conservation of the Northern Goshawk: Approach, Post-fledging Family Area (PFA):

> Thus, forests in the PFAs should contain overstories with a canopy cover greater than 50%...

RM-217 p. 15, Synthesis of Desired Forest Conditions, Nest Area, where the canopy cover reference refers to Table 5:

> In each of the three southwestern forest types, goshawks nest in older-aged stands that have a high density of large trees, high tree canopy cover, and high basal areas (Table 5, Fig. 7, and Fig. 8).

RM-217 p. 16, Synthesis of Desired Forest Conditions, Post-fledging Family Area (PFA):

> Features of prey habitat in the PFA include:"
>
> 3) patches of mid-aged forests with high canopy cover (up to 70%) that provide mesic conditions for fungi

RM-217 p. 18, Synthesis of Desired Forest Conditions, Foraging Area:

> For the most part, forests in the older age classes are relatively open (40-60% canopy cover) with increased sunlight and moisture reaching the forest floor.

RM-217 p. 18, Synthesis of Desired Forest Conditions, Foraging Area:

> Table 7, identifies the VSSs and canopy cover classes in which selected species of goshawk prey occur at high, medium, and low populations...

RM-217 p. 19, Table 7 Synthesis of Desired Forest Conditions, Foraging Area:

> Qualitative decision model for desired forest conditions within northern goshawk home ranges is based on canopy cover classes 0-40%, 40-60%, and >60%.

From Table 5, for nest stands, the "minimum attributes required for goshawks on locations with 'low' and 'high' site productivity", including canopy cover requirements for five forest types, are directly referenced and included in the management recommendations for nest areas, PFAs and foraging areas:

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area, Desired Conditions:

> **Stand structure:** See Table 5, page 14.

RM-217 p. 23, Management Recommendations for the Home Range, Post-fledging Family Area (PFA), Additional Desired Conditions, Ponderosa Pine Forest Type:

> **Stand structure**: The portions of the PFA in the mature and old VSSs have a minimum canopy cover of 50%. One-third of the area in the mid-aged portion has a minimum canopy cover of 60%, and the remaining two-thirds has a minimum canopy cover of 50%.

RM-217 p. 24, Management Recommendations for the Home Range, Post-fledging Family Area (PFA), Additional Desired Conditions, Mixed-species and Spruce-fir Forest Types

> **Stand structure**: The portions of the PFA in the mature and old VSSs have a minimum canopy cover of 60% in mixed-species and 70% in spruce-fir. In the mid-aged portion of the PFA, the minimum canopy cover is 60% for both forest types.

RM-217 p. 27, Management Recommendations for the Home Range, Foraging Area, Additional Desired Conditions, Ponderosa Pine Forest Type

> **Stand structure**: The portions of the foraging area in the mature and old VSS should have a minimum canopy cover of 40%.

RM-217 p. 28, Management Recommendations for the Home Range, Foraging Area, Additional Desired Conditions, Mixed-species Forest Type:

> **Stand structure**: In that portion of the foraging area that is VSS 6, there is a minimum canopy cover of 60%. In the portion of the foraging area that is in the mature stage (VSS 5), there is a minimum canopy cover of 50%. In the portion of the foraging area that is in the mid-aged stage (VSS 4), one-third of the area has a minimum canopy cover of 60%, and the remaining two-thirds has a minimum canopy cover of 40%.

RM-217 p. 28, Management Recommendations for the Home Range, Foraging Area, Additional Desired Conditions, Spruce-fir Forest Type:

> **Stand structure**: In the portions of the foraging area in the two oldest VSSs (5,6), there is a minimum canopy cover of 60%. In the portion of the foraging area in the mid-aged stage (VSS 4), one-third of the area has a minimum canopy cover of 60%, and the remaining two-thirds has a minimum canopy cover of 40%.

RM-217 p. 87, Appendix 7, Glossary of Terms:

> **Canopy cover**—The percentage of a fixed area covered by the crowns of plants delimited by a vertical projection of the outermost perimeter of the spread of the foliage.

RM-217 p. 89, Appendix 7, Glossary of Terms:

> **Total canopy cover**—The overall area covered by the crowns of plants delimited by a vertical projection of the outermost perimeter of the spread of the foliage in all vertical layers.

Section V. Goshawk prey species and desired foraging area conditions

RM-217 petition, p. 52:

> *Qualitative decision models used to develop desired forest conditions for foraging areas are not accompanied with fundamental explanations necessary to understand and*

reproduce outcomes. An analysis of decision model outcomes and cited supporting references shows that the process is flawed and was likely designed to produce desired, a priori results.

For goshawk prey species and desired foraging area conditions, refer to **Explanation of substandard quality issues, with supporting documentary evidence**, located on pp. 52-74 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on p. 74 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on pp. 74-75 of the RM-217 petition.

In RM-217, the GSC used the results of these qualitative decision models as the foundation for stand structure goals, as implemented through VSS requirements and recommendations. The GSC summarized their conclusion and approach on RM-217 p. 19, Synthesis of Desired Forest Conditions, Foraging Area:

> Goshawk foraging habitat will have sustainable and abundant prey when the majority of forests are in older age classes.

In RM-217, foraging area stand structure requirements and recommendations are implemented through VSS specifications derived from the qualitative decision models in RM-217 Tables 6 and 7, for special habitat attributes and desired forest conditions of selected goshawk prey. The incorporation of VSS requirements for stand structure based on these errors and quality violations include statements in the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range*:

Goshawk prey species and desired foraging area conditions

RM-217 p. 4, Executive Summary, Components of the Nesting Home Range:

> The **foraging area** is approximately 5,400 acres in size, and surrounds the PFA. Hunting goshawks evidently use available habitats opportunistically. This opportunism suggests that the choice of foraging habitat by goshawks may be as closely tied to prey availability as to habitat structure and composition... The recommendations presented here are based on information available on how foraging goshawks use their habitat, and was supplemented with information on the habitats, foods, and cover of important goshawk prey.

RM-217 p. 4, Executive Summary, Goshawk Prey:

> Fourteen species were important in the diet of southwestern goshawks. Information on the distribution, habitat, special habitat needs, home range size, and populations of these 14 prey species were gleaned from the literature. A synthesis of this information provided a set of "desired forest conditions" that would result in sustainable populations of each prey.

RM-217 p. 5, Executive Summary, Goshawk Prey:

Prey populations within goshawk foraging areas will be abundant and sustainable when:

5) the majority of forests are in the "mid-aged," "mature," and "old" structural stages.

RM-217 p. 7, Table 1, Executive Summary, Management Recommendations:

Specification of VSS distribution for foraging areas, all specified forest types.

RM-217 p. 12, Table 4, Goshawk Populations and Prey Species, Prey Species:

Selected northern goshawk prey in the Southwest.

RM-217 p. 16, Synthesis of Desired Forest Conditions, Foraging Area:

Table 6 summarizes the importance of snags, downed logs, woody debris, openings, large trees, herbaceous and shrubby understories, and interspersion of VSS to the selected prey species of the goshawk.

RM-217 p. 17, Table 6, Synthesis of Desired Forest Conditions, Foraging Area:

Qualitative decision model for special habitat attributes for selected northern goshawk prey.

RM-217 p. 18, Synthesis of Desired Forest Conditions, Foraging Area:

Although some species of goshawk prey occur at medium to low population levels in each of the structural stages, it is evident that the older age classes have the most species at an abundant population level (12 of 14 species).

RM-217 p. 18, Synthesis of Desired Forest Conditions, Foraging Area:

A total of 12 species attain high or medium populations in older forests (VSS 4-6); of these 12 species, 5 occur only at low densities in the young forests (VSS 2-3)(Table 7).

RM-217 p. 19, Table 7, Synthesis of Desired Forest Conditions, Foraging Area:

Qualitative decision model for desired forest conditions within northern goshawk home ranges.

RM-217 p. 23, Management Recommendations for the Home Range, Post-fledging Family Area (PFA), Desired Conditions, All Forest Types:

Stand structure: A mosaic of vegetation structural stages (VSSs) interspersed throughout the foraging area in small patches.

The majority (60%) of the foraging area should ultimately be in the three older VSSs (4,5,6), approximately 20% in each. Of the remaining 40%, 20% should be in young forest (VSS 3) and 10% in the seedling/sapling (VSS 2) and 10% in grass/forb/shrub (VSS 1).

RM-217 p. 27, Management Recommendations for the Home Range, Foraging Area, Desired Conditions, All Forest Types:

Stand structure: A mosaic of vegetation structural stages interspersed throughout the foraging area in small patches.

The majority (60%) of the foraging area should ultimately be in the three older VSSs (4,5,6), approximately 20% in each. Of the remaining 40%, 20% should be in young forest (VSS 3) and 10% in the seedling/sapling (VSS 2) and 10% in grass/forb/shrub (VSS 1).

Section VI. Vegetation Structural Stage

RM-217 petition, p. 76:

The Vegetation Structural Stage classification scheme for forest development is poorly conceived, using only on an inadequate and misrepresented citation as a theoretical basis, and is readily shown to be impossible to apply to uneven-aged stand conditions.

For VSS, refer to **Explanation of substandard quality issues, with supporting documentary evidence,** located on pp. 76-85 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on pp. 85-86 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on p. 86 of the RM-217 petition.

Statements showing the incorporation of VSS errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range*:

VSS

RM-217 p. 1, Executive Summary:

"Six vegetation structural stages (VSS) were used to describe regeneration, growth, and development of forests in the Southwest (Fig. 1). The proportions of the VSS and their interspersion in the forest is how the GSC described the forest mosaic."

RM-217 p. 4-5, Executive Summary, Goshawk Prey:

"Specific habitat attributes used by these species include: snags, downed logs, woody debris, large trees, openings, herbaceous and shrubby understories, and an intermixture of various forest vegetative structural stages."

RM-217 p. 5, Executive Summary, Goshawk Prey:

Prey populations within goshawk foraging areas will be abundant and sustainable when:

5) the majority of forests are in the "mid-aged," "mature," and "old" structural stages.

RM-217 p. 7, Table 1, Executive Summary, Management Recommendations:

Entries for VSS distribution for nest areas, PFAs and Foraging Areas, all specified forest types.

Canopy cover values as specified for VSS classes 4, 5 and 6, for nest areas, PFAs and Foraging Areas, all specified forest types.

RM-217 p. 6, Executive Summary, Management Recommendations, Foraging Area:

The distribution and proportion of vegetative structural stages and the requirements for habitat attributes such as reserve trees, snags, and downed logs are the same as the PFA.

RM-217 p. 14, Table 5, Conservation of the Northern Goshawk: Approach, Nest Area:

For nest stands, the "minimum attributes required for goshawks on locations with 'low' and 'high' site productivity" include explicit VSS requirements for five forest types.

