



Greater Yellowstone Coalition

1983 – 2013 *Celebrating 30 Years*

Pam Bode, Team Leader
Bridger-Teton National Forest
340 North Cache
POB 1888
Jackson, WY 83001

June 3, 2013

Dear Ms. Bode:

On behalf of our 40,000 members and supporters please accept these comments from the Greater Yellowstone Coalition (GYC) in response to the **Bridger-Teton National Forest's Draft Supplement to the Environmental Impact Statement Long Term Special Use Authorization for Wyoming Game and Fish Commission to Use National Forest System Lands for their Winter Elk Management Programs**. In these comments we will refer to this USFS document and process as the **Alkali Creek Feedground DSEIS**, or **DSEIS**. These comments and attachments are submitted via email and also hand delivered to the BTNF office in Jackson, Wyoming.

The Greater Yellowstone Coalition is a 501(c)(3) non-profit organization begun in 1983 dedicated to protecting the wildlands, wildlife, and other outstanding natural resources of the twenty-million-acre Greater Yellowstone Ecosystem (GYE). GYC has offices in Idaho, Wyoming, and Montana with more than 40,000 members and supporters worldwide.

GYC's members regularly use and enjoy the lands and waters of the Bridger-Teton National Forest (BTNF) for a variety of activities such as fishing, hiking, hunting, camping, wildlife viewing, spiritual renewal, photography, and other pursuits. The Jackson District of the BTNF, including the Alkali Creek area and the Gros Ventre Valley, is integral to the ecological connectivity and economic health of the GYE and as such is highly valued by GYC's members. Our members also use and value public lands adjacent to the Bridger-Teton Forest such as Grand Teton National Park, Yellowstone Park, the National Elk Refuge and the Shoshone National Forest. Decisions made by the BTNF regarding the management and ecological health of wildlife habitat and of wildlife on the Jackson District of the BTNF affect wildlife on adjacent jurisdictions due to the functional connectivity of the jurisdictions and the nomadic and migratory nature of several wildlife populations. Since this decision about an elk feedground on the Jackson District of the BTNF unquestionably affects the health of wildlife and habitat on the Jackson District, it therefore affects wildlife on those other jurisdictions.

1. Introduction

We make note here of the excellent **Vision Statement of the Bridger-Teton National Forest** which is prominently displayed in the Supervisor's Office at 340 N. Cache in Jackson, Wyoming:

*"The Bridger-Teton National Forest is home to world-class headwaters, wildlife, wilderness and wildlands. Conserving these values, in concert with providing for sustainable uses, is our legacy. We are leaders committed to **service, action and excellence.**"*

We commend the leaders and staff of the BTNF for crafting such a mission statement years ago. It is unfortunate, however, that the “excellence” criteria of the Vision Statement is not well served by the Alkali Creek Feedground DSEIS as we will explain in these comments, and have also described at length in our May 2012 scoping comments and other comment opportunities regarding the 2008 elk feedground DEIS and ROD. The environmental analyses, decision to permit and the actual operation of elk feedgrounds on USFS lands are substandard treatments of habitat and wildlife which are done almost nowhere else in North America other than in western Wyoming, several on the BTNF. The BTNF is not living up to its Vision Statement by permitting elk feedgrounds which, by their influence on other habitats and wildlife populations, are harmful to a broad swath of the BTNF. Definitely not the treatment of “world-class wildlife” the public expects and deserves. We will also address the BTNF's *Mission Statement* in the context of our comments on the Alkali Creek feedground DSEIS later in these comments.

The BTNF should recognize and accept that previous submissions by GYC and our conservation partners regarding the 2008 DEIS for elk feedgrounds (both scoping comments and DEIS comments) and scoping comments for this DSEIS are part of the administrative record, along with letters and attachments to those submissions. Please also include as part of these comments and the administrative and official record, all the supporting documents and Exhibits accompanying the August 14, 2007 letter to the BTNF Supervisor from Earthjustice concerning scoping for temporary use authorizations analyzing four elk feedgrounds. Also include as part of these comments and the administrative and official record, scoping comments sent to the BTNF on September 17, 2007 for the consideration of issuing 20-year permits for the potential continuation of elk feedgrounds and related activities. Please also include in the administrative and official record any and all other additional comments, materials, references, and/or exhibits that we submit on this issue. We incorporate those comments here.

Just as we did with the March 2008 DEIS for the Wyoming Game and Fish Commission's Winter Elk Management Programs written by the BTNF, we find that this April 2013 DSEIS which focuses on the Alkali Creek elk feedground continues to be legally deficient, prepared without incorporating adequate information, and not in compliance with the National Environmental Policy Act (NEPA), and other laws and legal directives. It is apparent in reading this DEIS that few if any of the scientific materials and reports submitted by the conservation groups were considered by the BTNF, much less recognized for their value and applied. Yet at least 9 reports from the feedground proponent, the Wyoming Game and Fish Department and/or Commission are included in the DSEIS Reference Section (R-7,8). While some of the reports from the Game and Fish do contain pertinent information, and we avail ourselves of some of their reports as well, the obvious bias of the BTNF to use the proponent's information and not use relevant information that consists of valuable contemporary science and expert opinion suggested by the public interest groups speaks volumes about the bias and predetermination of the BTNF to favor permitting elk feedgrounds rather than transition to a healthy management paradigm without elk feedgrounds. It is readily apparent in many aspects of this DSEIS, just as in the 2008 DEIS for elk feedgrounds, that the BTNF dismisses or assigns far less importance to expert professional opinion and best available science that is contrary to the dogma of the Wyoming Game and Fish Department and Commission concerning wildlife disease and elk feedgrounds. Below we point out the apparent undue influence exerted by the WGFD by their disproportionate representation on the ID Team. The DSEIS is replete with examples where the BTNF uses rationale that parrots the opinion or policy of the WGFD rather than expressing the overwhelming preponderance of expert opinion and science that counsels discontinuation of winter elk feedgrounds. Virtual unanimity exists among North American wildlife professionals and scientists that winter feeding of big game should not occur, especially in or near areas of endemic transmissible diseases which is the case on and near the Bridger-Teton Forest. The BTNF is most definitely a high risk area for Chronic Wasting Disease to appear and conditions on elk feedgrounds would most likely amplify the prevalence of CWD in elk causing concomitant effects in other cervids throughout the extensive geographic range of the Jackson Elk Herd and beyond. We have provided strong evidence of these facts in our comments and references and it is most unfortunate that the BTNF

has chosen to ignore the best available science and the best scientific opinion and continues to rationalize permitting elk feedgrounds in the Gros Ventre Valley and elsewhere. Certainly not the standard of "excellence" touted by their Vision Statement.

2. Having so many of the WGFD personnel on the ID Team amounts to undue influence from the proponent

40 C.F.R. § 1506.5 Agency responsibility.

(a) Information. If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The *agency shall independently evaluate the information submitted and shall be responsible for its accuracy.*

On page 153 of the DSEIS it lists by name 17 members of the ID Team. We assume that "ID" means "Interdisciplinary Team". It also lists the agency and title of each member of the ID Team. Twelve members are employed by the USFS, and there are five members employed by the proponent, the Wyoming Game and Fish Department (WGFD). (Earlier in the DSEIS the BTNF states that it is the Wyoming Game and Fish Commission (WGFC) that is the proponent, In this context it is apparent that the WGFD is aligned with and indeed does the work of the civilian governor-appointed WGFC.) Four of the five WGFD employees are elk feedground specialists: Feedground Supervisor, Brucellosis Feedground Habitat Biologists (2), and a Brucellosis-Feedground-Habitat Supervisor. Given that the entire 2008 DEIS and this 2013 DSEIS appear to strongly favor elk feedgrounds and consistently defer to the WGFD for information favoring elk feedgrounds, disregarding other available science and information offered by GYC and others (see below and elsewhere in these comments), the ID Team and the outcome of these EIS's are obviously and unduly influenced by the WGFD. While we are familiar with the agreement between the USFS Rocky Mountain Region and Intermountain Region and the Wyoming Game and Fish Commission, 00-MU-11020000-052, such an MOU does not have the force of law and serves only as a guideline. We recognize the value of federal agencies consulting with state agencies, in this case the USFS with the WGFD. Yet the law cited above requires that the BTNF exercise its authority and conduct the analysis independently. It is worth noting that besides BTNF employees *no representatives from any other entity* such as non-governmental organizations, or academic institutions, sit on the ID Team, only five employees of the proponent, the WGFD. See below our comments regarding the absence of the USFS' own sister agency, APHIS in this analysis.

If the ID Team acts as the leaders in crafting this NEPA document which is supposed to comply with the National Environmental Policy Act, that Act requires that the decision not be a foregone conclusion and that there be a reasonable range of alternatives (see our comments below). It also requires that the Purpose and Need not be constrained so as to effectively eliminate any other outcome other than the one most desired by the proponent (see our comments below). The BTNF has violated NEPA by allowing the WGFD to exert undue influence on the process, content and outcome of this EIS.

3. The BTNF's claims of not being able to affect management of elk on USFS land is false

Time and again in this DSEIS the BTNF tries to escape their authority and responsibility to protect habitat on USFS lands by claiming that they do not have the ability to stop or affect winter feeding of elk in western Wyoming (DSEIS: iii, 8, 9, 10, 48, 96, 101, 149, 150 and elsewhere). For example, "(T)he Forest Service does not have the jurisdiction to stop elk feeding." (Exec Summary iii) As in the 2008 DEIS, this oft repeated assertion by the BTNF indicates to the reader and the public that no other reasonable option exists for the BTNF than to permit elk feedgrounds. This is specious reasoning and unfortunately, using exactly this sort of rationalization, the BTNF re-permitted five elk feedgrounds for 20 years each in 2008. Given the history of the BTNF conducting legally deficient environmental analyses for elk feedgrounds on USFS lands and re-permitting them without adequate

consideration of input from conservation groups and the public, it strongly indicates that this DSEIS is, again, considered little more than paperwork and the outcome is, as it was in 2008, predetermined.

Additional indications that the outcome is predetermined were voiced on May 13, 2013 when NGO's and the BTNF met in person, on video and on conference line to discuss this DSEIS. Two BTNF staff said "when" the feedground permit at Alkali Creek is issued it would only be for 15 years instead of 20. We were definitely not told "if" the permit is issued, but when.

The BTNF does indeed have the authority and jurisdiction to affect the management of wildlife and habitat on USFS land and, even more specifically, it has the authority and jurisdiction to affect whether the WGFD feeds elk on USFS lands on the BTNF. The BTNF seems to tentatively and partially acknowledge as much when it states, "Forest Service regulations require authorization for use and occupancy of National Forest System lands." (Exec Summary i) but then repeatedly rationalizes away their ability or more likely their will to implement such authority and jurisdiction by saying it makes no difference because the WGFD will feed somewhere anyway.

The BTNF has exercised that authority and jurisdiction on USFS land, albeit in a small way, in the past (ca 2002) by preventing the WGFD from conducting its winter elk feeding operations on USFS lands adjacent to the Patrol Cabin elk feedground in the Gros Ventre Valley. The WGFD had repeatedly trespassed from State Land onto USFS land near Coalmine Draw in the Gros Ventre Valley while distributing hay from horse drawn sleighs to elk during winter feeding operations. The BTNF notified them that they were in trespass and were prevented from doing so in the future without proper authorization. The WGFD subsequently ceased unauthorized trespass. This example shows that the BTNF clearly has the authority to determine what wildlife management practices occur on USFS land within the B-T forest boundaries, has implemented such authority in the past and can do so in the future and, while not a requisite, even the WGFD understands this. And, perhaps most remarkable, the BTNF did not simply rationalize away any purpose for holding the WGFD accountable by saying the WGFD will feed anyway, so what's the use? In that context, which is at issue here, the BTNF can, indeed, prevent feeding of elk on USFS lands.

It is a false binary argument for the BTNF to lament that feeding will occur elsewhere and allegedly affect many of the forest values nonetheless if they do not permit winter elk feedgrounds where the WGFC requests. The issue is not what the WGFC wants or will do elsewhere, the main issue is how best to protect forest resources including wildlife and habitat. The most important issue(s) are not to be defined by the WGFD, but by the BTNF.

As we commented on the 2008 DEIS, and applies here:

"(W)hether or not the BTNF ever received a declaration from the WGFC that it intends to operate elk feedgrounds on other jurisdictions regardless of receiving SUPs from the USFS (the communication documentation was not revealed in the DEIS), it does not relieve the BTNF of its duties and responsibilities to manage the resources on USFS lands in a manner which protects the environment and mitigates impacts harmful to the environment. Whether healthy, harmful, or benign activities occur on adjacent, nearby, or distant lands does not diminish the responsibilities and duties held by the USFS through acts of Congress. Nor do such activities allow the USFS to deflect the responsibilities assigned to it by Congress onto other parties, such as the WGFC. If the mere existence of - or the threat of - harmful activities beyond USFS lands was justification or impetus for the USFS to permit such activities on USFS lands, it would open the door to any number of harmful activities occurring on USFS lands merely upon threat, coercion, implementation of such acts on other lands, or insinuation of intent to do so by any proponent. This would effectively remove the assurance to the American public that the USFS acts as stewards of these public lands. A duty clearly lacking fulfillment here." (NGO's 2008 comments:8)

“(T)he BTNF also has no reason to convince, enable, or solicit the WGFC to operate elk feedgrounds on USFS lands rather than on these other lands. By the BTNF’s own reasoning, not allowing these elk feedgrounds on USFS lands, “improves habitat . . .” on USFS lands, whereas allowing these elk feedgrounds and associated activities on USFS lands “maintains . . .”, or, “increases [the] amount of degraded habitat . . .” on USFS lands (DEIS:23). It would best serve the American public and clearly better protect USFS resources for the BTNF to bow out of permitting WGFC elk feedgrounds completely. (Ibid:9)

While we are aware of the Memorandum of Understanding between the USFS and the WGFC, 00-MU-11020000-052, this MOU is a two-way pledge to collaborate on areas of mutual interest and is not enforceable as prevailing law. The BTNF should not refer to it repeatedly as if were prevailing law and closes the door on discussing, analyzing, or implementing options of resource management other than status quo. This MOU does not divest the BTNF of their legal directives, duties, authority and jurisdiction. As the MOU itself states in part, it merely recognizes “areas of cooperation and coordination.”

The BTNF has, by permitting elk feedgrounds, turned a blind eye for decades to harmful actions on USFS land resulting from elk feedgrounds. If the BTNF were not to permit elk feedgrounds on USFS lands, it would position itself to better defend USFS resources against the effects of elk feedgrounds elsewhere. Just as if pollutants were being discharged onto USFS lands from a source nearby on another jurisdiction, the USFS would be expected to effectively protect the land it stewards in trust for the American people. Unfortunately, as a permitter of elk feedgrounds, the BTNF, the only forest in the Rocky Mountain area to permit this kind of wildlife program on this scale, has essentially become complicit in causing harm to soils, plant communities, and wildlife and has allowed for elevated risk to elk and other cervids from debilitating and deadly diseases for decades. This is not managing resources in the public trust for the public’s benefit, is not in compliance with law and cannot continue.

Under the Multiple Use Sustained Yield Act (Public Law 86-517) “It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes” and “The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom” The Act goes on to say that Multiple Use is defined in part as “the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people,” and Sustained Yield is defined in part as “in perpetuity” and “without impairment of the productivity of the land.”

The US Forest Service achieved clarification of its powers and duties to protect habitat early on from the U.S. Supreme Court in 1928 in *Hunt v. U.S.* 278 US 96. After acting at odds with the State of Arizona by removing deer that were, by their excessive numbers promulgated by the state’s management of wildlife, injuring habitat and promoting starvation among their kind, the Supreme Court “summarily upheld the federal government’s power to govern its land.” (Freyfogle and Goble, *Wildlife Law*, 2009:2012) “The power of the United States to thus to protect its lands and property does not admit of doubt the game laws or any other statute of the state to the contrary notwithstanding.” (Ibid)

The BTNF should not repeatedly convey to the public in this DSEIS (DSEIS: iii, 8, 9, 10, 48, 96, 101, 149, 150 and elsewhere), as it did in the 2008 DEIS, that it does *not* have the ability to significantly influence the management of wildlife and habitat on USFS lands and to steer programs, such as the State of Wyoming’s “Winter Elk Management Activities” (aka, elk feedgrounds), away from inflicting harm and perpetuating unhealthy practices on USFS lands. “*In 1976, in Kleppe v. New Mexico, the U.S. Supreme Court ruled that the federal government possessed almost unlimited sovereign power to manage the lands that it owned, in addition to its powers as landowner. If it wanted, the federal*

government could enact its own laws governing all aspects of hunting, fishing, and wildlife management, leaving no role for state laws or agents.” (Freyfogle and Goble, *Wildlife Law*, 2009:206) It is disingenuous of the BTNF in their EIS to indicate to the public that the BTNF is constrained to merely continue the status quo because of the preferences, policies or threats from the WGFC. They are not.

The BTNF must manage the National Forest lands and natural resources for the benefit of the most people for the longest time. As the BTNF has found out from other comment opportunities, (as did the USFWS in their public comments received on the Bison and Elk Plan) far more citizens are in favor of phasing out elk feedgrounds than continuing them. “(F)eedgrounds like predator control policies, reflect a longstanding cultural and political bias- a bias that continues to trump science and defy common sense.” (Donahue 2010:293) That bias and absence of common sense must be turned around by the BTNF. It’s high time to pay attention to the prevailing and overwhelming body of science and law, and inject common sense to find a much better way forward. According to their Vision Statement, the BTNF is allegedly committed to “service, action and excellence”; transitioning away from the elk feedgrounds is an opportunity for them to display and implement these commendable traits.

4. Purpose and Need

At **Purpose and Need for Action** (SDEIS: 5) the BTNF defines the analysis from the narrow perspective of the project proponent, the Wyoming Game and Fish Commission (WGFC). As the conservation groups have repeatedly said, by framing this analysis and options only in the context of the desires of the WGFC the Forest Service forecloses on a reasonable range of diverse alternatives, some of which had repeatedly been suggested by conservation groups during scoping for the 2008 Winter Elk Management (aka, feedground) EIS and in the same groups’ comments on the 2008 DEIS and in May 2012 scoping for this SDEIS. While considering a SUP for a feedground, the BTNF could have done an environmental impact analysis titled “Healthy Elk Management in the Gros Ventre Valley”. Describing and giving careful consideration to other alternatives than feedgrounds would have enabled the forest to move toward healthier habitat: less soil compaction, no overbrowsed vegetation, no eroded streambanks, far less risk of buildup of infectious prions in the soil and water by large numbers of artificially concentrated elk and healthier wildlife, lower potential for disease transmission, more natural elk movements and foraging, elimination of heavy-handed management through vaccination and test-and-slaughter programs, and no adverse effects on Wilderness. As evidenced elsewhere on the BTNF and, indeed, on all other National Forests in the Rocky Mountains, feedgrounds are not necessary to manage elk. In fact, nearly all other elk herds in the Rockies are healthier and under less risk of catastrophic diseases compared to feedground elk.

Courts’ interpretation of NEPA’s requirements are clear: “[A]n agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative . . . would accomplish the goals of the agency’s action...[as] the EIS would become a foreordained formality” Citizens Against Burlington, 938 F.2d at 196. The BTNF has shined the narrowest light possible when they defined the range of alternatives as “whether or not to authorize WGFC to use NFS lands at Alkali Creek Feedground for corrals, sheds, one hay stack-yard containing two haysheds, a water facility and feeding grounds associated with their ongoing elk feeding and management programs.” (BTNF 4-24-12 Scoping Notice) This definition of purpose is the narrowest imaginable and may suit the proponent (the WGFC), but does not comply with legal directives under which the USFS is required to operate; nor does it serve the public interest by putting forth a reasonable range of alternatives that may benefit the public through the analysis and eventual implementation of appropriate stewardship and protection of the largest amount of public lands, waters, and wildlife possible befitting the most people and natural resources for the longest amount of time. The obvious fact that the BTNF refers to this location as “NFS lands at Alkali Creek *Feedground*” plainly indicates the matter is, in the minds of the BTNF, a foregone conclusion (DSEIS:6). The BTNF apparently believes that this area of USFS lands is above all else an artificial feedground.

Because the stated purpose and need for a federal action determines the range of alternatives, it is essential that the Forest Service clearly articulates the project's purpose and need from the USFS' perspective and not simply adopt the WGFC objectives for the project as its own. (40 C.F.R. § 1502.13). As courts have cautioned, "One obvious way for an agency to slip past the structures of NEPA is to contrive a purpose so slender as to define competing 'reasonable alternatives' out of consideration (and even out of existence.)" Davis v. Mineta, 302 F.3d 1104, 1119 (10th Cir. 2002) (quoting Simmons v. United States Army Corps of Eng'rs, 120 F.3d 664, 669 (7th Cir. 1997).

As a defense of their inadequate range of alternatives and narrow Purpose and Need, the BTNF offers a history of elk management in western Wyoming: "Supplemental feeding of elk has been conducted in Wyoming since the early 1900's." (SDEIS: 2) It goes on to offer examples. This kind of rationale ignores the progress of science-based wildlife management in the more than 100 years since. Such rationale is also at odds with the part of the BTNF's Mission Statement (which we will address below) at, "We aim to be progressive leaders in natural resource management." The wildlife and habitat of the Gros Ventre Valley and, indeed, of the entire BTNF deserve and require a more enlightened perspective than harkening back to frontier era methods, as well intended as they may have been for the time.

The duty of the BTNF is to enable healthy wildlife on healthy habitat, not to enable an artificial feedground regardless of the consequences. A better Purpose and Need could be: "To Ensure Healthy Wildlife and Habitat in the Gros Ventre Valley." As we have explained above and in other submissions to the BTNF, the *need* for an elk feedground, per se, does not exist for the Forest Service. The Wyoming Game and Fish Commission, who may *want* an elk feedground, is not held to the same legal or ecological standards as the federal USFS. And the WGFC does not control the land where they are requesting the feedground, the USFS does. "*The state of Wyoming has spent millions of dollars on supplemental feeding, which maintains artificially high populations of elk*" (Donahue 2010:289) A 2005 proposal from three NGO's to phase out eight elk feedgrounds promised an annual savings of \$352,000, and \$3.52 million over ten years. (GYC, et al, 2005) Enabling free-ranging elk would be cheaper and less labor intensive and will serve the elk and other wildlife and natural resources far better than promulgating expensive and harmful feedground conditions. It will be healthier all around and meet the legal directives of the USFS for the BTNF to phase out elk feedgrounds on USFS land rather than continue to permit them.

5. Failure to develop and consider a reasonable range of Alternatives violates NEPA

This SDEIS suffers from many of the same violations of law as the 2008 EIS; this SDEIS did not analyze an adequate range of reasonable alternatives.

"The purpose of an EIS is to apprise decision makers of the disruptive environmental effects that may flow from their decisions at a time when they 'retain a maximum range of options' to avoid environmental harms" (Connor v. Burford, 848 F.2d 1441, 1446 (9th Cir. 1988) quoting Sierra Club v. Peterson, 717 F.2d 1409, 1414 (D.C. Cir. 1983)). NEPA mandates that the Forest Service provide a detailed statement regarding the alternatives to a proposed action (42 U.S.C. § 4332(2)(C)(iii)). Its implementing regulations also require the Forest Service to "[r]igorously explore and objectively evaluate all reasonable alternatives" (40 C.F.R. § 1502.14). The agency must satisfy its "obligation to consider every significant aspect of the environmental impact of a proposed action" and "inform the public that it has indeed considered environmental concerns in its decisionmaking process" (Baltimore Gas and Elec. Co. v. Natural Resources Defense Council, 462, U.S. 87, 97 (1983)). In fact, a thorough and objective analysis of alternatives is so essential to reasoned and informed decision making that discussion of alternatives is considered the "heart of the environmental impact statement" 40 CFR at § 1502.14(a).

NEPA requires agencies to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources" 42 U.S.C. § 4332(E); 40 C.F.R. 1508.9(b). Moreover, the BTNF "shall" "to

the fullest extent possible ...use the NEPA process to identify and assess the reasonable alternatives to proposed actions that *will avoid or minimize adverse effects of these actions upon the quality of the human environment.*" 40 C.F.R. § 1500.2(e) (emphasis added).