RM-217 p. 16, Synthesis of Desired Forest Conditions, Foraging Area:

Table 6 summarizes the importance of snags, downed logs, woody debris, openings, large trees, herbaceous and shrubby understories, and interspersion of VSS to the selected prey species of the goshawk.

RM-217 p. 17, Table 6, Synthesis of Desired Forest Conditions, Foraging Area:

Qualitative decision model for special habitat attributes for selected northern goshawk prey includes VSS criteria.

RM-217 p. 18, Synthesis of Desired Forest Conditions, Foraging Area:

A total of 12 species attain high or medium populations in older forests (VSS 4-6); of these 12 species, 5 occur only at low densities in the young forests (VSS 2-3)(Table 7).

RM-217 p. 19, Synthesis of Desired Forest Conditions, Foraging Area:

Goshawk foraging habitat will have sustainable and abundant prey when the majority of forests are in older age classes.

RM-217 p. 19, foraging area, Table 7, Synthesis of Desired Forest Conditions, Foraging Area:

Qualitative decision model for desired forest conditions within northern goshawk home ranges is based on VSS classes.

From Table 5, for nest stands, the "minimum attributes required for goshawks on locations with 'low' and 'high' site productivity", including explicit VSS requirements for five forest types, are directly referenced and included in the management recommendations for nest area desired conditions.

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area, Desired Conditions:

> **Stand structure:** See Table 5, page 14.

RM-217 p. 22-26, Management Recommendations for the Home Range, Post-fledging Family Area (PFA):

> Numerous recommendations are made for PFAs based on VSS.

RM-217 p. 26-30, Management Recommendations for the Home Range, Foraging Area:

> Numerous recommendations are made for foraging areas based on VSS.

Section VII. Extrapolation from targeted populations

RM-217 petition, p. 87:

> *In RM-217, the GSC failed to identify target populations for the sources of its own presented data, as well as for data and conclusions originating from cited references. The result is that the goshawk management recommendations present required and desired forest stand criteria that are intended by the GSC for application beyond the legitimate populations that were targeted for sampling, producing irrational results that are impossible and/or illogical to apply.*

For extrapolation from targeted populations to nest stands and nest areas, refer to **Explanation of substandard quality issues, with supporting documentary evidence**, located on pp. 87-105 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on p. 109 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on pp. 109-110 of the RM-217 petition.

Statements showing the incorporation of extrapolation errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range:*

Extrapolation from targeted populations, nest areas

RM-217 p. 6, Executive Summary, Management Recommendations, Nest Areas:

> Nest areas are typified by one or more stands of mature or old trees and dense forest canopies.

RM-217 p. 13, Conservation of the Northern Goshawk: Approach, Nest Area:

> Goshawk nest stands have a relatively high tree canopy cover and a high density of large trees (Bartelt 1974, McGowan 1975, Hennessy 1978, Shuster 1980, Reynolds et al. 1982, Saunders 1982, Moore and Henny 1983, Hall 1984, Speiser and Bosakowski 1987, Crocker-Bedford and Chaney 1988, Kennedy 1988, Hayward and Escano 1989).

RM-217 p. 13 Conservation of the Northern Goshawk: Approach, Nest Area:

> Information on tree height, diameter, and canopy closure of goshawk nest areas in interior ponderosa pine and mixed-species forests is provided by Reynolds et al. (1982), Moore and Henny (1983), Crocker-Bedford and Chaney (1988), Kennedy (1988),and Patla (1990).

RM-217 p. 14, Table 5, Conservation of the Northern Goshawk: Approach, Nest Area:

> For nest stands, the "minimum attributes required for goshawks on locations with 'low' and 'high' site productivity" include explicit structural attributes for five forest types, including trees per acre, mean DBH/DRC, age, total basal area and canopy cover.

RM-217 p. 15, Synthesis of Desired Forest Conditions, Nest Area:

> In each of the three southwestern forest types, goshawks nest in older-aged stands that have a high density of large trees, high tree canopy cover, and high basal areas (Table 5, Fig. 7, and Fig. 8).

From Table 5, for nest stands, the "minimum attributes required for goshawks on locations with 'low' and 'high' site productivity", including explicit requirements for trees per acre, mean DBH/DRC, age, basal area and canopy cover, for five forest types, are directly referenced and included in the management recommendations for nest area desired conditions.

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area, Desired Conditions:

> **Stand structure:** See Table 5, page 14.

Extrapolation from targeted populations, foraging areas

RM-217 petition, p. 107:

> *In RM-217 Table 1, p. 7, various attribute values are specified as "desired forest conditions" for foraging areas. The GSC failed to explain how these values were derived, and it did not attempt to explain how results from sampled target populations in supporting literature could be extrapolated for application to the 5,400 acre foraging areas (area from RM-217 Table 2, p. 7).*

For extrapolation from targeted populations to foraging areas, refer to **Explanation of substandard quality issues, with supporting documentary evidence**, located on pp. 107-108 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on p. 109 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on pp. 109-110 of the RM-217 petition.

RM-217 p. 4, Executive Summary, Components of the Nesting Home Range:

> The recommendations presented here are based on information available on how foraging goshawks use their habitat, and was supplemented with information on the habitats, foods, and cover of important goshawk prey.

RM-217 p. 7, Table 1, Executive Summary, Management Recommendations:

> Specification of all foraging area forest conditions, including canopy cover.

RM-217 p. 17, Table 6, Synthesis of Desired Forest Conditions, Foraging Area:

> Qualitative decision model for special habitat attributes for selected northern goshawk prey.

RM-217 p. 19, Table 7, Synthesis of Desired Forest Conditions, Foraging Area:

> Qualitative decision model for desired forest conditions within northern goshawk home ranges is based on VSS classes.

RM-217 p. 23, Management Recommendations for the Home Range, Post-fledging Family Area (PFA), Desired Conditions, All Forest Types, where VSS distributions are based on qualitative decision models:

> **Stand structure**: A mosaic of vegetation structural stages (VSSs) interspersed throughout the foraging area in small patches.
>
> The majority (60%) of the foraging area should ultimately be in the three older VSSs (4,5,6), approximately 20% in each. Of the remaining 40%, 20% should be in young forest (VSS 3) and 10% in the seedling/sapling (VSS 2) and 10% in grass/forb/shrub (VSS 1).

RM-217 p. 27, Management Recommendations for the Home Range, Foraging Area, Desired Conditions, All Forest Types:

> **Stand structure**: A mosaic of vegetation structural stages interspersed throughout the foraging area in small patches.
>
> The majority (60%) of the foraging area should ultimately be in the three older VSSs (4,5,6), approximately 20% in each. Of the remaining 40%, 20% should be in young forest (VSS 3) and 10% in the seedling/sapling (VSS 2) and 10% in grass/forb/shrub (VSS 1).

Section VIII. Grazing/forage utilization restrictions

RM-217 petition, p. 111:

The restrictions on forage utilization are poorly referenced and, subsequently, incorrect and unjustifiably restrictive.

For grazing/forage utilization restrictions, refer to **Explanation of substandard quality issues, with supporting documentary evidence,** located on p. 111 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on p. 111 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on p. 111 of the RM-217 petition.

Statements showing the incorporation of grazing/forage utilization errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions,* and *Management Recommendations for the Home Range*:

Grazing/forage utilization restrictions

RM-217 p. 7, Table 2, Executive Summary, Management Recommendations:

> Forage utilization is specified for nest areas, PFAs and foraging areas.

RM-217 p. 6, Executive Summary, Management Recommendations, Post-Fledging-Family Areas (PFA):

> Forage utilization should average 20 percent by weight and should not exceed 40 percent in any area to maintain grass and forb layer. Browse utilization should average 40 percent by weight (Table 2).

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area, Management Recommendations:

> Wildlife and livestock utilization of grasses and forbs should average 20% by weight and not exceed 40% in any area, and shrub utilization should average 40% by weight and not exceed 60% in any area. These levels of utilization should maintain native food and cover for many of the prey species (Schmutz 1978, Wasser 1982).

RM-217 p. 24, Management Recommendations for the Home Range, Post-fledging Family Area (PFA), Management Recommendations, All Forest Types:

> Wildlife and livestock utilization of grasses and forbs should average 20% by weight and not exceed 40% in any area, and shrub utilization should average 40% by weight and not exceed 60% in any area. These levels of utilization should maintain native food and cover for many of the prey species (Schmutz 1978, Wasser 1982).

RM-217 p. 28, Management Recommendations for the Home Range, Foraging Area, Management Recommendations For All Forest Types:

> Wildlife and livestock utilization of grasses and forbs should average 20% by weight and not exceed 40% in any area, and shrub utilization should average 40% by weight and not exceed 60% in any area. This level of utilization should maintain native food and cover for many of the prey species (Schmutz 1978, Wasser 1982).

Section IX. Road densities

RM-217 petition, p. 112:

> *Though the GSC repeatedly required and recommended that roads be "minimized", no supporting citations or other information were provided to support the mandate.*

For road densities, refer to **Explanation of substandard quality issues, with supporting documentary evidence**, located on pp. 112-114 of the RM-217 petition.

The **Explanation of noncompliance with OMB and/or USDA Information Quality Guidelines** is located on p. 114 of the RM-217 petition.

The **Explanation of the Effect of the Alleged Error** is located on pp. 114-115 of the RM-217 petition.

Statements showing the incorporation of road density errors and quality violations into the RM-217 sections titled *Executive Summary, Conservation of the Northern Goshawk: Approach, Synthesis of Desired Forest Conditions*, and *Management Recommendations for the Home Range*:

Road densities

RM-217 p. 7, Table 2, Executive Summary, Management Recommendations:

> Transportation system/roads are specified to be at "minimum" densities for nest areas, PFAs and foraging areas.

RM-217 p. 6, Executive Summary, Post Fledging-Family Areas (PFA):

> Road densities should be minimized, and permanent skid trails should be used in lieu of permanent roads.

RM-217 p. 22, Management Recommendations for the Home Range, Nest Area, Management Recommendations:

> Manage road densities at the lowest level possible to minimize disturbance in the nest area.

RM-217 p. 24, Management Recommendations for the Home Range, Post-fledging Family Area (PFA), Management Recommendations, All Forest Types:

> Manage road densities at the lowest level possible to minimize disturbance in the PFA.

RM-217 p. 28, Management Recommendations for the Home Range, Foraging Area, Management Recommendations For All Forest Types:

United States Department of Agriculture | Forest Service | Rocky Mountain Research Station | 2150 Centre Avenue Building A, Suite 376 Fort Collins, CO 80526-1891

File Code: 1390

Date: July 25, 2003

Mr. William K. Olsen
W.K. Olsen & Associates, L.L.C.
247 Falls Creek Drive
Bellvue, CO 80512

Re: Response to Request for Correction Nos. 3001-3005

Dear Mr. Olsen:

We received from you the following five requests for correction on January 31, 2003, under the United States Department of Agriculture (USDA) Information Quality Guidelines and Data Quality Act (DQA) (Public Law 106-554 §515):

#3001. Management Recommendations for the Northern Goshawk in the Southwestern United States, Rocky Mountain Forest and Range Experiment Station, (GTR-RM-217, August 1992),
#3002. Black Hills National Forest Phase I Goshawk Analysis, Black Hills National Forest (2000),
#3003. Expert Interview Summary for the Black Hills National Forest Land and Resource Management Plan Amendment, Black Hills National Forest (2000),
#3004. Record of Decision for Amendment of Forest Plans Arizona and New Mexico, Southwestern Region (June 5, 1996), and
#3005. Conservation Assessment for the Northern Goshawk in Southeast Alaska, Pacific Northwest Research Station (GTR-PNW-387, November 1996).

The Forest Service has given your requests for correction careful consideration and your concerns have been thoroughly reviewed. According to USDA Information Quality Guidelines, the review of your request for correction must be based on the explanation and evidence provided in your request. We reviewed: (a) processes that were used to create and disseminate the information, (b) information being challenged, and (c) conformity of the information and those processes with both Office of Management and Budget (OMB) and USDA Information Quality Guidelines.

Processes that were used to create and disseminate the information

RM-217 had substantial internal and external scientific peer reviews prior to publication. It received scrutiny above and beyond what would be termed normal in the scientific peer review process. Prior to publication, the draft manuscript was reviewed by 19 scientists and managers at universities, state wildlife management agencies, USDA Forest Service, Fish and Wildlife

Attachment 1. USDA Forest Service, Rocky Mountain Research Station.
Response to Request for Correction Nos. 3001-3005.

Attached:

Attachment 1. USDA Forest Service, Rocky Mountain Research Station. Response to Request for Correction Nos. 3001-3005.

Attachment 2. FedEx proof of delivery to USDA Forest Service, Chief's Office, Request for Correction Nos. 3001-3005.

Attachment 3. FedEx proof of delivery to USDA Forest Service, Mr. John King, Petition Nos. 3001-3005.

Attachment 4. USDA Forest Service, Rocky Mountain Research Station. Letter acknowledging receipt of Petition Nos. 3001-3005.

Attachment 5. FedEx proof of delivery to USDA Forest Service, Chief's Office, of petitioner's letter to Chief requesting attention to issues surrounding the goshawk petitions.

Attachment 6. Duplicate of letter sent to USDA Forest Service Chief Bosworth (FedEx proof of delivery, Attachment 5), sent to Sen. Campbell.

Attachment 7. USDA Forest Service, Rocky Mountain Research Station. Response to letter to Chief Bosworth, sent to Sen. Campbell.

Attachment 8. USDA Forest Service, Washington Office. Communication stating letter to Chief Bosworth (Attachments 5, 6) was not received.

Table RQR-1. Integration of errors and quality violations into RM-217.

Enclosed:

Petition Nos. 3001, 3002, 3003, 3004, 3005

Manage road densities at the lowest level possible to minimize disturbance in the foraging area.

III. Basis for Request for Reconsideration - Petitions 3002-3005

In the RMRS response, petitions 3002-3005 are denied (Attachment 1, p. 2):

> These requests are denied because the requests use the rationale of errors identified in Petition #3001. Since no significant errors were found in RM-217, no substantive changes are needed; your requests to retract (withdraw) these documents and/or expunge sections of the documents are denied.

We request that the RMRS decision for petitions 3002, 3003, 3004 and 3005 be reconsidered because:

1. The RMRS decision and review procedure for RM-217 Petition #3001 is incorrect, as described above.

2. RMRS withheld critical decision information regarding the seven unknown but validated errors in Appendix 3 of the RM-217 petition, described above. For this request for reconsideration, without knowing which errors have been validated, and which have not, in both the Appendix and main body of the RM-217 petition, our ability to address the impacts of validated errors on the information that is the subject of petitions 3002-3005, and the Forest Service response, is irreparably harmed.

Service, and a natural history museum. These reviewers' comments were reconciled into the final document. In addition to these reviews, RM-217 was orally defended in front of a panel of Rocky Mountain Station scientists. Workings of the Goshawk Scientific Committee were also continually reviewed by a task force made up of private citizens, individuals from non-governmental organizations (e.g., Audubon Society), University of Arizona, New Mexico and Arizona State organizations, Fish and Wildlife Service, industry representatives, and Forest Service managers.

These reviews meet the criteria stated in the USDA Information Quality Guidelines "Objectivity of Scientific Research Information" that require a high quality and objective peer review.

Information being challenged

In our review of the information being challenged in request #3001, we found no significant errors requiring substantive change to RM-217. The review discovered eight errors. None of the errors affected the desired forest conditions or the specific management recommendations. In addition to the seven minor errors revealed in Appendix 3 of your request, RM-217 misquoted a reference on page 14 by stating PFAs vary in size from 300 to 600 acres. The correct range was 84 to 811 acres. The misquote does not change or influence the outcome. The request to retract (withdraw) is denied because no significant errors were found and no substantive changes needed. An errata will be distributed with the publication that corrects these eight errors.

The following requests for correction are denied: the Black Hills National Forest Phase I Goshawk Analysis (#3002), the Expert Interview Summary for the Black Hills National Forest Land and Resource Management Plan Amendment (#3003), the Record of Decision for Amendment of Forest Plans Arizona and New Mexico (#3004), and the Conservation Assessment for the Northern Goshawk in Southeast Alaska (#3005). These requests are denied because the requests use the rationale of errors identified in Petition #3001. Since no significant errors were found in RM-217, no substantive changes are needed; your requests to retract (withdraw) these documents and/or expunge sections of the documents are denied.

Conformity of the information and those processes with both OMB and USDA Information Quality Guidelines

RM-217 conforms to the criteria for quality of information outlined in the Supplemental Guidelines for the Quality of Scientific Research Information Disseminated by USDA Agencies, under the USDA Information Quality Guidelines by:

- providing a clear statement of the research objectives and description of the approaches and methods,
- being the subject of a high quality and objective review,
- having appropriate oversight to ensure sound scientific practices were followed,
- adhering to the Research Misconduct Policy,
- providing research information to the public that is reliable, accurate, and presented clearly, and

- providing an explanation of how the research information was obtained, what it is, the conditions to which it applied, and the limitations or reservations that should be applied in using the information.

RM-217 also follows the procedures for release of scientific information, outlined in the Supplemental Guidelines for the Quality of Scientific Research Information Disseminated by USDA Agencies, by:

- conducting a peer review that meets the standards recommended by OMB,
- subjecting the information to formal, independent external peer review to ensure its objectivity. It is important to also note that the USDA Supplemental Guidelines states that "if the data and analytic results have been subjected to such a review, the information can generally be presumed to be of acceptable objectivity. However, in accordance with the OMB standard, this presumption is rebuttable based on a persuasive showing by a petitioner in a particular instance, although the burden of proof is on the complainant", and
- conducting an internal review, which for the purpose of establishing transparency, ensures that a report or research product clearly states what the information and data are, on how they were obtained, and reservations or limitations on their use.

Like all Forest Service scientific studies, RM-217 underwent a rigorous scientific peer review prior to publication, following the Forest Service Manual 1600 Chapter 1631.15. This chapter states that "line offices must ensure that authors:

- Solicit written comments from at least two peers competent in the subject matter,
- Solicit statistical review when appropriate, and
- Supply the line or staff officer who is to perform the final review with a revised manuscript, along with review comments and reasons for any rejection of review comments."

In conclusion, the Forest Service carefully considered the information you provided. However, after full consideration and careful, thorough review we find no substantive merit to your claims. The information you provided does not demonstrate that RM-217 is inconsistent with USDA's Information Quality Guidelines. The Forest Service denies your claim to retract (withdraw) RM-217. We will release an errata on the eight errors discovered, even though they do not affect the desired forest conditions or the specific management recommendations. Your requests to retract (withdraw) and/or expunge sections of documents (requests #2-5) are also denied based on our RM-217 decision.

You may submit a request for reconsideration if you are dissatisfied with this decision. Details on how to file a request for reconsideration can be found on the USDA website: http://www.ocio.usda.gov/irm/qi_guide/index/html. The request for reconsideration should reference this letter and follow the "Procedures for Requesting Reconsideration of USDA's Decision." Please submit written material to support your case for reconsideration, and a copy of the information originally submitted to support the request for correction, and a copy of this response. Requests for Reconsideration filed after the 45-day deadline may be denied as untimely. All requests for reconsideration must be submitted by overnight delivery service, letter, fax, or email to:

USDA Forest Service
Data Quality Team Leader ORMS Staff
Mail Stop 1150 1S Yates Building
14th & Independence Avenue SW
Washington, DC 20250-1150

Phone (202) 205-2938
FAX (202) 260-6539
Email gcontreras@fs.fed.us

If you should have additional questions please contact Glen Contreras, Data Quality Team Leader, at (202) 205-2938, or e-mail gcontreras@fs.fed.us.

Marcia Patton-Mallory

MARCIA PATTON-MALLORY
Station Director

cc:
Station Directors
Regional Foresters
Deputy Chiefs, R&D and NFS
Data Quality Team Leader
ADRs, RMRS

Attachment 2. FedEx proof of delivery to USDA Forest Service, Chief's Office, Request for Correction Nos. 3001-3005.

FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4543

Telephone: 901-369-3600

2/4/2003

Dear Customer:

Here is the proof of delivery for the shipment with tracking number **834031029763**. Our records reflect the following information.

Delivery Information:

Signed For By: V.FOWLER

Delivery Location: 201 14TH ST SW
Delivery Date: January 21, 2003
Delivery Time: 1300

Shipping Information:

Tracking No: 834031029763

Ship Date: January 17, 2003

Recipient:

20250
US

Shipper:

Shipment Reference Information:

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service
1-800-Go-FedEx®
Reference No.: R2003020400070622732

Attachment 3. FedEx proof of delivery to USDA Forest Service, Mr. John King, Petition Nos. 3001-3005.

FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone: 901-369-3600

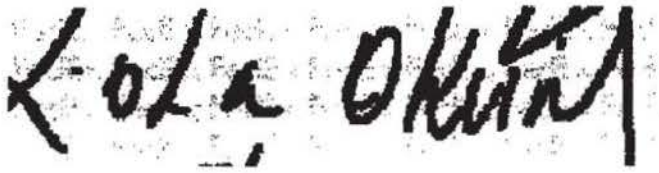
2/4/2003

Dear Customer:

Here is the proof of delivery for the shipment with tracking number **834031029741**. Our records reflect the following information.