"Section 1502.14 of NEPA requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant. . . . An alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable." (NEPA's 40 Most Asked Questions, at <http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>)

The DSEIS considers only two alternatives: the "No Action and the Proposed Action." (DSEIS:13) "Under the No Special Use Authorization Alternative, use of National Forest System lands for WGFC winter elk management activities would not be permitted at Alkali Creek feedground." (Ibid: 14) "The Agency's Preferred Alternative Under the Proposed Action alternative, a Special Use Authorization would be reissued for continuation of use of 91 acres of National Forest System lands for WGFC winter elk management activities at Alkali Creek feedground." (Ibid) By only including 2 alternatives despite repeated and clear recommendations from conservation groups to include other alternatives, the Forest Service failed to consider a reasonable range of alternatives violating the National Environmental Policy Act.

In the September 17, 2007 scoping comments from Greater Yellowstone Coalition, Jackson Hole Conservation Alliance, and the Wyoming Outdoor Council several reasonable alternative components were suggested for inclusion by the BTNF for the 2008 DEIS concerning permits for multiple elk feedgrounds. GYC offered many of the same suggestions in our May 2012 scoping comments for this Alkali Creek SDEIS. We offer that 2007 section again here in our comments on the DSEIS to remind the BTNF what has been submitted in the past and what we deem is necessary now for the BTNF to comply with NEPA and offer a reasonable range of alternatives in any EIS dealing with elk feedgrounds:

Some components needed in alternatives

When analyzing a range of alternatives to elk feedlots, the BTNF must include analyses of elk transitioning to completely using natural forage on big game winter ranges to survive the winters. Maps of big game winter ranges designated by the USFS, NPS, FWS, BLM, and WGFD can be obtained from the WGFD; the winter ranges consist of many tens of thousands of acres and may spread across USFS, NPS, FWS, BLM, State and other lands. Winter ranges adjacent to current feedlot sites as well as winter ranges at reasonable distances from feedlot sites must be considered, as should the feasibility of the elk to access those ranges. The BTNF must assess the amount of forage on designated winter ranges left after the growing season that may be used by big game during winter. They must calculate the tonnage of forage using scientifically valid production plots, or use available information that may be applied to similar slopes, elevations, snow pack, and vegetation types as exist on the various winter ranges. Most importantly, the USFS should calculate the ability of that amount of forage to sustain the estimated number of elk using the range (i.e., carrying capacity).

If any of those winter ranges are included in summer livestock grazing allotments, the BTNF must assess whether adjustments to livestock grazing management may allow for more forage left for wintering big game on the winter range portions of those allotments. For any unoccupied, vacant, or closed livestock allotments the BTNF must analyze how much of an increase of winter forage is available for wintering big game due to the absence of livestock use.

The BTNF must include in its alternatives pragmatic step by step plans to end feeding of elk at all the feedlot sites and transition those elk to native range. Besides forage assessments and carrying capacity estimates, these plans must include, but not be limited to identification of and mitigation plans for preventing wintering livestock from commingling with elk, and preventing private property damage by elk to haystacks and livestock fences that exist on private lands. Mitigation plans must include elk-proof fencing to prevent commingling and damage to haystacks, and funding sources for such projects. Some of these fences may best be located on USFS or other public lands in order to expedite the mitigation against commingling. Even though these fences need to be elk-proof, they may be of a kind that is entirely or partially removable or otherwise adjusted during the summer months to allow passage of wildlife, livestock, and people. The elk fence near Soda Lake feedlot near Pinedale may offer some ideas, although there are many other types of fencing available.

It is important when considering elk-proof fencing that consideration is given to not impeding trans-landscape movement of big game. Therefore, a minimum amount of fencing is desirable, and fencing as close to the livestock feeding and haystack areas as possible to be effective would ameliorate this issue.

The BTNF should also do a cost analysis for phasing out specific feedlots or several at a time if they are near one another, compared with the costs of maintaining the elk feedlots. Included in that cost analysis should be the elimination of vaccinating elk against brucellosis which would no longer be needed. It is a cost savings to phase out the feedlots, even considering initial costs such as fencing, rather than maintaining feeding and vaccinating at elk feedlots in the long term (see Brucellosis Solution 2005). The costs of maintaining brucellosis to various stakeholders such as livestock producers, the WGFD, and others should also be quantified as best as possible in order to truly realize the costs of elk feedlots, and the savings when feeding and vaccinating is phased out and brucellosis is no longer a problem for elk or livestock. This will greatly assist the BTNF in analyzing reasonable alternatives to artificially feeding elk at state operated feedlots. A wide range of alternatives is necessary in order for the public and decision makers to draw informed conclusions.

Regarding elk-proof fencing alluded to above, the USFS has their own 1993 report from the Pacific Northwest Research Station describing techniques to construct elk-proof fences. (USDA-FS 1993, see citation in Reference section appended to these comments.) The BTNF could have developed and analyzed one or more reasonable and practical, and common sense, alternatives that carefully transition elk from artificial feeding to reliance on native range, while protecting hunting, outfitting, and ranching interests. Because the Forest Service failed to analyze a true range of alternatives, the record of decision risks becoming a foreordained formality and violates NEPA.

Clear evidence of the inclination of the BTNF to approve a permit for the WGFD for an elk feedground without required consideration of a range of alternatives is the repeated assertion by the BTNF that if a feedground isn't permitted by the BTNF on USFS land, "the WGFC would either continue to feed elk in the Gros Ventre only at Patrol Cabin and Fish Creek Feedgrounds or they would locate a new feedground on private or state land." This assertion by the BTNF appears repeatedly throughout the DSEIS. But the BTNF doesn't provide the document or method of communication of such assertion by the WGFC of the possibility of yet another site for a feedground despite requested to provide the documentation by GYC. In the DEIS and ROD in 2008 and again in the 2013 DSEIS the BTNF repeats this statement so many times there is no reason to believe that the BTNF seriously considered any other options or alternatives other than approving a Special Use Permit for feedgrounds for the WGFC. The BTNF appears to be taking the threat or assertion, if it exists, by the WGFC as effectively foreclosing on other options of managing elk and habitat in the BTNF. Despite denying it in their DEIS comment responses in 2008, the BTNF apparently sees no other options but continuing the status quo.

As we wrote in our May 2012 scoping comments:

“Whether healthy, harmful, or benign activities occur on adjacent, nearby, or distant lands does not diminish the responsibilities and duties held by the USFS through acts of Congress. Nor do such activities, like the State of Wyoming elk feedgrounds, allow the USFS to deflect the responsibilities assigned to it by Congress onto other parties, such as the WGFC. If the mere existence of - or the threat of - harmful activities off USFS lands was justification or impetus for the USFS to permit such activities on USFS lands, it would open the door to any number of harmful activities occurring on USFS lands merely upon threat, coercion, implementation of such acts on other lands, or insinuation of intent to do so by any proponent. This would effectively remove the assurance to the American public that the USFS acts as stewards of these public lands. Therefore the BTNF must not be swayed by the WGFD’s inclination and tradition of maintaining elk feedgrounds in western Wyoming. The BTNF has more important and binding directives to comply with.”

If the BTNF did not approve a SUP for elk feedgrounds, they would be in a far better position to become an advocate for healthy habitat and healthy wildlife rather than a passive bystander. They could then far better defend against any adverse effects of elk feedgrounds, of which there are many, that may cross over from elk feedgrounds on state or private land onto USFS land. Currently, by permitting elk feedground SUP’s the BTNF enables possibly the worst wildlife management program to continue. Offering a permit to feed wildlife does not move towards a solution to the problems of disease and habitat degradation, it merely perpetuates the problems. The BTNF has, so far, ignored all the suggested solutions, such as phasing out feedgrounds, offered by the public interest groups.

6. Other violations of NEPA

The BTNF offers some sections of the National Environmental Policy Act as if the B-T intends to follow through on the intent of this key environmental policy act. “NEPA requires consideration of “the relationship between short-term uses of man’s environment and the maintenance and enhancement of long-term productivity” (40 CFR 150216). As declared by the Congress, this includes using all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which p (-eople) and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans (NEPA Section 101).” DSEIS:150, typo corrected in parenthesis) The BTNF continues, “Concentrating large numbers of elk on feedgrounds could affect the rate of spread of disease, such as chronic wasting disease, if it were to become established in the analysis area. The decision to be made by the Forest Service under either alternative would have no effect on whether or not chronic wasting disease arrives in the analysis area, or the potential rate of spread of the disease, since feeding would continue with or without the use of National Forest System land.”

Despite listing a description of a requirement of NEPA, the DSEIS falls far short of complying with many sections of NEPA, some of which have been listed in our comments over the years including these comments. No one could interpret the operation of and effects from elk feedgrounds on USFS lands as contributing to “long-term productivity” of the land, or promoting the “general welfare” or “harmony” between people and nature. Disease ridden elk confined en masse on small tracts of land, eating baled hay atop layers of feces built up over decades amidst overbrowsed, stunted and dead aspen or willows is hardly the image described in NEPA and amounts to violations of law. Anyone who has ever witnessed and smelled the buildup of feces and filth of elk feedgrounds or the constant effort of the WGFD to herd elk with helicopters and snowmachines onto the feedgrounds and vaccinate them with a worthless vaccine biobullet would *never* in good faith use such NEPA terms as “productive harmony” to describe the reality.

Yet another error in the last paragraph quoted from page 150 in the DSEIS, is that the BTNF appears to confuse the “spread” of a disease with a critical element when discussing diseases, the *level* of infection within a given populations, or “prevalence”, of the disease. While the discovery of a single new infected individual in a geography not previously known for any infection can amount to a spreading of the disease in a geographic context and may occur in a timeframe affected by many geophysical, anthropogenic and ecological variables, the number of infected individuals at a given time within the population is of the utmost concern among scientists and wildlife professionals (with the possible exception of the WGFD or the USFWS at the Elk Refuge). Which is why, as we note in these comments when we refer to CWD experts, virtually every expert and expert panel in North America recommends *not* to densely concentrate cervids. Most experts recognize that the geographic spread of CWD in the Colorado and Wyoming areas may be inevitable, but all experts counsel to mitigate the transmissibility and rate of the infection using the best known method available: don’t feed or bait in order to allow cervids to disperse in natural densities rather than higher artificial densities. The BTNF repeats this mistake many times in this DSEIS. Their assertion that their actions- no matter what decision they make- have no effect on the “rate of spread of disease” is less than forthcoming to the public. The Alkali Creek area is closer to Jackson Hole and the Elk Refuge than the other two elk feedgrounds in the Gros Ventre Valley, and is some four miles or more distant from the next elk feedground to the east. If elk are not densely concentrated at Alkali Creek, and the elk are allowed to spread out naturally, it may allow more elk to free-range in natural densities and act to suppress the prevalence of the disease in elk and other cervids in that area compared to what could happen if densely crowded feeding was maintained at Alkali Creek. Again, the DSEIS misleadingly says, “feeding would continue” but there is no evidence of the WGFD planning to operate an elk feedground anywhere else in the Alkali Creek area. Therefore not permitting a feedground at Alkali Creek may be beneficial.

7. Feedgrounds are not necessary to manage elk

As we have written in previous comments to the BTNF about elk feedgrounds, the BTNF should take advantage of beneficial “natural capital” and ecological and geographical circumstances and manage for healthy habitat and healthy free-ranging wildlife rather than give 20-year permits for elk feedgrounds. The obvious truth is that the Gros Ventre Valley, where Alkali Creek exists, is surrounded by a contiguous expanse of federal public land including portions of the Shoshone Forest, the Bridger-Teton Forest, Grand Teton National Park, the National Elk Refuge and Yellowstone Park to the north. These hundreds of thousands of acres are in the heart of the Greater Yellowstone Ecosystem that totals some 20 million contiguous acres, the largest intact temperate ecosystem on the North American continent. The Bridger-Teton Forest, the Shoshone Forest, Grand Teton Park and the National Elk Refuge are inside the boundaries of the *least populated state* in our nation, Wyoming. Wyoming is about the same size as Colorado, but Colorado contains 9 times larger human population as Wyoming. Colorado also has nearly 3 times the amount of elk as Wyoming. Despite the large human population, three times the number of elk, and twice as many cattle in Colorado as Wyoming, Colorado doesn’t find it necessary to feed any of their 280,000 elk during winter. Nor does Montana or most any other jurisdiction in the Rocky Mountains. Rocky Mountain elk do not need artificial feed to thrive in Rocky Mountain winters, free-ranging elk can coexist in areas with livestock, feedgrounds are actually very *harmful* to elk and to habitat, and the BTNF should not permit elk feedgrounds. Better solutions to conflicts and better management methods for elk clearly exist. To continue the status quo on USFS lands is arbitrary and an abuse of agency discretion.

As we explained in our 2008 DEIS comments and our May 2012 DSEIS scoping comments, “The BTNF is well aware that feedgrounds are not the only means of managing big game and big game habitat. Even within its own jurisdiction in Wyoming, on the BTNF itself, there are big game herds, including elk herds, which are not managed using winter feedlots, test and slaughter facilities, or bales of hay. The elk herds in the southern reaches of the Wyoming Range, the southern reaches of the Salt River Range, Commissary Ridge, and the Tump Range, all within the BTNF, do not require feedgrounds.

Nor do other big game species such as moose, bighorn sheep, mule deer, pronghorn antelope, mountain goats, or white-tailed deer throughout the BTNF. There *are* other methods of managing habitat and wildlife on and near the BTNF, and analysis of such methods under this EIS is reasonable, as well as legally mandated.”

In this DSEIS, Table 1 List of Other Issues, p. 10, there is a critical error put forth as fact: “Much of the native winter range for elk is not located on the National Forest, and is not available due to development and agriculture There are ongoing efforts to improve habitat on the National Forest, particularly winter range, but these efforts cannot compensate for the loss of native winter range in the short term.” The BTNF knows full well that virtually ALL of the native winter range in the Gros Ventre Valley where Alkali Creek feedground is located is on USFS land and that there is approximately *100,000-acres* of it. We submitted the references for this in our May 2012 SDEIS scoping comments 2. Anderson, Chester. 1958. *The Elk of Jackson Hole: A Review of Jackson Hole Elk Studies*. Wyoming Game and Fish Commission. Cheyenne, WY. ; and, 34. Wyoming Game and Fish Department. 2006). Evaluation of a Proposal from the Wyoming Outdoor Council, Greater Yellowstone Coalition and Jackson Hole Conservation Alliance for a Phase Out of Elk Feeding in the Gros Ventre. Cheyenne, WY.) Indeed, in the BTNF’s own Winter Travel Map 12/1 – 4/30, Revised/reprint 1993, the BTNF portrays purple polygons on the map where winter travel is restricted because of “Protection of wildlife on crucial big game winter ranges.” How can the BTNF continue to deny that there is plenty of winter range for thousands of free-ranging elk, particularly in the Gros Ventre Valley where Alkali Creek is? This denial is continued throughout the SDEIS and comes to light again and again when the BTNF defers to the policy of the Game and Fish to feed elk implying that there is no other alternative. There is a readily available and healthy- and free- alternative and that is to allow elk to use their ancestral winter ranges which, in the case of the Gros Ventre Valley, literally surround the areas- are within the view of the elk- where elk are artificially clustered together during winter by putting out hay.

As Chester Anderson, 1958, and others have documented, thousands of elk wintered quite well in the Gros Ventre Valley in the early 1900’s (and probably for centuries prior) without elk feedgrounds. Those same winter ranges exist, are protected by the USFS, and can provide for thousands of elk as both GYC and the WGFD agree. Below is an excerpt from our May 2012 scoping comments:

In 2005 the Greater Yellowstone Coalition calculated how many elk could winter in the Gros Ventre Valley: “Using some conservative assumptions such as dry-year production values, and estimating forage production, consumption by elk, and availability of forage during winter, it appears that between 4,419 – 6,628 elk can winter naturally on 33% - 50% of winter range while consuming only 60% - 64% of the palatable and accessible forage without supplemental feeding.” (GYC 2005)

In 2006 the Wyoming Game and Fish Department responded to this proposal:

“(B)ased on the three carrying capacity estimates calculated in this assessment for mean and above average precipitation years, to some degree historic accounts of elk numbers and starvation events, and the need to prevent added competition for forage with bighorn sheep and moose wintering in the Gros Ventre valley, it appears there may be adequate forage available most winters for an elk herd closer to 3,000 than the current 4,000-4,500.” (WGFD 2006:25)

The number of elk counted in the Gros Ventre Valley during February 2012 by the WGFD is approximately 3,300. (Doug Brimeyer, personal communication and handout March 2012) Elk numbered approximately 4,000 – 4,500 around the time of the WGFD response to the NGO’s proposal to phase out winter feeding. (WGFD 2006, Figure 1) So, elk numbers have decreased by around 1,000, which achieves one of WGFD’s qualifiers to attempt phasing out winter feeding. 3,300 is also well below the carrying capacity determined by the NGO’s. We have submitted information in our previous comments about the very few (only 2 or 3) livestock and haystack fencing opportunities in the Gros Ventre that would prevent commingling of elk and livestock. There are only around 80 mother cows and approximately 150 or so horses that could easily be held behind elk-proof fences. Despite feedgrounds

operating each winter, conflicts with elk continue to occur at these ranches year after year. So, *without* fences and *with* feedgrounds it's a failed policy all around; elk keep getting into livestock and feedlines and elk keep getting sick on feedgrounds. Better solutions, such as elk-proof fencing at the private property boundaries of those few ranches in the Gros Ventre Valley, need to be assessed in an EIS and implemented.

The Gros Ventre Valley within the Bridger-Teton National Forest is situated in between the CWD endemic area west of Thermopolis, Wyoming, and Grand Teton National Park and the Elk Refuge. (GYC 2009 CWD map, revised May 2013) Deer and elk are known to travel back and forth among these areas. (Smith 2005, WGFD 2009) The worst thing that the BTNF can do for the wildlife of Grand Teton National Park and the National Elk Refuge is to permit and maintain elk feedgrounds that would, according to experts, amplify the prevalence of deadly CWD and potentially cause a catastrophic outbreak among the elk and other cervids of Grand Teton National Park and the Elk Refuge (Smith 2005, Peterson 2005). Conversely, one of the best things the BTNF can do is not permit elk feedgrounds and allow big game to traverse those same landscapes in accordance with their natural behaviors. The responsibility is on the shoulders of the BTNF and the best way forward is clear: determine where the most effective locations are for elk-proof fences, and do not permit feedgrounds.

8. "Unavoidable" Adverse Effects

The very sparse list of six sentences on page 150 of the DSEIS describes briefly that soils, water, wildlife and plants are harmed by the operation of elk feedgrounds. One issue briefly mentioned is especially important: "Feedgrounds increase the probability of disease and parasite transmission among elk, including brucellosis, chronic wasting disease and other diseases." (DSEIS:150) Despite this statement being accurate, the BTNF knew this in 2008 yet, ignoring their legal directives, they issued 20-year permits to operate five other feedgrounds on USFS land in July 2008. Alkali Creek is an opportunity for the BTNF to consider the science and make a lawful decision not to permit an elk feedground that will harm wildlife and habitat.

Any reader of this list on page 150 of the DSEIS of Adverse Effects to forest resources from elk feedgrounds cannot help but wonder why the BTNF has insisted over the years on approving actions that result in such harm. The public's interest will be better served and for much longer if this kind of harm to USFS land is not permitted by the BTNF.

9. Irreversible and Irretrievable Commitments of Resources

This appears to be a section in the DSEIS where the BTNF actually describes some of the stark realities of the effects of elk feedgrounds:

"Irretrievable commitments of resources are those that cannot be regained, such as the extinction of a species or the removal of mined ore. Irretrievable commitments are those that are lost for a period of time such as the temporary loss of timber productivity in forested areas that are kept clear for use as a power line right-of-way or road.

"Irreversible losses could occur in willow habitat within and adjacent to feedgrounds due to loss of root stock as continued heavy browsing by elk in the winters prevents suppressed willow plants in wet meadow habitat from recovering to a healthy condition. Irretrievable losses of aspen habitat could occur due to heavy browsing.

"The potential exists for irretrievable commitments of both elk and deer resources if chronic wasting disease (CWD) became established in western Wyoming and substantially reduces these populations. While the arrival of CWD is beyond the control of wildlife managers, the potential effect would be greater under any alternative where large numbers of animals are concentrated

on feedgrounds. The loss would be irretrievable because in addition to always being fatal to infected animals, chronic wasting disease contaminates the environment for long periods of time.” Additionally, “The potential exists for irretrievable commitments of predator and scavenger resources to occur if CWD became established and substantially reduced the elk population. (U.S. Fish and Wildlife Service and National Park Service Bison and Elk Management Plan and Environmental Impact Statement (2007)).” (DSEIS:151)

As we commented in 2008 about the above section in the DEIS, “The BTNF would do well to heed its own cautionary words.” Furthermore, if the BTNF actually intends to implement its Mission Statement it should not approve elk feedgrounds given the known harm, the risk, and the public’s expectation that the BTNF will act in the public’s best interests now and for the future.

10. The USDA-USFS must reconcile differences with the USDA-APHIS

At page 153 of the DSEIS, it lists Federal, State, and Local Agencies that the USFS consulted with in preparing the DSEIS. Under Federal agencies it lists the Forest Service, the USDOJ-Grand Teton Park, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and, oddly, the Environmental Protection Agency. It appears to list the EPA twice. Nevertheless, the list omits, and it appears the USFS did *not* consult with its own sister agency in the USDA, the **Animal and Plant Health Inspection Service (APHIS)**. This agency has disease expertise and it is arbitrary for the USDA Forest Service *not* to consult with its sister agency. Unlike the WGFD, the APHIS is *not* a proponent of elk feedgrounds.

As we wrote in our May 18, 2012 scoping comments, “The federal USDA-APHIS (Animal and Plant Health Inspection Service), which is in the same department of the federal government, the US Department of Agriculture, as the Forest Service, considers CWD a serious disease and allocates significant financial and educational resources in order to control it. Since 2002-03, APHIS has helped fund the surveillance of 70,000 – 100,000 wild cervids each year in the U.S. (USDA 2012) Yet, by permitting elk feedgrounds, the BTNF *promotes* conditions that would exacerbate the effects of CWD when it occurs on or near elk feedgrounds.” (GYC 2012 comments, p.12) Additionally, in the latest Review of Wyoming’s Brucellosis Management Plan by APHIS (Dates of Review: September 10 & 11, 2012) under Recommendations at page 17, APHIS counsels to “*Continue research and specific herd management actions that could lead to the eventual discontinuation of elk feed grounds and elimination of brucellosis from elk.*” This omission by the BTNF in the DSEIS of a *sister* agency’s input and/or consultation- particularly an agency that counsels to move to end elk feedgrounds- emphasizes the overly narrow information stream allowed by the BTNF when they had nearly 30% of the ID Team dominated by the feedground proponent, the WGFD, and did not have on the ID Team nor consult with agencies or non-governmental organizations or academic personnel who advocate phasing out elk feedgrounds. This is arbitrary, capricious, and an abuse of discretion by the BTNF.

11. The BTNF defers to the WGFD Chronic Wasting Disease Management Plan, which violates NEPA and the Administrative Procedures Act

Unfortunately, as in the 2008 DEIS, the BTNF in this DSEIS, page 9 at 3, again defers to the WGFD CWD Management Plan to avoid having to adequately address and mitigate the effects of this deadly disease on elk herds and the environment. The BTNF also defers to the USFWS treatment of CWD in the 2007 Bison and Elk Plan (DSEIS:9 at 3). This deferral has no substance and violates the “hard look” requirement of NEPA. “The “hard look” required by NEPA is not satisfied when the agency relies “on incorrect assumptions or data in an EIS.” *Native Ecosystems Council v. U.S. Forest Service*, 418 F.3d953, 964 (9th Cir. 2005)” (in *GYC, et al, v. Supervisors of the CTNF and BTNF*, Nov 21, 2006, Honorable Judge B. Lynn Winmill. P. 16) In reality, despite a commitment in the Bison and Elk Plan to do so, the USFWS has *never* described their own CWD plan, themselves deferring (despite their commitment in 2007 to make it a priority to craft their own) to the State’s CWD Plan until they do so. (See 2007 BEMP: 13-14.) However, according to our discussions with

USFWS Region 6 Director Noreen Walsh and her staff, as of May 9, 2013 no “step-down plan” has yet been crafted by the USFWS “to address chronic wasting disease management on the National Elk Refuge.” Therefore the BTNF in this DSEIS is deferring to analysis and action that falls very short of meeting the commitments of the agencies and falls short of complying with the best available science and scientific opinion recommending best management practices (e.g., don’t feed, bait or unnaturally concentrate cervids). See our comments below about expert recommendations for dealing with CWD among wild cervids.