Delivery Information:

Signed For By: L.OKUN



Delivery Location: 1621 N KENT
Delivery Date: January 21, 2003
Delivery Time: 1316

Shipping Information:

Tracking No: 834031029741

Ship Date: January 17, 2003

Recipient:
JOHN KING
USDA FOREST SERVICE
1621 N KENT ST
ARLINGTON, VA 22209
US

Shipper:
WILLIAM K OLSEN
W. K. OLSEN & ASSOCIATES, LLC
247 FALLS CREEK DR
BELLVUE, CO 805127501

Shipment Reference Information:

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service
1-800-Go-FedEx®
Reference No.: R2003020400070623292

Attachment 4. USDA Forest Service, Rocky Mountain Research Station. Letter acknowledging receipt of Petition Nos. 3001-3005.

United States Department of Agriculture | Forest Service | Rocky Mountain Research Station | 2150 Centre Avenue Building A, Suite 376 Fort Collins, CO 80526-1891

File Code: 1570

Date: MAR 21 2003

Mr. William K. Olson
W.K. Olsen and Associates, L.L. C.
247 Fall Creek Drive
Bellvue, CO 80512

Dear Mr. Olson,

This letter serves to acknowledge receipt of five petitions to correct information disseminated by the Forest Service on the northern goshawk, submitted under (a) Public Law 106-554 §515, (b) OMB Guidelines for Ensuring Maximizing the Quality, Objectivity, Utility, and Integrity of Information by Federal Agencies, and (c) United States Department of Agriculture's Information Quality Guidelines. We acknowledge receipt of your five petitions, dated January 17, 2003, on January 31, 2003:

1. Management Recommendations for the Northern Goshawk in the Southwestern United States, Rocky Mountain Forest and Range Experiment Station, (GTR-RM-217, August 1992)

2. Record of Decision for Amendment of Forest Plans Arizona and New Mexico, Southwestern Region (June 5, 1996)

3. Expert Interview Summary for the Black Hills National Forest Land and Resource Management Plan Amendment, Black Hills National Forest (2000)

4. Black Hills National Forest Phase I Goshawk Analysis, Black Hills National Forest (2000)

5. Conservation Assessment for the Northern Goshawk in Southeast Alaska, Pacific Northwest Research Station (GTR-PNW-387, November 1996)

We are currently in the process of going through the five petitions, but will need additional time to respond more thoroughly to them. It is important that we initially focus on the first petition because it is the basis for the other four petitions (#2-5). It will require a more in-depth technical and legal evaluation. Therefore, you can expect a more in –depth response to your first petition by July 31, 2003. That response will also include a better estimate of response time for the petitions #2-5.

If you should have additional questions please contact Alison Hill, Assistant Director for Research, at 970-226-1980 or ahill01@fs.fed.us.

Marcia Patton-Mallory
Station Director

AH:cbp

cc:
Station Directors
Regional Foresters
Deputy Chiefs, R&D and NFS

Attachment 5. FedEx proof of delivery to USDA Forest Service, Chief's Office, of petitioner's letter to Chief requesting attention to issues surrounding the goshawk petitions.

FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone: 901-369-3600

6/1/2003

Dear Customer:

Here is the proof of delivery for the shipment with tracking number 839670994632. Our records reflect the following information.

Delivery Information:

Signed For By: R.HARRISON

Delivery Location: 201 14TH ST SW 1SW
Delivery Date: April 21, 2003
Delivery Time: 0834

Shipping Information:

Tracking No: 839670994632

Ship Date: April 18, 2003

Recipient:
CHIEF DALE BOSWORTH
USDA FOREST SERVICE
201 14TH ST SW CHIEFS OF
WASHINGTON, DC 20250
US

Shipper:
WILLIAM K OLSEN
W. K. OLSEN & ASSOCIATES, LLC
247 FALLS CREEK DR
BELLVUE, CO 805127501
US

Shipment Reference Information:

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service
1-800-Go-FedEx®
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Attachment 6. Duplicate of letter sent to USDA Forest Service Chief Bosworth (FedEx proof of delivery, Attachment 5), sent to Sen. Campbell.

W. K. Olsen & Associates, L.L.C.
Analysis and Consulting Services in Natural Resources and Environmental Sciences

April 17, 2003

Chief Dale Bosworth
USDA Forest Service
Chief's Office, 4 NW
201 14th St. SW
Washington, D.C. 20250

Dear Mr. Bosworth,

In late January, under provisions of Public Law 106-554 § 515 (Data Quality Act), I submitted five petitions to the USDA Forest Service requesting corrections be made to disseminated information related to the northern goshawk. Hardcopy and PDF versions were sent to your office, in your name, and PDF versions were also sent on CD to Mr. John King. Both were delivered by FedEx on January 21, 2003.

In a letter received from the Rocky Mountain Research Station (RMRS), the Forest Service acknowledged that the petitions had been received, and notice was included stating that any decision regarding the RMRS publication GTR-RM-217 would be made by July 31, 2003. No response time will be provided regarding the remaining four petitions until July 31. A copy of the RMRS letter is enclosed.

I have several procedural concerns regarding treatment of the petitions. Your review of these concerns would be appreciated, and your intervention may be appropriate and necessary to ensure petition review procedures are correctly followed and respect Congressional intent.

(1) Stated review periods are excessive in length, and stated reasons for delay are inadequate and uninformative.

OMB, in its information quality guidelines, has required that submitted petitions be reviewed in a timely manner. As you are aware, issues surrounding the northern goshawk impact many businesses and rural communities across the West, as well as the potential viability of goshawk populations. Timely resolution of the important concerns presented and reviewed in detail in the petitions is crucial, and expeditious resolution is imperative.

However, the self-imposed deadline of July 31, 2003 for an initial review decision by RMRS falls 6 months and 10 days after receipt of the GTR-RM-217 petition. Further, the deadline set for the four additional petitions is open-ended, meaning there may be no consideration of the petitions, whatsoever, until July 31 or later. Reasons provided for the delays are cursory and uninformative.

USDA information quality guidelines, dated October 22, 2002, describe response requirements as follows:

> **USDA RESPONSE TO THE REQUEST FOR CORRECTION**
>
> **After the responsible USDA agency has made its final determination pertaining to a request for correction of information, that agency will respond to the requestor in writing by letter, e-mail, or fax. The response will explain the findings and the actions the agency will take (if any) in response to the complaint.**

247 Falls Creek Dr.
Bellvue, Co 80512

(970) 495-1719
wko@cnsc.com

If the request requires more than 60 calendar days to resolve, the agency will inform the complainant within that time period that more time is required, and the reasons for the delay, and an estimated decision date.

The first 60 days certainly appear to have been ineffectively utilized, particularly when considering it was on the 60th day that an acknowledgement letter was finally drafted.

I am seeking a valid explanation for the delays.

Further, for your consideration, I suggest an evaluation of the Forest Service petition review process is necessary to ensure review of the five petitions is implemented in a manner that is timely and consistent with Congressional, OMB and USDA intent.

(2) The petition review venue is not objective, to the detriment of the Forest Service, petitioners and other affected persons and entities.

All indications are that petition reviews will be implemented internally at RMRS. However, RMRS is at the center of concerns raised in the petitions. An internal review at RMRS risks diminishing the quality of the reviews as well as subsequent decisions and remedial actions that may be proposed.

I strongly encourage the Forest Service to transfer review responsibilities for the five petitions to a venue that is impartial and independent, such as a separate Research Station, where an objective review can be expected.

(3) Interim action should be considered by the Forest Service.

Many of the errors discussed in the GTR-RM-217 petition are obvious, and as explained require little more than verification by referral to GTR-RM-217 and its supporting references.

It has been brought to my attention that internal policy changes are already being implemented at RMRS in response to the petitions and issues discussed therein, even though the stated review period is of such significant duration and not yet expired.

I encourage the Forest Service to consider interim action as an available, proper and honorable procedure in regard to the subject petitions. Interim action could include public notification of intent to revise or to enact other corrective actions before a final, comprehensive review decision is made available and final corrective actions are implemented.

Thank you, in advance, for your attention to these matters.

Sincerely,

William K. Olsen
President / Forester
W. K. Olsen & Associates, L.L.C.

347 Falls Creek Dr.
Bellvue, Co 80512

(970) 495-1710
wko@frii.com

Attachment 7. USDA Forest Service, Rocky Mountain Research Station. Response to letter to Chief Bosworth, sent to Sen. Campbell.

United States Department of Agriculture | Forest Service | Rocky Mountain Research Station | 2150 Centre Avenue Building A, Suite 376 Fort Collins, CO 80526-1891

File Code: 4100

Date: May 13, 2003

Senator Ben Nighthorse Campbell
United States Senate
3500 John F. Kennedy Parkway
Suite 200
Fort Collins, CO 80526

Dear Senator Campbell,

I am responding to your April 24, 2003, inquiry regarding a letter you received from William K. Olsen, dated April 21, 2003. Mr. Olsen raises several questions/concerns regarding the Forest Service's handling of five petitions submitted under the provisions of Public Law 106-554 § 515, the Data Quality Act (DQA). As Director of the Rocky Mountain Research Station (RMRS), I have the initial lead on responding to the petitions.

Of the five petitions submitted by Mr. Olsen and others, the first, dated January 17, 2003, is a "Petition to Correct Information Disseminated by the United States Department of Agriculture (USDA) Forest Service" (GTR-RM-217). GTR-RM-217 is a Rocky Mountain General Technical Report titled "Management Recommendations for the Northern Goshawk in the Southwestern United States," co-authored by nine authors--scientists/managers. The Forest Service received the five petitions on January 31, 2003. RMRS took the lead in coordinating a response to the first petition because a response on the remaining four petitions is highly dependant on a determination of the merit of GTR-RM-217.

RMRS responded to Mr. Olsen on March 21, 2003, within the 60-day time limit outlined in the USDA information quality guidelines. My letter acknowledged receipt of the petitions and requested an extended deadline of July 31, 2003, to thoroughly and adequately review the 281-page petition on GTR-RM-217. We stated that it was important to focus on this first petition as it was the basis of information for the other four petitions and we would be able to better estimate response time for the other four petitions once our review of GTR-RM-217 was completed.

I will address Mr. Olsen's concerns in the order they appear in his letter to you.

1) *The petitioner believes the Forest Service is circumventing the timely review requirements of Office of Management and Budget (OMB) and USDA.*

The Forest Service believes it is acting in a timely manner and in accordance with OMB and USDA guidelines. The DQA is relatively new to the federal government and the Forest Service and the five petitions are the first DQA petitions the Forest Service has received. We recognize that it is imperative that they be handled in a timely manner; however, it is important that all of

the petitioners concerns are adequately and thoroughly addressed as the outcome can have significant impact on managing the nations' forests and rangelands.

This is considered a high priority and our scientist/authors have devoted and continue to devote significant time and effort in reviewing the petition, so that we can provide a response by the July 31, 2003, timeline. The first petition is a 281-page document stating very specific concerns and information request changes to the 90-page GTR-RM-217 publication. The authors must evaluate each of the petitioners' specific requests in order for the agency to make a valid response on the merit of the requested corrections. This requires evaluating the complex issues, reviewing cited literature, obtaining new literature, and developing a written response in regards to the issues and the process. Each of the remaining four petitions average about five pages each and should require less time to respond to once this first petition is reviewed.

2) *The petitioner believes that the Forest Service's selected review venue will lead to decisions that are not objective.*

The review venue was selected via discussion and consultation with OMB, USDA, the Chief's Office, Regions, and Stations. It was agreed that the selected review venue and time frame is the most pertinent relative to the petitioner's request. It is consistent with the requirements and guidelines of OMB, USDA, and Congressional intent.

The DQA process provides the petitioner an opportunity for reconsideration, once the agency makes a decision. If the petitioner is not satisfied with the agency's decision, the petitioner may submit a Request for Reconsideration (RFR) within the timeframe outlined by the USDA guidelines. We believe we are addressing the petitions in a timely manner and well within the guidelines and intent of the DQA.

As Mr. Olsen states: "The impact of the goshawk documents and dependent U.S. Forest Service forest management policies is substantial and particularly influential for private industry and rural communities across the West." Please be assured that we are taking this matter seriously and responding to it in a timely fashion. If you have further questions on this matter please contact Alison Hill, Assistant Director of Research, at 970-295-5942.

John R. Toliver

for MARCIA PATTON-MALLORY
Station Director

cc: Alison Hill, ADR, RMRS
Cynthia West, ADR, PNW
Rick Cables, Regional forester, RM Region
Glen Contreras, WO R&D
Robert Lewis, Deputy Chief R&D, WO
Dale Bosworth, Chief, WO

Attachment 8. USDA Forest Service, Washington Office. Communication stating letter to Chief Bosworth (Attachments 5, 6) was not received.

United States Department of Agriculture | Forest Service | Washington Office | 14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

File Code: 1300
Date: JUN 13 2003

Mr. William K. Olsen
W.K. Olsen & Associates, L.L.C.
247 Falls Creek Drive
Bellvue, CO 80512

Dear Mr. Olsen:

We recently received a copy of a letter from the Rocky Mountain Research Station Director to Senator Ben Nighthorse Campbell regarding a Goshawk inquiry generated by you. With Senator Campbell's letter was a copy of an unsigned letter from you dated April 17, 2003, addressed to the Chief of the Forest Service. In your letter to Senator Campbell you state that you sent the letter to the Chief. I understand the importance of this matter to you and wish to inform you we have no record of receiving your April 17 letter in the Chief's Office. Like many Federal Agencies in Washington, D.C., we have been experiencing delays in receiving mail due to it being "sanitized" before reaching agency mailrooms. Security measures implemented by the U.S. Postal Service may have affected delivery of your letter to the Chief.

For your information, we are enclosing a copy of the Rocky Mountain Station Director's response to Senator Campbell that addresses the issues raised in your letter to the Chief. Please contact Glen Contreras, Data Quality Team Leader, at (202) 205-2938, or gcontreas@fs.fed.us, if you have additional questions or comments.

Sincerely,

Thelma J. Strong

THELMA J. STRONG
Director, Office of Regulatory and Management Services

cc: Station Director, Regional Forester, Rocky Mountain Region, Glen Contreras, Data Quality Team Leader

Table RQR-1. Integration of errors and quality violations into RM-217.

		Executive Summary									Conservation of the Northern Goshawk: Approach				Syntheses of Desired Forest Conditions							Management Recommendations for the Home Range		
		Key concepts fundamental to the GSC recommendations	Components of the Nesting Home Range	Goshawk Prey	NA	PFA	FA	Table 1	Table 2	Table 4	NA	PFA	FA	Table 5	NA	PFA	FA	Fig. 7	Fig. 8	Table 6	Table 7	NA	PFA	FA
Pages⇨		1	3-4	4-5	8	8	8	7	7	12	13	13-14	14-15	14	15	15-16	16-18	18	16	17	18	21-22	22-26	26-30
RM-217 Petition Section	Section Title																							
I	Nest area size, quantity and stand structure		x		x			x	x		x							x	x			x		
II	Post-fledging family areas (PFAs)		x			x	x	x	x			x				x						x	x	
III	Nest tree buffer arbitrarily increased								x		x											x	x	
IV	Canopy cover				x	x	x	x			x	x		x	x		x				x	x	x	x
V	Goshawk prey species and desired foraging area conditions		x	x				x		x							x			x	x		x	x
VI	Vegetation Structural Stage	x		x			x	x						x			x			x	x	x	x	x
VII	Extrapolation from targeted populations		x	x	x			x			x			x	x					x	x	x	x	x
VIII	Grazing/forage utilization restrictions					x			x													x	x	x
IX	Road densities					x			x													x	x	x

United States Department of Agriculture | Forest Service | Washington Office | 14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

File Code: 1300
Date: JAN 8 2004

Mr. William K. Olsen
W.K. Olsen & Associates, L.L.C.
247 Falls Creek Drive
Bellvue, CO 80512

Dear Mr. Olsen:

This letter provides our determination in response to your Request for Reconsideration filed under the United States Department of Agriculture (USDA) Information Quality Guidelines (IQG) and Data Quality Act (DQA) (Pub. L. No. 106-554 §515). You originally sought correction of information in General Technical Report 217 (GTR-RM-217), which is about management recommendations for the northern goshawk.

We have given your Requests for Reconsideration careful examination and thoroughly reviewed your concerns. According to USDA Information Quality Guidelines, the review of your Request for Reconsideration was based on the explanation and evidence you provided. In order to determine whether panels would be effective and necessary, USDA did convene a panel to review your Request for Reconsideration even though GTR-RM-217 is considered non-influential information by the Forest Service. I understand that this request would not normally be paneled in the future under USDA IQG. Nonetheless, this panel was formed because your Request for Reconsideration was one of the first received by USDA.

The panel was charged to determine whether the initial agency review of the Request for Correction was conducted with due diligence. The panel reviewed your request for conformity to both Office of Management and Budget and USDA information quality guidance. Panelists examined the original request, response document, information provided by Forest Service and USDA websites, and the information provided in your Request for Reconsideration. Panel members included USDA employees familiar with the DQA, and who assisted in development of Departmental guidance in this area. In order to formulate an independent review, the panel comprised two employees from other USDA agencies and a Forest Service representative.

The reconsideration panel affirmed the Forest Service response and found no compelling evidence to support retraction or amendment of the original agency response dated July 25, 2003. The panel determined the initial agency response was conducted with a great deal of care and due diligence, resulting in identification of eight technical errors unrelated to your request for reconsideration, which will be corrected by the agency. In addition, extensive scientific review was conducted by the agency in examination of the claims of the requestor.

The panel found that GTR-RM-217 was the product of extensive peer review in the scientific community qualified to produce the specified data and recommendations. The panel thought the request was developed as a surrogate "peer comment" on the overall document and request was based upon a directed policy outcome rather than identifying a clear informational deficiency. The panel determined that such requests, while appropriate input for reviewers while the document is under development, are problematic for review under USDA IQG . Forest Service policy-makers must rely upon the whole of scientific and public input in a coordinated and concerted effort. The agency cannot be expected to consider larger policy questions outside of this context. The fact that the Forest Service discovered eight errors that were technical in nature in their review demonstrates the kind of diligence that the panel found throughout their review. The errors will be corrected with an errata sheet in future references.

In conclusion, the information you provided was carefully considered. However, after full consideration and careful, thorough review, I conclude there is no substantive merit to your claims. The information you provided does not demonstrate that GTR-RM-217 is inconsistent with USDA's IQG. A copy of the panel's recommendation along with the attachment and a copy of the errata sheet are enclosed for your information.

Sincerely,

Bov B. Eav

BOV B. EAV
Acting Deputy Chief for Research & Development

Enclosures

USDA Quality of Information
Request for Reconsideration Review Panel

Review Panel Participants:

Douglas J. McKalip, Director of Legislative Affairs,
USDA Natural Resources Conservation Service
Gary S. Becker, Economist, Food Safety Inspection Service
Glen Contreras, Wildlife, Fish, Watershed and Air Research Staff

RFC#3001
RFC#3002
RFC#3003
RFC#3004
RFC#3005

Subject of Review:

The subject of the Reconsideration Panel was Requests for Correction Numbers 3001-3005. These requests collectively dealt with Management Recommendations for the Northern Goshawk in the Southwestern United States. The individual requests were consolidated and considered as a single request.
The request for reconsideration and original request for correction were submitted by:

Mr. William K. Olsen
W.K. Olsen and Associates, L.L.C.
247 Falls Creek Drive
Bellevue, CO 80521

The document under review is a General Technical Report (**GTR-RM-217**) issued by the Forest Service Rocky Mountain Research Station in 1992. The document was developed by the Goshawk Scientific Committee in order to establish appropriate bases and parameters for management decisions involving goshawks in the Southwestern United States. The document is relevant in that it influences Forest Plans in the western U.S. and serves as a component of rulemaking and National Environmental Policy Act processes for numerous Forest Service Activities.

Legal Authority for Request:

The request was submitted under the Data Quality Act (Pub. L. No. 106-554, Sec. 515) and subsequent USDA Information Quality Guidelines.

Timeline of Requests:

January 21, 2003 -- Original request for correction received by the USDA Forest Service.

July 25, 2003 -- Agency response provided to requestor, indicating request to retract information denied.

September 4, 2003 -- Request for reconsideration submitted to agency.

October 29, 2003 -- Reconsideration Panel convened.

Summary of Request: The requestor asserts substandard quality issues throughout GTR-RM-217 with respect to processes used to develop the information, specific items such as recommended nest habitat requirements, and also compliance by the Forest Service with processes within the Office of Management and Budget and USDA on information quality.

Summary of the Reconsideration Panel charge and deliberations:

The reconsideration panel on GTR-RM-217 began action on October 20, 2003, by collecting background on the request. The charge of the reconsideration panel was to determine whether the initial agency review of the Request for Correction was conducted with due diligence. The panel on GTR-RM-217 first convened on October 29, 2003. Extensive background was provided by Forest Service personnel. Panelists outside the original agency of request performed subsequent examination of the original request, response document, and additional background information provided by Forest Service staff. Panel Members included USDA employees intimately familiar with the Data Quality Act, and who assisted in development of Departmental guidance in this area. Consideration of the request was conducted by panelists outside the original agency of request in order to formulate an independent review.