Wyoming’s CWD Action Plan, quoted below, does nothing to avoid amplification of the disease if or when it is found on or adjacent to elk feedgrounds.

C. Feedground Management

*If CWD is detected in elk inhabiting state feedgrounds, WGFD personnel will monitor the population intensively and remove any elk showing clinical signs of CWD. The WGFD will attempt to: 1) maximize the area of feeding to decrease animal-to-animal contact; 2) decrease days of feeding to disperse the elk; 3) take any other actions to decrease elk concentration **provided such actions are consistent with other necessary wildlife management and feedground practices.** Large-scale culling of elk is not anticipated. (emphasis added) (WGFD 2007:6)*

The Action Plan, in fact, declares that only such actions will be considered that “are consistent with other necessary wildlife management and feedground practices.” (WGFD 2007:6) Its plan to “maximize the area of feeding” and “decrease days of feeding” have been in place for many years as an alleged prophylaxis (or preventive medicine) against brucellosis, to no avail whatsoever. Despite admitting that deer, elk and moose “may be more at risk due to winter concentrations of elk on feedgrounds,” (Ibid:5) the WGFD evidently cannot see past their compulsion to operate elk winter feedgrounds even in the face of a deadly disease moving towards the feedground locations. The BTNF cannot fall to such dysfunctional and circular reasoning when managing the “world class” resources its Vision Statement touts. To defer to the WGFD CWD Action Plan and the WGFD assessment of CWD, and to the USFWS treatment of CWD, which are one and the same, and ignore the entire body of real expert reports is arbitrary, capricious, and an abuse of discretion by the BTNF of the highest order. (5 USC Sec 706(2) (2000)

As we commented in 2008 on the Feedground DEIS, we repeat here for the Alkali DSEIS:

“(R)ather than appropriately analyzing the issue of CWD moving into any of the elk herds or onto the USFS lands at or near the elk feedgrounds at issue here and posing a risk to other cervid species, the BTNF refers to the WGFD 2006 Chronic Wasting Disease Management Plan on the WGFD website as providing, “supplemental information concerning the prevalence, risks and consequences” of CWD (DEIS:12). The BTNF appears to deflect its duties under NEPA onto the WGFD; but the WGFD is not bound by the requirements of NEPA nor does the WGFD need to meet any standard of analysis or accuracy in its reports. The WGFD CWD Plan makes clear that the WGFD intends to continue with winter elk feedgrounds even if CWD is discovered thereon. The WGFD is not bound by any regulations to maintain the health of federal lands other than to follow the conditions of permits issued by the USFS, and has stated clearly in its CWD Plan that even if CWD-infected elk are discovered on feedgrounds, it will continue to operate feedgrounds on those very USFS lands that may be contaminated with CWD prions. The duty to protect those USFS lands, however, lies with the USFS. The USFS may not allow reckless use of its lands such that contaminants are likely to affect the health of the habitat and wildlife. Whether or not the WGFD intends to conduct elk feedgrounds on other jurisdictions if the USFS denies it permits, such possibilities cannot relieve the USFS of its duties to protect the lands under its stewardship, nor can such possibilities serve as excuses for the USFS to knowingly allow a continued high risk

of habitat contamination on USFS jurisdiction. To continue to permit feedgrounds and maintain such a risk when alternatives are available is negligent.” (from NGO’s DEIS comments, p. 17)

The BTNF consistently tries to defer to treatments of disease threats and management by other agencies. What they’re deferring to does not exist. The USFWS has adopted the WGFD CWD plan which essentially does nothing different on elk feedgrounds than has been done for decades: Baiting elk onto small plots of land and holding them there for months by distributing hay bales. In the case of the Elk Refuge it is alfalfa pellets and irrigated green plots. No problem is solved and no progress is made to protect the “world class wildlife” populations referred to in the BTNF Vision Statement. Deferring to ineffective and CWD plans absent the best science is certainly *not* being the “progressive *leaders* in natural resource management” touted in the BTNF Mission Statement which we will list at the end of these comments. It is also arbitrary and capricious and violates agency discretion.

12. The BTNF ignores CWD experts and expert reports

As we explained above and will detail further here, in the DSEIS and previously in the 2008 DEIS and ROD, the BTNF ignored prevailing contemporary science about the relationship between feeding and concentrating cervids and Chronic Wasting Disease and other infectious diseases. The BTNF made a decision in 2008 to re-permit elk feedgrounds that was arbitrarily in opposition to the counsel of disease experts, a violation of agency discretion. Examples follow of some expert reviews and recommendations that the BTNF continues to ignore.

In the November 2002 “Review of Chronic Wasting Disease Management Policies and Programs in Colorado” report by “an external review panel”, page 11:

Implemented or proposed management strategies include:

-regulations to prevent feeding and baiting of cervids: This is a reasonable approach for reducing contact among potentially infected and susceptible animals and the potential for environmental contamination and should be enforced. Feeding also might artificially increase population density. The Colorado Division of Wildlife or private parties should not use feeding as a management strategy in severe winters.

In the February 2003 “Chronic Wasting Disease and the Science in support of the Ban on Baiting and Feeding Deer” by Timothy R. Van Deelen, PhD, of the Wisconsin Department of Natural Resources Research it notes:

*In a review of the technical literature on CWD by the top CWD specialists in the world . . .
“Concentrating deer and elk in captivity or by artificial feed probably increase the likelihood of direct and indirect transmission between individuals. . . . (Williams et al. 2002, p. 557)*

Several other experts who point out the higher risks of CWD in concentrated cervids are quoted by Dr. Van Deelen in his report.

In the July 2004 “Chronic Wasting Disease in Canadian Wildlife: An Expert Opinion on the Epidemiology and Risks to Wild Deer Prepared by: Expert Scientific Panel on Chronic Wasting Disease”, the experts recommend on page 21 at **B: Management of free-living cervids**

1. Develop and implement policies to minimize artificial aggregations of free-living cervids to reduce transmission of CWD. Actions should include:

- *Prevent access to hay stacks, salt blocks, and artificial water sources by wildlife in high risk areas.*
- *Ban baiting or artificial feeding for cervids in high risk areas.*

In the 2010 Boston College Environmental Affairs Law Review article, "Trampling the Public Trust" by Debra L. Donahue, she notes, "*Experts agree that CWD cannot be eradicated, yet it may be possible to slow and perhaps interrupt its spread. Thus the emphasis should be placed on preventing (CWD) from becoming established in naïve cervid populations.*" *Reducing animal density by banning supplemental feeding is among the experts' top recommendations.*" (Donahue, 2010, p.285, citing Sigurdson 2008, Peterson [in quotes], 2003, Williams, et al, 2002, and Smith 2001.)

The BTNF should also know that at the section on **Resources: CWD Experts** on the CWD website <http://www.cwd-info.org/index.php/fuseaction/resources.experts> (last viewed 5-18-13) out of one dozen experts listed, **no employee of the Wyoming Game and Fish Department or Commission is on the list.**

Among the biggest errors and assumptions made by the BTNF in this DSEIS is to state, "(P)reliminary evidence in captive elk suggests that elk can maintain very high prevalences of CWD without a concomitant population decline if allowed to reproduce. (Kreeger, unpubl. data.)" (DSEIS:97) This one alleged study, conducted in the WGFD's own facility, and which is *unpublished* by a now retired Wyoming Game and Fish Department employee is used by the BTNF to counter all the expert reports concerning actual and anticipated effects of CWD on cervids available by reputable scientists some of which reports have been supplied to the BTNF or referenced in comments submitted by the Greater Yellowstone Coalition. How is the public to access such a remarkable finding of the WGFD if it is "unpublished"? Furthermore, how is such an alleged finding applicable to wild elk? As Bruce Smith, PhD, says in his book, *Where Elk Roam*, "animals debilitated by CWD would quickly be culled by large carnivores- an elegant natural check on the spread of disease. . . . packs of gray wolves chase and single out disadvantaged prey, what David Mech and other wolf biologists called the "sanitation effect" of predation." (Smith, 2012: 113) However, Smith offers a sobering assessment of outcomes when elk are concentrated on feedgrounds: "For the overstuffed numbers of elk on feedgrounds, however, there may be too few wolves to keep pace with disease epizootics." (Ibid) Rather than allow the WGFD to select the science and the reports to only suit their narrow purpose, in this case to perpetuate elk feedgrounds, the BTNF must incorporate the best available science in this analysis. This EIS fails on these accounts. In the closing remarks at the 2009 International Chronic Wasting Disease Symposium in Park City, Utah, Bryan Richards of the USGS characterized Wyoming's approach to CWD as the worst case scenario. "CWD affected wild animals have holes in their brains- how good can they take care of themselves and their offspring?" (L.Dorsey, 2009, personal notes from the Symposium)

The BTNF errs when it states, "model predictions of CWD leading to declining abundance, or even local extinction have not occurred anywhere in free-ranging cervid populations (Peterson 2005)." This information is now known not to be true. "In 2010, 48 percent of the hunter-harvested mule deer in this (Converse County) herd tested positive for CWD. While the herd has decreased by more than 50 percent over the past 10 years, CWD prevalence has continued to increase each year." (Glenrock Independent, 3-31-11, parenthesis added) **See also the graph and chart below from the 2011 WGFD Casper Region Mule Deer Job Completion Report, p. 180.** Smith also describes a "twenty-year population decline of deer" in a mule deer herd near Boulder, Colorado affected by CWD. (Smith, 2012: 113) Despite the BTNF's assertion otherwise, herds of cervids have declined with high prevalence of CWD.

Figure 11. CWD surveillance in hunter-harvested mule deer in the South Converse Herd Unit, 2001-2011.

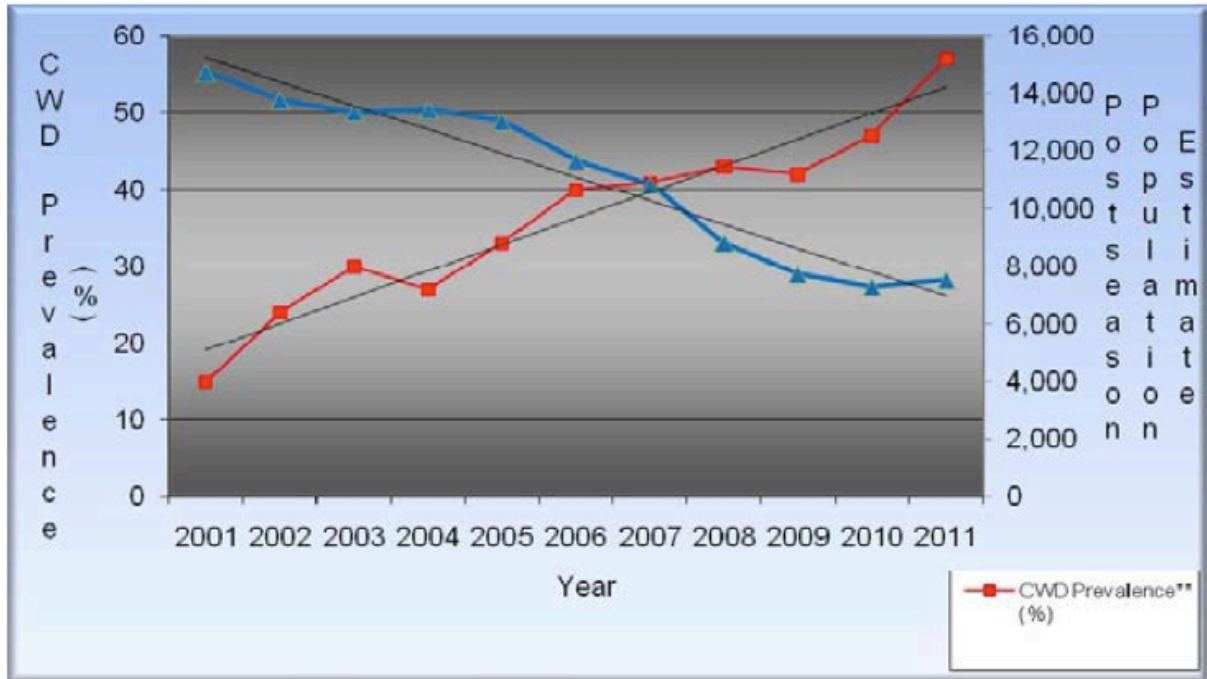


Table 4. CWD surveillance in hunter-harvested mule deer in the South Converse Herd Unit, 2001 – 2011.