Review of Potential Disqualification of Request

The Reconsideration Panel first examined whether the initial request adhered to the requirements for review under the Data Quality Act. In this case, GTR-RM-217, was examined to determine whether the document was subject to review. The panel considered the following:

- **Was information intended exclusively for use by government employees, contractors, grantees?**

The Reconsideration Panel determined that the information had a broad application including input into development of future management plans.

- **Was information intended exclusively for intra-agency or interagency use?**

The Reconsideration Panel determined that since the information would be utilized in cases where public comment is solicited it was not determined to be exclusively for intra-agency or interagency use.

- **Did the requestor follow and include all required items?**

The Reconsideration Panel determined that all required components and documentation had been submitted by the requestor.

- **Was the request frivolous, submitted in bad faith, the subject of prior complaints that have been resolved, or related to stale information?**

The Reconsideration Panel determined that the request was valid and had not received prior review. Panelists determined that information under review met several other criteria under the USDA information guidelines, including:

1. support for a regulation, guidance, or other decision
2. implications or a broad range of parties or have an intense impact

The Reconsideration Panel determined that the information in question was not "stale" under USDA information quality guidelines in that it is still an important component of USDA Forest Service policy development. However panelists questioned whether data formulated before enactment of the Data Quality Act were subject to review under the newly issued guidelines. Panel Members on this case did not arrive at a conclusion on this question and gave the Request for Reconsideration a full review.

Findings:

The Reconsideration Panel found no compelling evidence to support retraction or amendment of the original agency response dated July 25, 2003. Development of the initial agency response was conducted with a great deal of care and due diligence, resulting in identification of eight unrelated technical errors unrelated to the request for reconsideration, which will be corrected by the agency. In addition, extensive scientific review was conducted by the agency in examination of the claims of the requestor.

The Reconsideration Panel found that GTR-RM-217 was the product of extensive peer review in the scientific community qualified to produce the specified data and policy recommendations. In this case the requestor lacked a pointed claim of deficiency in a specific instance. Instead, the request was developed as a surrogate "peer comment" on the overall document. The request was also based upon a directed policy outcome rather than identifying a clear informational deficiency. Such requests, while appropriate input for reviewers while the document is under development, are problematic for review under USDA guidelines. Forest Service policy-makers must rely upon the whole of scientific and public input in a coordinated and concerted effort. (In this case the Goshawk

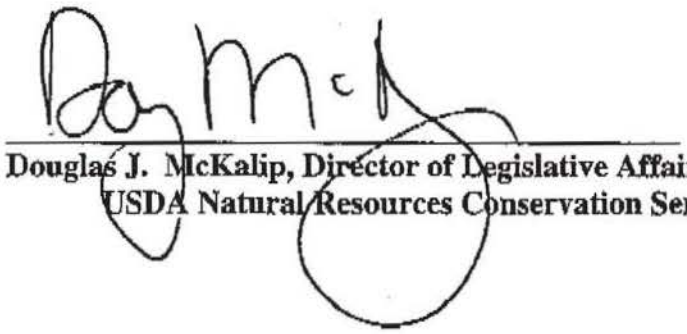
Scientific Committee) The agency cannot be expected to consider larger policy questions outside of this context. Future development of Goshawk technical reports may serve as an appropriate forum for this discussion. The fact that the Forest Service incidentally discovered eight errors that were technical in nature in their review demonstrates the kind of diligence that the Reconsideration Panel found throughout the study. The errors will be corrected with an errata in future references.

While the Reconsideration Panel did determine that the initial agency action was conducted with due diligence, the Panel also determined that documentation provided back to the requestor did not reflect all relevant background information. In fact the agency developed a more descriptive response on an itemized basis that addressed the claims of the requestor and would have served as a more appropriate response to the original request. The Reconsideration Panel has included that additional documentation in this report.

Recommended Agency Action:

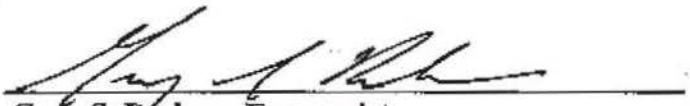
The panel recommends affirming the Forest Service response dated July 25, 2003 and rejecting the Request for Reconsideration. The Reconsideration Panel recommends that the Forest Service provide to the extent practicable a more complete response (similar to that attached) to future requests. Beyond this item, the Reconsideration Panel does not believe further recommended agency actions are warranted.

Signatures of Panelists:



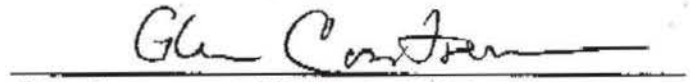
Douglas J. McKalip, Director of Legislative Affairs,
USDA Natural Resources Conservation Service

12/15/03
Date



Gary S. Becker, Economist,
Food Safety Inspection Service

12/15/03
Date



Glen Contreras, Wildlife, Fish, Watershed
and Air Research Staff USDA Forest Service

12/17/03
Date

Review of the
Request to Correct Information Disseminated
By USDA Forest Service
In
MANAGEMENT RECOMMENDATIONS FOR THE NORTHERN GOSHAWK IN THE SOUTHWESTERN UNITED STATES. General Technical Report 217. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station. 90 pp. 1992.

By
USDA Forest Service
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Introduction: In January 2003, a Request for Correction (Request) was filed under provisions of the Federal Data Quality Act by W.K. Olsen & Associates, L.L.C., and others to correct information disseminated by the United States Government in a USDA-Forest Service research General Technical Report (Rocky Mountain Research Station, GTR RM-217, 90 pp.). This report was prepared by the Goshawk Scientific Committee in 1992 to develop habitat management recommendations that would sustain goshawks in the southwestern United States. Forest Service land managers have amended numerous Forest Plans in the western United States to incorporate these innovative recommendations. This review addresses the Requestors' assertions, reviews the RM-217 statements and citations, and either supported or refuted the Requestors' assertions.

This review found that the Requestors: 1) failed to carefully read and understand RM-217, 2) misinterpreted RM-217, conducted analyses to support their misinterpretations, and then inappropriately attributed them to RM-217, 3) claimed that RM-217 restricted forest management when in fact RM-217 recommends active management, and 4) discovered eight minor errors that did not affect the recommendations.

Summary: In 1990, the USDA Forest Service established the Goshawk Scientific Committee (GSC) to recommend habitat management strategies to conserve goshawks. Over a two year period, the GSC developed and synthesized the best information available on goshawk ecology and habitats.

After extensive peer review by 19 scientists and managers from universities, museums, and government organizations, the Rocky Mountain Research Station published, in 1992, the "Management Recommendation for the Northern Goshawk in the Southwestern United States" as General Technical Report RM-217.

In the late 1980s, factors limiting goshawk populations were poorly known. The literature of the time showed goshawks lived in a variety of forests and that some populations were affected by fluctuations in food abundance. The GSC included members with an intimate knowledge of goshawks and they noted that because of the goshawk's large size, sub-canopy foraging behavior, and trophic position (top level predator) they were likely to be limited by both food and habitat structure. The GSC, therefore, used a food web approach to specify desired forest habitat conditions for the goshawk and important prey species.

The GSC assembled and synthesized information on goshawks, their prey, and the development patterns of southwestern forests. This data synthesis used specific habitat information on 15 bird and mammal species along with concepts of forest ecology to produce a general set of desired forest conditions that will likely sustain populations of goshawks and their prey. Three home range components were identified (nest area, post-fledging family area, and foraging area) and different recommendations were developed for each component.

The GSC used the native composition, structure, landscape pattern, and patch dynamics of the forests in the southwest as templates for assembling goshawk and prey habitats. This approach increased the likelihood that the desired forest conditions could be sustained through time and space. To facilitate an understanding of these forest dynamics, the GSC used a Vegetation Structural Stage (VSS) classification to describe these forests. The recommendations in RM-217 mimicked the effects of natural disturbances that shaped southwestern forests. Most importantly RM-217 assumed active management could replicate these native conditions and disturbances and a "reserve" approach for sustaining goshawks would not be necessary. In addition to benefiting goshawks, this approach would produce forests resilient to non-lethal surface fires and resistant to catastrophic crown fires. These forests would also provide an array of other goods and services including forest products.

After publication, four independent reviews demonstrated RM-217's significance and high quality. In 1994, The Wildlife Society and American Ornithologists' Union completed a Technical Review and determined the "scope and the review of the biology of northern goshawks in RM-217 is excellent," and that "...the recommendations represented an innovative approach to forest management because they encourage forest managers to consider forest ecosystems as assemblages of interacting species of plants and animals" (Braun et al. 1994). In a 1995 Journal of Forestry article, Dewhurst, Covington, and Wood declared RM-217 "as a forest management plan with explicit assumptions and hypotheses about system structures and processes, clear articulations of management goals, objectives, and specific actions were identified" (Dewhurst et al. 1995). In 1999, the USDA committee of scientists in their report "Sustaining the People's Land: Recommendations for Stewardship of the National Forests and Grasslands into the Next Century" recommended RM-217 as an example of a "bioregional assessment for a large-scale conservation strategy that was collaboratively developed." In 2000, RM-217 was reviewed by Long and Smith in the Journal of Forestry, concluding that RM-217 "while superficially another example of narrow, single species focus, is in fact a coarse filter

approach that includes a mosaic of age and structural classes to provide habitats and food chains for a broad spectrum of wildlife species including goshawk prey species... approximating the composition, structure, and landscape patterns existing in southwestern ponderosa pine forests before fundamental changes in natural disturbance regimes and forest structure"(Long and Smith 2000).

In 1991, the USDA Forest Service Regional Forester (Southwestern Region -3) issued Interim Directives providing Region-wide management direction (following RM-217 concepts) for goshawk habitat. Almost immediately, timber harvest activities were appealed and law suits were filed by the environmental community opposed to using these novel habitat recommendations, but the court ruled in favor of the Forest Service. In 1996, a Record of Decision (ROD) formally amended all Forest Plans in Region-3. The ROD implemented standards and guidelines for managing goshawk habitat. Similarly, the Forest Service in Alaska, Intermountain Region, Rocky Mountain Region, and Pacific Northwest Region relied heavily on RM-217 for developing goshawk habitat management strategies.

In January 2003, a Request for Correction (Request) was filed under the Federal Data Quality Act by W.K. Olsen & Associates, L.L.C., and others to correct information disseminated in RM-217. The Requestors alleged that the GSC relied on "preconceived notions and non-transparent qualitative decision models" to develop RM-217; this is not true. The Requestors discovered a few minor errors in RM-217. However, after more than 10 years, RM-217 remains applicable for sustaining habitats of goshawk and their prey, and continues to be a robust and fitting template for addressing forest health and wildfire concerns in western forests.

The following is a listing of the main Request topics and responses to the alleged errors in RM-217: *Requestors' statements are in italics.*

I. Nest area size, quantity and stand structure: The Requestors challenge the determination of the recommended size, number, and structure of goshawk nest areas.

Nest area size: Southwestern forests have widely varying capacities for producing desired forest conditions and it was prudent to minimize the possibility of immediate loss of goshawk habitat. In the opinion of the GSC (e.g., based on literature, experience, deliberation) 30 acre nest areas were recommended to provide for uncertainty associated with correctly incorporating requisite habitat structure and landform in both suitable and replacement nest areas. This was paramount in the Southwest where there is considerable variation in site-specific tree growth potential. "Sites have widely varying capabilities to produce the desired conditions; on certain sites desired conditions cannot be attained, while on others the conditions can be exceeded" (RM 217, p. 21).

Nest area quantity: Many pairs of goshawks have two to four alternate nest areas within their home range. Additionally, replacement nest areas are required because nest stands are subject to loss from catastrophic events and natural decline and trees and forests require many years to grow (RM- 217, p. 13).

Nest area structure (Request, p. 19): *Even-aged goshawk nest area and nest stand structure is recommended in RM-217.* RM-217 does not recommend even-aged nest

area structure as the Requestors claim. The Requestors failed to read and understand RM-217 (RM-217, p. 14, Table 5) that allows for many nest area structures (footnote 1: The entire nest area may not support all of the attributes displayed in the table).

The pertinent literature was properly cited and synthesized to develop a set of "desired conditions" for nest areas that in the best estimate of the GSC will sustain goshawk populations in the Southwestern Region (RM-217, p. 9). The result is that RM-217 is correct in the way that nest area size, quantity and stand structure were determined and the rationale was complete and fully revealed in RM-217 (p. 13).

II. Post-fledging family area (PFAs): The Requestors claim that the (Request, p. 29) *PFA existence is based on biased, speculation and arbitrary procedures. The concept of the post-fledging family area (PFA) was arbitrarily created by the GSC*

Young goshawks (fledglings) must learn to hunt, survive, and fend for themselves. Radio-telemetry research of the movements of adult nesting female goshawks and their young after fledging (leave the nest) detected core areas of concentrated use by the adult female goshawk and her fledglings that averaged 415 ac. This core area is an important part of the breeding home range of goshawks as it includes perches, roosts, preferred hunting areas near the nest, and training areas for the fledglings. Because the female core area included the fledgling dependency area, the GSC coined the term "post-fledging family area" (PFA). Therefore the concept of a PFA was not arbitrarily created by GSC (RM-217, p. 13).

The result is that RM-217 is correct in the way that PFAs were determined and the rationale was complete and fully revealed in RM-217 (p. 13).

III. Nest tree buffer: The Requestors' allege that (Request, p. 39): *the arbitrary creation of PFAs was incorrectly used as justification by the GSC to capriciously expand the nest area buffer:* As discussed above in Section II of this review, the PFA was not arbitrarily created nor incorrectly used as a justification for expanding the nest area by the GSC. As a result, the PFA had different desired forest conditions than the nest area and the foraging area. The desired forest conditions were not fabricated as alleged by the Requestors. Moreover, active management is recommended in PFAs to develop and maintain the desired structure in contrast to the concept of a nest area buffer. The process is fully explained and documented in RM-217 (pp. 13, 15).

The result is that RM-217 is correct in the way that PFAs were determined and the rationale was complete and fully revealed in RM-217.

IV. Canopy cover: The Requestors allege that the definitions and methods of estimating canopy cover in RM-217 are biased.

RM-217 properly defines canopy cover (RM-217, pp. 87, 89). Both are proper definitions and disclose how the GSC intended canopy cover to be estimated and all recommendations in RM-217 are based on these definitions and measurement

methods.

Canopy cover was defined according to standard scientific practice to ensure that it would not be misinterpreted. Because of the many ways it can be measured the GSC chose to base their recommendations on the most simple and easily applied method, the vertical canopy projection method. The definitions and the recommended method of measuring canopy cover are accurate. The estimates are quick and efficient and provide good estimates within the VSS structural stages in which canopy cover recommendations are provided. The entire argument and discussion by the Requestors as to the merits of using densiometers vs. the vertical projection are moot if the estimates are made according to the recommendations. RM-217 recommends classifying the vegetation (VSS) in clumps, groups, stands or over any spatial scale and then estimate canopy cover.

The result is that RM-217 is correct in the way that canopy cover was defined and measured and the rationale was complete and fully revealed in RM-217.

V. Goshawk prey species and desired foraging area conditions: The Requestors allege that the methodology used to select prey and define forage area conditions was flawed.

Requestors claim that the GSC had a preconceived notion of desired forest conditions and then searched for supporting evidence. This is a fallacious claim. The Requestors incorrectly interpreted the purpose of Tables 6 and 7 (RM-217, pp. 17, 19). The purpose of the tables was to show the importance of habitat attributes (e.g., snags, openings, VSS) and not the importance of prey. As a result, the Requestors' influence analysis was unwarranted and the inferences made from the analysis irrelevant. These tables were used to develop the desired conditions for the foraging area which are fully documented on pages 17-19 RM-217.

The result is that RM-217 is correct in the way that the desired foraging area conditions were developed and the rationale was complete and fully revealed in RM-217.

VI. Vegetation structural stage: The Requestors' claim (Request, p. 76) VSS inadequately supported *by documentation and lacks theoretical basis. The Vegetation Structural Stage classification scheme for forest development is poorly conceived, using only an inadequate and misrepresented citation as a theoretical basis, and is readily shown to be impossible to apply to uneven-aged stand conditions.*

The GSC recognized there were numerous ways to classify vegetation ranging from potential vegetation to forest type. These classification systems were not readily adaptable for describing the structure of southwestern forests. In reviewing the literature on vegetation classifications and those applicable to describing wildlife habitat, the GSC chose to develop their vegetation structural classification after those used to describe vegetation in northeastern Oregon. The GSC developed the

vegetation structural stage classification that was used in RM-217 (Figure 1 p. 2, p. 15, Appendix 5 p. 90) with 6 structural stages ranging from grass-forb-shrub to old forest. Most importantly these classifications can be used to classify vegetation of any size, age, or composition and at any spatial scale. RM-217 advocates that they be used to classify the groups and clumps of vegetation outlined in RM-217 but similar classifications have been used to classify the entire interior Columbia River Basin in the northwestern United States. The Requestors, through arguments on Request pages 82-84 claim that the VSS, as defined by RM-217, classification can only be applied to even-aged "stands" which is untrue.

The result is that RM-217 is correct in the way the vegetation structural stages were developed and used, and the rationale was complete and fully revealed in RM-217.

VII. Extrapolation from targeted populations (Request, p. 87): *In RM-217, the GSC failed to identify target populations for the sources of its own presented data, as well as for data and conclusions originating from cited references.*

The Requestors argue that goshawk nest site vegetation data, collected in plots centered on goshawk nests, cannot not be extrapolated from the sample plots to entire nest stands. RM-217 Table 5 (structural attributes for suitable northern goshawk nest stands in the southwest) allows for within-stand variation. Footnote 1 in table 5 clearly states that structural attributes in table 5 may not be supported in the entire nest area.

The GSC extrapolated the structural conditions identified in Table 5 to only that portion of the nest stand within the 30-acre nest area. The synthesis of prey habitats resulted in generalized landscape habitats. Specific habitats derived from the literature for each species were not extrapolated to landscapes as claimed by the Requestors.

The Requestors incorrectly assumed that Table 5 (RM-217, p. 14) presented even-aged conditions. The Requestors' resulting analysis and inferences as the result of this error were irrelevant. Also in this section the Requestors argue that RM-217 recommends (Request, p. 108) *the canopy cover requirements for foraging areas in RM-217 apply at the landscape level* but they only apply to the clumps and groups of VSS 4, 5,or 6 shown in Table 1 (RM-217, p. 7).

The result is that RM-217 did not inappropriately extrapolate data incorrectly. The alleged error was the result of the Requestors misinterpreting Table 5 (RM-217).

VIII. Grazing/forage utilization (Request, p. 111): *The restrictions on forage utilization are poorly referenced and, subsequently, incorrect and unjustifiably restrictive.*

To attain the recommended forage utilization, the desired herbaceous and shrubby conditions included plants with sufficiently large leaf surfaces to produce quality forage, abundant inflorescences and seed production, and sufficient plant height to provide cover for these species. The recommended understories in addition to

providing habitat for prey also provides hiding and protection cover for fledglings as they learn to hunt and fend for themselves.

The photo guides cited in RM-217, are an invaluable aid in correlating prey habitat needs of individual species considered in RM-217 with the levels of range use (by weight) by ungulates and other grazers or browsers. By combining and synthesizing information from separate habitat users (grazers vs. prey species) the ability to make recommendations was possible.

The result is that RM-217 is correct in the way the forage utilization recommendations were developed and the rationale was complete and fully revealed in RM-217.

IX. Road densities (Request, p. 112: *Though the GSC repeatedly required and recommended that roads be "minimized", no supporting citations or other information were provided to support the mandate.*

Roads are an important component of forested landscapes that influence goshawk habitat quality. One could not attain the desired forest conditions in nest areas with a high road density. The GSC's intent in recommending minimum densities of roads was made in the recognition that to create and maintain the desired forest conditions throughout a goshawk home range, active forest management was needed and recommended. In addition, the minimum road recommendation allowed local managers the utmost flexibility in creating the desired forest conditions (RM-217, pp. 22, 23, 28). The GSC recognized that closing of roads was extremely difficult in the gentle terrain that occurs in much of the southwest.

The result is that RM-217 is correct in recommending minimum road densities when developing the desired forest conditions.

X. RM-217 Citations

The issues raised in this section are the same as those that appear in Appendix 3. Rather than repeating responses to Appendix 3 here, the reader is referred to the responses located in Appendix 3 of this document.

XI. Inherent bias reveals lack of objectivity for whole publication (Request, p. 122): *Collectively, the errors and biases revealed in Sections I-X above suggest that RM-217 was conceived, written and published with the intent to achieve preconceived and desired outcomes.*

The outcome of the broad-based approach used in RM-217 was initially unknown and, therefore, could not have been preconceived. There was sufficient published empirical evidence (RM-217, p. 11, and the literature cited therein) to support the food web approach and that a "perception" on part of the GSC did not supercede the empirical evidence.

Bias is ubiquitous in human endeavors. Nonetheless, internal bias within the GSC was minimized by continuous, often contentious, interactions among committee members with diverse knowledge bases. Bias was further minimized by the broad-based approach used in RM-217. That is, the diverse habitats of multiple species were incorporated into sustaining landscapes whose compositions, structures, and patterns that were constrained by the biology and ecology of the dominant vegetation in the targeted forest types. Thus, other than a directed focus on home range components (nest area, PFA, foraging area) of goshawks, the habitats of no one species dominated the desired landscapes. Furthermore, the draft RM-217 was peer reviewed by 19 scientists and mangers, and, after it was published, it was favorably reviewed by an independent (non-Forest Service) committee of scientists appointed by two professional wildlife societies, The Wildlife Society and American Ornithologists' Union (Braun et al. 1996). In addition, RM-217 was favorably reviewed for its potential for successful implementation in southwestern ponderosa pine forests in a Journal of Forestry article (Long and Smith 2000).