Year	Number Tested	Number Positive	CWD Prevalence Rate
2001	81	12	15%
2002	98	23	24%
2003	155	46	30%
2004	52	14	27%
2005	88	29	33%
2006	81	32	40%
2007	74	30	41%
2008	44	19	43%
2009	48	20	42%
2010	42	20	47%
2011	35	20	57%
TOTAL	798	265	33%

The BTNF concludes their discussion of CWD with, "there appears to be little that wildlife management agencies can do to prevent this." (DSEIS:97) They further err on an order of the highest magnitude imaginable when the BTNF concludes, "There are currently no empirical data to support the contention that CWD in elk utilizing winter feedgrounds will result in catastrophic, even observable, population declines." (DSEIS:98) The BTNF errs because they ignore virtually all CWD expert reports, they ignore game farm examples, and they ignore expert opinion. All expert reports recommend to all

wildlife management agencies that feeding and baiting not occur. Some of the expert panels recommend allowing predators to range where vulnerable prey range in order to keep numbers of vulnerable cervids at a healthy level and to remove compromised individuals.

Should the BTNF decide to permit any elk feedground(s) as a result of this EIS which uses the inaccurate interpretations and inappropriate reports, i.e., bad science, such an action is arbitrary and capricious. Such an action would also be mismanagement of the public's resources and a betrayal of the public's trust to manage wildlife, habitat and Forest Service lands using the best information available.

An obvious problem with the BTNF relying so heavily on the Wyoming Game and Fish Department (see our comments on the ID Team) is that the WGFD rationalizes away the science and the recommendations from renowned experts by claiming there's no other way than winter feedgrounds to manage elk in western Wyoming for a variety of alleged ecological and political reasons that don't really- to any third party perspective- stand up to scrutiny. For example, as we pointed out above, despite claims that sufficient winter range isn't available to elk in western Wyoming ("Much of the native winter range for elk is not located on the National Forest, and is not available due to development and agriculture." SDEIS:10) the BTNF should know well that there is *plenty* of winter range on USFS in the Gros Ventre Valley to winter thousands of big game animals because the WGFD Jackson Elk Herd Unit (E-102) Brucellosis Management Action Plan Updated April 2011 displays a map of the winter range on page 3 at **Figure 2. Currently delineated seasonal elk range and feedgrounds within the JEH.** The BTNF knows that the expansive polygons on the map titled "Crucial Winter" and "Winter" are virtually entirely on USFS land. The BTNF only has to peruse other GIS maps of winter range and notice how much exist on USFS or BLM lands to realize the WGFD's lament about a dearth of winter range is false. The designated winter range in the Gros Ventre Valley, to continue the one example, is approximately 100,000-acres. See the photo below of a sign on the BTNF in the Gros Ventre Valley announcing big game winter range.



Critical Wildlife Winter Range sign in the Gros Ventre Valley. L. Dorsey

Another canard expressed in the DSEIS is that "Habitat improvement projects cannot compensate for the loss of native winter range in the short-term and would not affect the current needs for supplemental feeding." (DSEIS:9) Since whether to issue a feedground permit at Alkali Creek is at issue in this DSEIS, the Gros Ventre Valley is again an appropriate context in which to consider whether habitat improvement is effective at improving and maintaining elk winter range and whether there is enough forage for elk and other big game. The BTNF knows well that it has led the effort to manage wildfire for resource benefits when possible for decades in the Gros Ventre Valley, and it implements Jackson Interagency Habitat Initiative (JIHI) prescribed fires on large areas in the Gros Ventre Valley on and adjacent to elk winter range. These actions improve the forage quality on winter range. The BTNF has also implemented travel management for summer, fall and winter/spring motorized and non-motorized human travel on winter ranges in the Gros Ventre, with most of the expansive designated winter range closed to all human entry during the winter months, and summer/fall motorized travel managed so as to minimize erosion, disruption to wildlife and other harm to habitat. The BTNF participates in weed control on Gros Ventre Valley elk winter ranges. The BTNF manages cattle grazing on USFS winter ranges and, in fact, in 2007 received a permit waived back to the B-T from the permittee on the Fish Creek/Bacon Creek Allotment which vacated 178,000-acres of USFS from cattle. 59,000 acres of that very area is designated by the BTNF as a "Big Game Winter Forage Allotment". All these management actions (fire, travel management, grazing, and weeds) affect the quality and quantity of winter range available to big game. The BTNF should know that there is *plenty* of winter range in the Gros Ventre Valley to roam and feed upon by thousands of elk and other big game. They err- indeed they mislead the public- in the DSEIS when they indicate on page 9 that there is still the "need()" for supplemental feeding". There is not.

Rather than mistakenly deferring to another agency, the BTNF can certainly conduct its own carrying capacity analysis for available public lands winter ranges near or reachable by wintering elk. Despite off loading the responsibility for using or creating appropriate science far too often by referring to the Memorandum of Understanding with the WGFC, 00-MU-11020000-052, in the DSEIS, the BTNF obviously has the professional expertise among existing staff if the listing of the ID Team on page 153 is any indication. Listed are no less than 2 wildlife biologists employed the USFS, plus a Soils Scientist, a Hydrologist, a Botanist, a Natural Resource Manager-Recreation/Wilderness staffer and others with the expertise, one would assume, needed to assess the big game carrying capacity of habitat. If those personnel are not sufficient the BTNF may be able to consult with other independent or agency personnel to assist.

Fortunately, the BTNF does not have to abide by the WGFD's rationale to maintain elk feedgrounds because the BTNF retains authority over USFS land and must manage according to law and science. The obvious exclusion by the BTNF of recognized disease experts and the astonishing de facto reliance on whatever the WGFD says, reports or wants is arbitrary on the part of the BTNF. A decision to issue to the WGFD long term permits to operate the elk feedgrounds would be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" (5 USC 706(2)(A)).

13. Conservation of Aspen

Aspen are considered a Management Indicator Species (MIS) on the Bridger-Teton National Forest (Figure 10, p.42), and the BTNF is required to protect aspen.

Forest-wide Resource Management Prescriptions, Standards, and Guidelines: (LRMP: 121) "Aspen Management Guideline: Aspen sites should be managed for aspen-type perpetuation. The loss of aspen stands due to old age, conifer encroachment, and possible overgrazing should be prevented. Priority areas for aspen treatment should be big-game winter ranges, calving areas, and stands where type loss or conversion is imminent." (BTNF 1990 LRMP: 132)

Despite the requirement to protect aspen that is listed several times in the 1990 BTNF LRMP, the operation of elk feedgrounds has harmed and virtually eliminated younger aged class aspen from a broad area.

"Shrubs . . . and trees . . . of greater palatability are often stunted or killed from intense browsing and trampling." (DSEIS:35)

"Field study indicates that there is "low regeneration (of aspen)" two kilometers and less from the Alkali Feedground area. " (DSEIS:37)

"In the immediate area where feeding takes place more stems are browsed than are grown anew each year and the aspen are thus dying back. (WGFD 2011)" (DSEIS: 45)

If no feedground is operated at Alkali Creek, "vegetation would increase in diversity and shrub densities." (DSEIS: 48) If no feeding were to occur at Alkali Creek "the elk herd would likely continue to move around the Gros Ventre area responding to wolf pressure and feeding." There would thus be an increase in elk mobility.

It is the policy of the BTNF that they are to implement "suppression of natural fire in the vicinity of feedgrounds." (DSEIS: 45) "Aspen is also in decline due in part to fire suppression in the past. " If no feeding at Alkali Creek, and the infrastructure removed, it would "increase the chances that a naturally occurring wildfire would be allowed to run its course on National Forest System land at Alkali Creek feedground and in the area as a whole." (DSEIS: 50) Allowing a more natural fire regime would benefit aspen and other plants that evolved with fire, but how telling and unfortunate that while describing an area where feeding no longer takes place and structures removed, the BTNF still calls the area a "feedground".

"(A)spen are dying back (as a result of feeding operations), which is contrary to the Aspen Management Guideline in the BTNF LRMP which says that aspen should be sustained. Elimination of elk management activities at Alkali Creek feedground would improve aspen health and be consistent with the Aspen Management Guideline. " (DSEIS:51 parentheses added)

The DSEIS errs when the map on page 34, Figure 7: Distribution of Certain Vegetation Types within the Analysis Area does *not* indicate the aspen stands at FS Road 30400 (aka, the Gros Ventre Road) above and below where it crosses Alkali Creek. We include a photo of a portion of those aspen stands in these comments. Because of such errors, the DSEIS further errs when it lists the acreage of aspen in the corridor analysis area as only 642 acres. (Table 8, p. 43) The DSEIS says that 388 acres of aspen are affected by excessive elk browsing, but it errs by omission when it fails to describe additional acreage similarly affected outside Wilderness. For example, the aspen stands, such as remain, in the Alkali Creek bottom near the Forest Road 30400 are severely harmed by maintaining excessive numbers of elk during winter nearby, as are aspen stands both east and west of the site of the elk feedground.



Overbrowsed aspen and other plants at Alkali Creek along FS Road 30400. L. Dorsey, 5-5-13

The BTNF offers a specious argument when it makes a case for more elk feedgrounds being ecologically beneficial compared to fewer elk feedgrounds. "The concentration of elk between the three feedgrounds and the cessation or lessening of downstream migration would reduce the number of acres of aspen that are subject to elk browse." (DSEIS: 53) This is hardly true. Allowing elk to range free in accordance with the carrying capacity of the available habitat is the healthiest model that the BTNF must ascribe to and, just as elk and aspen evolved together, allow both species to prosper. The scope of analysis and focus should not be so narrow that alleged benefits of more feedlots versus fewer is an actual standard used by the BTNF. Impacts arising from the operation of elk feedgrounds radiate outward across vast landscapes which can be very far from the actual feedlot sites. Furthermore, such a limited scope does not follow the BTNF Vision Statement nor their Mission Statement (below) to manage for "world-class wildlife" and use "progressive leadership in natural resource management". USFS management using elk feedgrounds just doesn't fit or follow from these statements.

14. Management Indicator Species

Not issuing a permit to feed elk at Alkali Creek "would have a long term **"beneficial impact"** on Snake River cutthroat trout (Forest Service Sensitive Species and MIS) and rainbow trout (MIS). (DSEIS:72 parentheses and emphasis in original)

After removing the structures under Alternative 1, "there is the possibility of long term cumulative very minor positive effects (on amphibians) due to no possibility of disturbing hibernating amphibians in the feedground area." (Ibid, parenthesis added)

"Alternative 1 would have a **"beneficial impact"** for boreal toads." (Ibid:73, emphasis in original)

"The effects of operating the Alkali Creek feedground with its associated buildings combined with no-winter activities including livestock grazing, vehicular use on roads, off road vehicle use, recreation trails, wildlife and livestock trailing, and dispersed camping have an adverse cumulative impact to amphibian habitat." (Ibid:74) Both winter elk herbivory and summer cattle herbivory reduces aspen regeneration and removes vegetative cover which adversely affects spotted, boreal and chorus frogs, and boreal toads. (Ibid:74-75 citing Patla 2001 and Barlet 2000 for boreal toad only).

To best conserve amphibians and native cutthroat trout, the BTNF must phase out the Alkali Creek feedground.

15. Wilderness

Alkali Creek Elk Feedground is directly adjacent to the Gros Ventre Wilderness and, in fact, "approximately 3,000 feet of the feedground boundary is concurrent with the Wilderness boundary." (DSEIS: 138) The operation of a feedground at Alkali Creek has unquestionably affected Wilderness qualities and characteristics in the Gros Ventre Wilderness in violation of the 1964 Wilderness Preservation System Act and the 1985 Wyoming Wilderness Act. As we wrote in 2008 we also include in these comments:

The BTNF also has the affirmative responsibility to protect forest resources within designated Wilderness and Wilderness Study Areas. Section 4(b) of The Wilderness Act mandates that the USFS protect the wilderness character of Wilderness. As for DFC 6B, C, and D, the BTNF may not permit elk feedgrounds or facilities on USFS land adjacent to or in proximity to Wilderness or Wilderness Study Areas that adversely affect the Wilderness qualities in those Wilderness areas as expressed in the Wilderness Act and the LRMP. Courts have shown that Congressional intent and requirements for protection of Wilderness qualities is not intended to be discretionary as to allow the USFS to pick and choose whether to fulfill their duties or not. Unnaturally dense concentrations of elk - many of which are diseased as a result of congregating on feedgrounds - and harmed vegetation communities do not "protect or perpetuate natural biophysical conditions" as is required in the Forest Plan. Unnaturally dense concentrations of brucellosis-exposed or -infected elk associated with and caused by feedgrounds are not representative of natural population levels and distributions "affected by natural processes" as is mandated in the Forest Plan for DFC 6. Hundreds or thousands of elk loafing or milling about in dense groups on USFS lands after being fed baled hay are not examples of "Natural agents of ecological change operating freely," nor are aspen stands that have been "over-browsed and debarked" to death. This all occurs within the Gros Ventre Wilderness and will occur to a greater extent if Yellowjacket Flat is turned into an elk feedground. Prescriptions, Standards, and Guidelines, for some areas of the BTNF may not be the same as those mandated for Wilderness; but Congress has been clear that designated Wilderness shall be managed to certain standards. The Wilderness Act requires the Forest Service to administer Wilderness Areas so they are "unimpaired for future use and enjoyment as wilderness." 16 U.S.C. § 1131(a). If degraded conditions arising from elk feedgrounds exist in the Palisades WSA, the same protective Prescriptions, Standards, and Guidelines apply for the Gros Ventre Wilderness and the BTNF may not permit any feedground that causes noncompliances with the LRMP or other legal directives.

The BTNF Forest Plan is also clear that certain standards that perpetuate "natural biophysical conditions" are required for Wilderness. It is also clear that actions that "tend to alter the natural behavior of wildlife" are prohibited by visitors and presumably by agencies as well. Therefore the BTNF may not continue to permit the Alkali elk feedground, or any elk feedground, () . . . whose operations would cause management of forest resources- including wildlife and habitat- to fall short of the Wilderness Standards, Guidelines, and Prescriptions. (NGO DEIS comments 2008: 23-24; the inclusion of Yellowjacket Flat and Palisades WSA is not germane to this DSEIS)

If "a Term Special Use Permit would not be issued to the WGFC for use of the Alkali Creek feedground with the exception of the two feedgrounds in the upper Gros Ventre, elk would likely be more widely dispersed across crucial winter range and would likely spend less time in one location, thus the browsing effects on vegetation would be reduced. . . . Less browsing of herbaceous plants and aspen saplings on winter range in the Alkali Creek area would allow more aspen stems to grow to their full height potential. This would improve natural conditions in the Wilderness immediately adjacent to the feedground." (DSEIS: 143) We agree that if no feedground were allowed at Alkali Creek it would improve conditions in the Gros Ventre Wilderness in that area.

The BTNF errs when it determines that the effects to aspen in Wilderness from decades of browsing elk "is within acceptable limits considering the overall natural quality of Wilderness." (DSEIS: 145) "Aspen is persisting as part of the plant community, even within the feedground, despite 42 years of elk browsing (WGFD 2007). How could aspen "persist" in or around the elk feedground, Wilderness or not, if it's been determined by the BTNF that there are zero new shoots of aspen to survive elk browsing within a large radius from the feedground? "Aspen are thus dying back." (DSEIS: 45) Is a "dying" plant community considered "persisting" by the BTNF and therefore these are acceptable consequences inside and outside of Wilderness of feeding elk? This is an arbitrary determination by the BTNF and does not serve the public's interest that, in the case of aspen, is better served by conserving aspen on all parts of the BTNF where they can naturally grow.

Furthermore, the standard of protection of Wilderness characteristics is determined by Congress, not the BTNF. "(T)he balancing of competing interests . . . (is) not the governing standards under the Wyoming Wilderness Act. Instead, Congress has directed the Forest Service to maintain the 1984 wilderness character of the area. That is the primary duty of the Forest Service, and it must guide all decisions as the first and foremost standard of review for any proposed action." (GYC et al. v. CTNF and BTNF Supervisors, decision by Hon. Judge B. Lynn Winmill, Nov 21, 2006: p. 15)

Despite the fact that excessive browsing by elk promulgated by permitting and operating a winter feedground above Alkali Creek has cause the "dying back" of aspen communities inside and outside Wilderness, the BTNF concludes that that is alright because "Aspen is persisting as part of the plant community" and "there is no evidence that the presence of the feedground is altering the natural disturbance processes that shape plant communities at a landscape scale." (DSEIS: 145) The BTNF is once again using faulty reasoning to justify issuing Special Use Permits. Unfortunately, when aspen are essentially non-functional and "dying back" due to elk browsing that is certainly an interruption of natural processes at the scale of the aspen clone and the hundreds of acres radiating outward from the feeding site that are affected. This is the same creative reasoning and rationalization that was found to be faulty in the case cited above when the BTNF tried to rationalize an increase in heli-skiing in the Palisades WSA. The court disagreed that the BTNF had the choice to determine what scale permitted activities within Congressionally protected areas was appropriate; the BTNF does not have the discretion to pick and choose whether to fulfill their duties or not. Congress had already directed the USFS to maintain wilderness characteristics present upon passage of the 1984 act, and arbitrary boundaries or contexts were not available to the BTNF. Also required by the 1964 Wilderness Act is the restoration of wilderness characteristics where possible in designated Wilderness, which is very possible here.

The evidence of elk browsing to the extent that it functionally eliminates aspen clones and other important plants across a wide swath should be evidence enough to the BTNF that their stewardship of any National Forest land and a Wilderness in particular falls *far* short of protecting and managing "so as to preserve its natural conditions." (DSEIS: 144 citing Sec 2a and 2b of The Wilderness Act.) In addition, thousands of elk concentrated in greater densities due to the proximity of elk feedgrounds "are not representative of natural populations levels and distributions "affected by natural processes" as is mandated by the Forest Plan for DFC 6. Hundreds or thousands of elk loafing or milling about in dense groups on USFS lands after being fed baled hay are not examples of "natural agents of ecological change operating freely," required in the Forest Plan." (NGO DEIS 2008 comments: 23-24) The operation of an elk feedground that results in such extensive damage violates the 1964 Wilderness Act, the 1984 Wilderness Act and the National Forest Management Act.

16. Wetlands

The Alkali Creek area contains wetlands (DSEIS:61) that are adversely affected by feeding elk. "If the Alkali Creek feedground was no longer authorized, an improvement in riparian vegetation would occur on a 1.2 acre portion of the site that is currently trampled during times when wetlands have bare soil exposed, (Ibid:64). "Cumulative impacts by cattle as seen in the feedground via the copious amounts of cattle feces and apparent grazing in the vicinity of remnant hay bales and around

the hay barns would be reduced by implementation of the No Action alternative." (Ibid:65) "Under this alternative, WGFC would rehabilitate impacts at the Alkali Creek feedground site. (Ibid:64) Not issuing a permit to feed elk at Alkali Creek "would comply with all pertinent laws, regulations, policies, and plans described in the *Hydrology Resources Specialist Report*. It would protect water quality, wetlands, and riparian vegetative communities." (Ibid:66) Issuing a permit to feed elk at Alkali Creek would result in "adverse impacts greater than under Alternative 1," because of concentrated use by elk and cattle. (Ibid:67) To protect wetlands and comply with law, the BTNF cannot issue a permit to feed elk at Alkali Creek.

The DSEIS indicates that some "rare" cattle use of the "Winter Range Forage Reserve allotment" occurs (DSEIS:65) and that if a permit to feed elk at Alkali Creek occurs, "cumulative impacts on the Winter Range Forage Reserve allotment from livestock use would be minor." (Ibid:67) The BTNF should explain to the public what temporal period, frequency, and numbers and types of livestock this use consists of. The public went to great effort and financial cost to enable the permittee to waive their grazing permit in this area back to the USFS in 2007 and, to the best of our understanding, no permitted use of this area is currently allowed.

17. Gray Wolf

The DSEIS concludes that it will be beneficial to gray wolves to permit the Alkali Creek feedground. (DSEIS: Exec Summary vii; 129 and elsewhere). We disagree. The BTNF actually tries to make the case that "stabilizing prey" and keeping elk from "traveling to the National Elk Refuge" is somehow beneficial to wolves (Ibid). Shockingly, the BTNF asserts that concentrating elk onto feedgrounds and amplifying diseases such as CWD could be beneficial to wolves in the short term: "To the extent that it contributes to the establishment and continuance of new mortality agents such as chronic wasting disease, winter management at Alkali Creek would likely carry short-term benefits to wolves by increasing prey vulnerability." It's astonishing that the BTNF could put such a management scheme in positive terms, to knowingly and purposefully increase the prevalence of a deadly disease in a prey species could be considered good for the predator. (Ibid:130) Elsewhere in our comments we question the BTNF's assertion that elk will abandon the Gros Ventre Valley in part or en masse and go to the Elk Refuge. In addition, our May 18, 2012 scoping comments pointed out that elk feedgrounds have been and may be in the future localized areas where people consistently kill wolves:

The BTNF has a duty to manage conditions on the Forest to conserve and allow wolves to naturally disperse on the landscape. The Federal Land Policy and Management Act of 1976 declares that the policy of the United States is that (USFS) lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values. Where appropriate these (USFS) lands will be preserved and protected in their natural condition. (43 U.S.C. 1701 emphasis added). There is nothing natural about elk feedgrounds and the BTNF permitting of elk feedgrounds creates long-term risk of catastrophic disease harming the primary prey source of this keystone species.

*Wolves play an important role in elk ecology as well as a natural buffer to disease, crowding, over-browsing, and other negative impacts of elk feedgrounds. By reducing prey numbers, dispersing these animals on the landscape, and removing sick animals, wolves may reduce the transmission and prevalence of wildlife diseases such as chronic wasting disease and brucellosis (Smith 2005.) Recent research has modeled how the presence of wolves may be considered an effective measure for controlling CWD. The authors of a recent paper published in *Journal of Wildlife Diseases* concluded that wolf predation may be a useful tool for management of CWD and that the absence of large predators presents an amplification risk factor for establishment of CWD. (Wild et al 2011)*

Even more concerning is that the BTNF would consider permitting elk feedgrounds and their associated management activities carte blanche. The Wyoming Game and Fish Department has

direction per their Final Gray Wolf Management Plan (http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/WOLF_MANAGEMENT_PLAN_FINAL0000348.pdf Page(s): 32-39) and Wyoming State Statutes to lethally control wolves for the interactions that occur at winter elk feedgrounds.

Wyoming's Chapter 11 regulations state:

(c) Gray wolves may be lethally removed when the Department determines that gray wolf predation is causing having an unacceptable impact on a wild ungulate population or herd or when gray wolf-wild ungulate conflict has occurred is occurring at any State operated elk feedground.

(i) A gray wolf-wild ungulate conflict has occurred at a state operated elk feedground when a gray wolf or wolves displace elk from a feedground and it results in one of the following conflicts:

(A) Damage to private stored crops by displaced elk; or,

(B) Elk co-mingling with domestic livestock; or,

(C) Displacement of elk from a feedground onto a highway right of way causing human safety concerns.