In none of the components of a goshawk home range do the recommendations in RM-217 preclude timber management activities. In fact, RM-217 when implemented, RM-217 (p. 32) suggests intensive management through understory treatments of forests to produce large trees quickly. These intermediate treatments provide small saw-logs and wood material for small product and fiber-based industries. In addition to providing goshawk habitat, large trees will make excellent saw-logs

The result is that RM-217 is correct and most importantly neither this review nor the one performed by the Requestors revealed any substantive errors in RM-217.

XII. Technical reviews (Request, p. 125):*...the review and discussion of technical reviews in this section (XII), in conjunction with presented discussion and materials in the previous sections, shows that the technical review process used for RM-217 was inadequate for ensuring objectivity standards were met.*

The Requestors under the Freedom of Information Act requested and received copies of 13 memos from peer reviewers of RM-217. Contrary to the Requestors' claim their review comments were reconciled and included in the final document. In addition to these reviews RM-217 was orally defended in front of a panel of Rocky Mountain Scientists chaired by an Assistant Director. Moreover, the workings of the GSC were continually reviewed by a Task Force made up of private citizens, individuals from nongovernmental organizations (e.g., Audubon Society), University of Arizona, New Mexico and Arizona State organizations, USDI Fish and Wildlife Service, industry representatives, and Forest Service Managers. This review of RM 217 during its development and prior to publication made the document receive the highest scrutiny above and beyond what would be termed normal in the scientific peer review process.

The GSC reviewed all comments received and made appropriate changes where needed in the RM-217 and retained important observations when it was helpful for

the discussion. The Requestors' allegation that the reviews supported their thesis that RM-217 was inherently biased and reveals lack of objectivity for whole publication is wrong. These reviewers provided an invaluable service to the GSC and their comments were an integral part of the final RM-217. RM-217 is a recommended habitat management hypothesis designed to sustain goshawks, the food web, and the major forested communities that species depend upon for their long-term survival. The habitat recommendations were developed with considerable thought. A vast body of knowledge was synthesized in order to develop the recommendations—not a simple task. No competing habitat management recommendations exist that provide for the long-term sustainability of goshawks. Those who seek to openly detract from the important GSC contribution and advancement of the management of forested landscapes, fail in particular by not providing alternative management recommendations. The GSC has yet to see another set of habitat management recommendations that challenge the veracity of RM-217.

Appendix 3: Over 350 citations were used in the preparation of RM-217 supporting 100s of statements. The Requestors found 26 statements and citations they allege were improper. Of these 26 alleged errors the Requestors misinterpreted RM-217 6 times, misinterpreted the citation in RM-217 once, were wrong in claiming RM-217 in error 9 times, prefers one statistic over another once, erred on inference of data location once, mislead reader once, and found 7 minor errors. These errors include omitting a personal communication (letter), citing the wrong work of the same author, and transposing a data column in the final printing of RM-217. These 7 errors (causing no need for substantive changes) all occurred in supporting material found in Appendix 3 of RM-217 and none in the body of RM-217.

In summary, this review of the Request to correct RM-217 found no errors requiring substantive change. In addition to the errors revealed in Appendix 3, RM-217 erred on page 14 by stating PFAs vary in size from 300 to 600 acres. The correct range was 84 to 812 acres. RM-217 presents the available (1992) information on both goshawk and goshawk prey habitat in an accurate, clear, complete, and unbiased manner. This information was synthesized into desired forest conditions that in the view of the GSC would sustain goshawks and subsequent research has affirmed RM-217. The Request and the review of the Request reinforced the strength and robustness of the recommendations in RM-217 for sustaining goshawk habitat in the Southwest. Its combination of forest ecology, goshawk habitat, and goshawk prey habitat synthesized to produce a template for sustaining forested landscapes in the Southwest is still sound. This Request is only another challenge to RM-217 and the decisions it has informed over the last 13 years.

ERRATA, October 2003: The following corrections are hereby made to "Management Recommendations for the Northern Goshawk in the Southwestern United States," General Technical Report, RM-217, USDA Forest Service, Rocky Mountain Research Station, Fort Collins, CO. 1992:

Page 13, paragraph 8: PFAs vary in size from 300 to 600 acres (mean = 415 acres) and may correspond to the territory (a defended area) of a pair of goshawks (Kennedy 1989). **Should read:** PFAs vary in size from 84 to 812 acres (mean = 415 acres) and may correspond to the territory (a defended area) of a pair of goshawks (Kennedy 1989).

Appendix 2, pages 51-52: Appendix 2 contains counting, rounding, and transposition errors. **A corrected Appendix 2 is attached.**

Appendix 3, page 53, paragraph 9: Citation (Stauffer and Best 1986) **should read** (Stauffer and Best 1980).

Appendix 3, page 54, paragraph 4: Sites that were clearcut had the lowest densities of breeding birds, 0.5 birds per 100 acres (Haldeman 1968, Szaro and Balda 1979). **Should read:** Of sites silviculturaliy treated, clearcuts had the lowest density of breeding birds, 0.5 birds per 100 acres (Haldeman 1968, Szaro and Balda 1979b).

Appendix 3, page 57, paragraph 9: Citation (Stauffer 1983; Zwickel and Bendell 1985) **should read** (Stauffer 1983).

Appendix 3, page 71, paragraph 1: Canopy cover in a 33-foot-radius plot centered on primary middens averaged 89% (n=144) for Mount Graham red squirrels (Mannan and Smith 1991). **Should read:** Canopy cover in a 33-foot-radius plot centered on primary middens averaged over 90% (n=144) for Mount Graham red squirrels (Mannan and Smith 1991).

Appendix 3, page 75, paragraph 4: Mature trees often produce the most cones (Larson and Schubert 1970), and abundant truffle foods are often associated with young pine stands with canopy cover greater than 65% (States 1985). **Should read:** Mature trees often produce the most cones (Larson and Schubert 1970), and abundant truffle foods are often associated with young pine stands with canopy cover greater than 60% (J. States, personal communication).

Appendix 3, page 54, paragraph 6: Citation (Szaro and Balda 1979) **should read** (Szaro and Balda 1979b).

Corrected: Appendix 2. Vertebrates in the diets of nesting northern goshawks from various locations in North America.

Species are listed in approximate order of decreasing size and potential contribution to the biomass consumed by the goshawks.

Species[1]	Number of Prey (% in Diet)				
	Schnell 1958[2]	Meng 1959[3]	Reynolds & Meslow 1984[4]	Mannan & Boal 1990[5]	Kennedy 1991[6]
Great-horned owl			1 (0.4)		
Mallard	3 (3.4)		2 (0.9)		
Cat (*Felis* spp.)					1 (1.0)
Black-tailed jackrabbit				2 (1.6)	
Snowshoe hare	1 (1.1)		24 (10.6)		
Blue grouse			5 (2.2)		
Unknown grouse			1 (0.4)		
Cottontails		7 (3.8)	3 (1.3)	16 (12.5)	21 (20.0)
Gray squirrel		4 (2.2)	5 (2.2)		
Common raven					3 (2.9)
Prairie falcon					1 (1.0)
Ruffed grouse		5 (2.7)	2 (0.9)		
Pigeon (Columbia spp.)	1 (1.1)				2 (1.9)
Common crow		83 (44.9)			
Tassel-eared squirrel				7 (5.5)	9 (8.6)
Cooper's hawk			1 (0.4)		2 (1.9)
Bushy-tailed woodrat			1 (0.4)		
Pileated woodpecker			1 (0.4)		
Rock squirrel				3 (2.3)	
Tree squirrel spp.					7 (6.7)
Belding's ground squirrel	3 (3.4)		4 (1.8)		
Woodrat spp.			1 (0.4)		

Continued on next page (back of this sheet)

Mountain quail	1 (1.1)		10 (4.4)		
Disky footed woodrat			1 (0.4)		
Squirrel (Tamiasciurus spp.)	5 (5.7)	58 (31.4)	13 (5.8)	2 (1.6)	3 (2.9)
Black-billed magpie			1 (0.4)		
Screech owl			1 (0.4)		
Northern flying squirrel			15 (6.6)		
Mantled ground squirrel	6 (6.8)		17 (7.5)	21 (16.4)	2 (1.9)
Northern flicker			15 (6.6)	5 (3.9)	15 (14.3)
Townsend's ground squirrel			2 (0.9)		
Mourning dove			7 (3.1)	1 (0.8)	
American kestrel		3 (1.6)			1 (1.0)
Stellar's jay	22 (25.0)		29 (12.8)	7 (5.5)	9 (8.6)
Scrub jay					1 (1.0)
Clark's nutcracker					3 (2.9)
Belted kingfisher					2 (1.9)
Blue jay		7 (3.8)			
Lewis' woodpecker			1 (0.4)		
Unknown mammal	5 (5.7)		6 (2.7)	28 (21.9)	5 (4.8)
Townsend chipmunk			3 (1.3)		
Meadowlark			2 (0.9)		
Unknown jay			1 (0.4)		2 (1.9)
Northern saw-whet owl			1 (0.4)		
Norhtern pygmy-owl					1 (1.0)
American robin	27 (30.7)		20 (8.8)		7 (6.7)
Varied thrush			4 (1.8)		
Gray jay			5 (2.2)		
Hairy woodpecker			1 (0.4)	3 (2.3)	
Blackbird spp.		15 (8.1)			
Unknown bird	1 (1.1)			14 (10.9)	1 (1.0)
California mole	1 (1.1)				
Chipmunks (Tamias spp.)	5 (5.7)	3 (1.6)	7 (3.1)		2 (1.9)
Williamson's sapsucker	1 (1.1)		2 (0.9)		1 (1.0)
Weasel	1 (1.1)				
Woodpecker spp.			1 (0.4)		
Red-naped sapsucker			1 (0.4)		
Black-headed grosbeak			1 (0.4)		
Evening grosbeak					1 (1.0)
Least chipmunk			1 (0.4)	18 (14.1)	
Western bluebird					2 (1.9)
Western tanager	4 (4.5)		2 (0.9)		
Hermit thrush					1 (1.0)
Dark-eyed junco			2 (0.9)	1 (0.8)	
Unknown sparrow			3 (1.3)		
Yellow-rumped warbler	1 (1.1)				
Totals	88	185	226	128	105

[1] highlighted species = selected prey of the northern goshawk.

[2] California

[3] New York and Pennsylvania

[4] Oregon

[5] Arizona

[6] New Mexico