Further WGFD specifically cites Alkali feedground as a location that there will be anticipated conflicts with wolves causing elk damage to stored hay or cattle feedlines and brucellosis transmission to livestock, as well as elk crowding, brucellosis, (and) hay supply issues (WGFD 2011, page 37). These conflicts would allow the WGFD, per their management plan, to lethally remove wolves through agency control efforts which may be precipitated through contract with Wildlife Services, involving helicopter gunning or other means.

A consequence of elk feeding is the indirect actions that will result in the lethal removal of a keystone species. Further these activities will impair wilderness character, Forest Plan standards, and Wild and Scenic values of forest lands as described elsewhere in these comments. The BTNF must disclose and analyze what permitted actions associated with elk feedgrounds would be allowed and fully analyze the impacts of wolf control actions on elk feedgrounds and surrounding winter-range closures. (GYC 2012 Scoping comments: 16-18)

The BTNF actually admits that "Wolves would continue to be attracted to the concentration of elk at the feedgrounds." (Ibid:122) Per the reasons given above, permitting the elk feedground at Alkali Creek cannot reasonably be interpreted as being beneficial to wolves.

18. Grizzly Bear

"Although grizzly bears have widely varied diets, in Yellowstone they feed heavily on four key foods: whitebark pine, Yellowstone cutthroat trout, Army cutworm moths, and ungulates." (Craighead, et al. 2005:8) "Elk that die on the feedground serve as attractants that potentially lead bears into conflict with feedground personnel." (DSEIS:117). "Should they become established, pathogens such as chronic wasting disease could affect numbers of elk, an important food source for grizzly bears (Mattson et al. 1991) in the Gros Ventre watershed in both short-term (less than 10 years) and long-term." (Ibid) "By concentrating animals, winter elk management at feedgrounds in the Gros Ventre watershed would contribute to new diseases such as chronic wasting disease becoming established and sustained in the Gros Ventre watershed and the region overall with the caveat that other feedgrounds would contribute to disease prevalence as well, regardless of management in the Gros Ventre watershed." (Ibid:114) We certainly agree with most of the preceding statement that feedgrounds contribute to diseases and

sustaining them, but the BTNF errs when it states that such will happen "regardless" of feedgrounds being in the Gros Ventre watershed. If the BTNF helps phase out feedgrounds, or even *one* feedground, in the Gros Ventre Valley that could be an important step in decreasing the *elevated* risk of wildlife diseases occurring and being amplified by feedgrounds in the region. The BTNF appears to dismiss the practicality, even the undeniable reality, of progressing towards a goal step by step and progressively managing for healthy natural resources. This is an arbitrary position adopted by the BTNF and does not offer the public any possible means to change or improve *any* management paradigm. How *else* do things improve other than in a step by step manner? Ending the elk feedground at Alkali Creek would have positive effects which could lead to more positive actions and effects.

Continuing to operate elk feedgrounds that increase the risk of harmful diseases among elk will result in adverse impacts to "an important food source for grizzly bears". (Ibid: 117) The BTNF can implement a far better management paradigm for predators and prey alike by not permitting a feedground at Alkali Creek.

19. Canada lynx

Canada lynx are listed as Threatened and protected under the Endangered Species Act. (DSEIS:81) "The Alkali Creek feedground occurs in the 62,534 acre Upper Gros Ventre North LAU (Lynx Analysis Unit). Mapped lynx habitat in this LAU totals 54,274 acres . . ." (Ibid, parenthesis added) Some, 27%, of the lynx habitat is unsuitable condition due to the Red Rocks and Grey Hills fires in 2011. (Ibid) The DSEIS errs on page 81 when it states "the Gros Ventre watershed provides little habitat" for Canada lynx. "Conifer and aspen stands south (upslope) of the feedground, including the analysis area, provide habitat for lynx." (Ibid:82, parenthesis in original) Furthermore, "counts of snowshoe hare fecal pellets on one square mile plots east of the Alkali Creek feedground (Upper Gros Ventre Slide and vicinity) during 2009 were moderate to high . . ." (Ibid).

The BTNF may not permit activities that harm Canada lynx or their habitats.

20. Prohibit S-19 vaccinations of elk

Our May 2012 scoping comments apply here as well.

Strain 19 vaccinations of elk against brucellosis are not effective. The WGFD has suspected this since brucellosis seroprevalence in elk on the Greys River feedground increased around the year 2000 despite their having vaccinated elk there since 1985. The data is now conclusive. "Brucellosis seroprevalence data from Dell Creek and Grey's River feedground elk indicate no significant difference, no downward trend . . ." (WGFD 2011) The WGFD has never vaccinated elk at Dell Creek, they've vaccinated at Grey's River since 1985, and *data shows no statistically significant difference in seroprevalence between the two after 27 years.*

"(F)eedgrounds provide the only opportunity to effectively vaccinate elk . . ." (DEIS 2008: Appended: Elk Feedgrounds in Wyoming [WGFD 2004] p.10). Obviously the WGFD uses the excuse- and the BTNF has allowed them to do so- that it's easier to vaccinate elk as one of the reasons to have feedgrounds. The elk are clustered together and easy to shoot with a biobullet. Yet, now, the WGFD admits that the Stain 19 vaccine isn't effective. Therefore, the BTNF should not enable a harmful practice on USFS land, densely concentrated elk feedgrounds, to take place since the reasons for feedgrounds, including keeping elk away from livestock and vaccinating elk against brucellosis are no longer purposeful. The livestock in the Gros Ventre Valley can do just fine on private lands behind elk-proof fences and the vaccination program isn't effective. Indeed the elk contract and maintain brucellosis by being densely concentrated and have lower seroprevalence in western Wyoming when allowed to free range. Therefore feedgrounds are clearly not needed. The BTNF must consider this information in a new SEIS and make a reasonable decision based on the best available science. (GYC Scoping comments May 2012: 22-23)

The appended 2004 WGFD Elk Feedgrounds in Wyoming claims, *"The strain 19 vaccine is designed to prevent abortion, but not infection by field strain Brucella. . . . Even though the strain 19 vaccine is not 100% effective, vaccinating all the calves over several years develops a "herd immunity", which is effectively higher than a single year's 30% efficacy."* (p. 16) The WGFD is being less than forthcoming about the intended goal of their strain 19 vaccination program because the only field indicator that infectious abortions are actually reduced in feedground elk as a result of their vaccination program is to do serology on successive generations of elk over the years to see if a lowering of seroprevalence has indeed occurred and if it may be attributable to their decades-long vaccination program. As is very explicitly indicated in *their own 2011 assessment of their own program* above, there is no lowering of the seroprevalence for exposure to brucellosis in feedground elk vaccinated with strain 19 and therefore infectious abortions must not have been reduced. Therefore, after 27 years, the program is ineffective. Given that the S-19 Vaccination program necessitates clustering elk together for weeks, at least, during winter and shooting them with a biobullet with live infectious bacteria inside, the BTNF must not allow this program to occur on USFS land.

21. Impacts to Mule deer, Moose

The DSEIS indicates that if the BTNF permits the feedground at Alkali Creek there will be adverse impacts to mule deer and moose because permitting the elk feedground at Alkali Creek, "contributes negatively toward achieving the herd objectives because it creates less favorable habitat conditions (less woody browse) for the two species near the feedground." (DSEIS: Exec Summary vii) The BTNF should acknowledge that additional impacts of elk feedgrounds to mule deer and moose, both cervids, would also be the eventual amplification of CWD should the elk be concentrated on feedgrounds during winter, acquire the deadly CWD in greater prevalence than in wild free-ranging elk, and then spread the disease throughout the landscape in greater prevalence than by herds not concentrated for several months on winter feedgrounds.

22. Climate Change

We repeat here some of our May 2012 scoping comments about the need for the BTNF to consider Climate Change:

Wyoming is experiencing significant climate change in the form of unusually warm years since 1978. "The frequent warm years coincide with a reduction in the frequency of extremely low (<-20 degrees C) January temperatures . . ." (Shuman 2011) It's clear that climate change is affecting the natural ecosystems in Wyoming.

It's also clear that wildlife are affected by changes in climate. "The ecology of ungulates in the (Rocky Mountains and Upper Columbia Basin) is strongly influenced by climate." (NPS 2010:48) "One of the key issues for ungulate management is wildlife disease, the spread and virulence of which is likely to be exacerbated by climate change (Harvell 2002)." (Ibid) It is known that elk feedgrounds exacerbate the incidence of diseases in elk. (Smith 2005, Peterson 2005) "Climate change will likely increase the range, frequency, severity, and impact of plant and wildlife disease (Harvell et al 2002)." (NPS 2010:17) "Plant communities and wildlife that are faced with multiple stressors are the least likely to resist the emergence of novel diseases." (Ibid) Therefore the practical thing to relieve or mitigate a stressor on elk is to allow them to range free on native range, rather than be lured in and confined on unhealthy feedgrounds during winter. The BTNF should not make decisions that are in place for the next 20 years, like permitting elk feedgrounds, without considering climate change and implementing other less harmful alternatives.

The best thing that the BTNF can do for elk and other wildlife in the face of climate change is to allow the wildlife access to needed habitats. "Species that are mobile, genetically diverse, show

wide physiological tolerances, and have generalist diets will respond the most positively (to climate change).” (NPS 2010:50) The worst thing the BTNF can do is to confine elk on to unhealthy feedgrounds during winter. The best science available indicates that free-ranging wildlife will do best in the face of climate change.

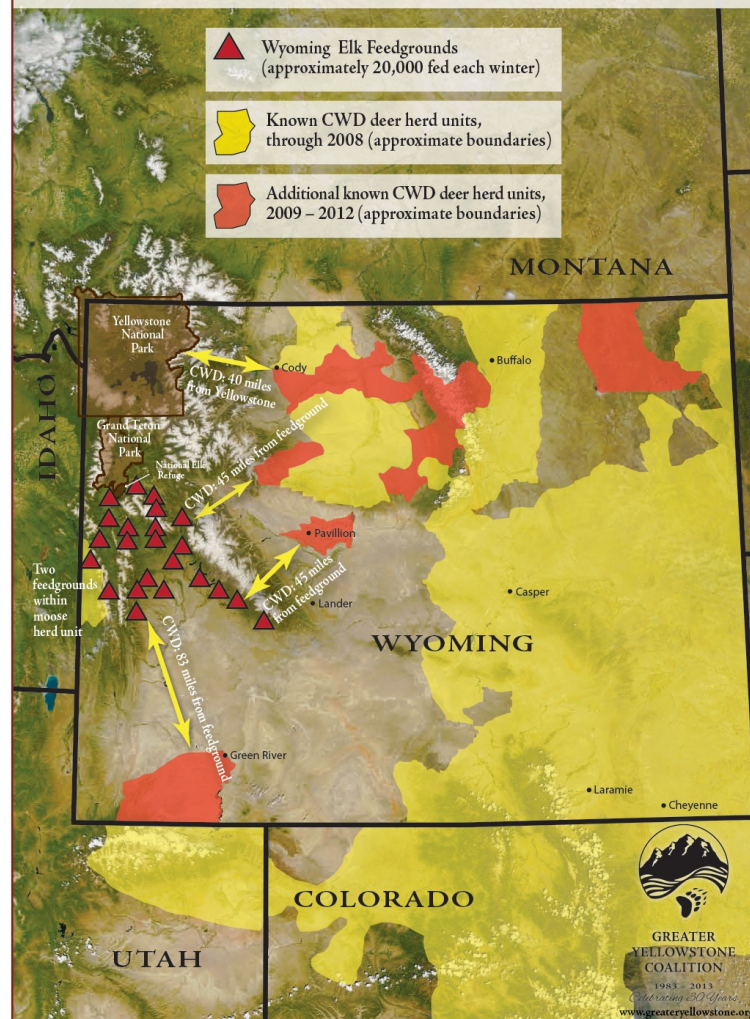
The BTNF admits that "winters will be shorter, spring will be wetter and summer and fall will be drier." And that the snowpack will "recede() earlier" in the springtime. (DSEIS: 148) Yet the BTNF appears to still accept that elk should be condemned to be baited and fed on elk feedgrounds even amidst the many thousands of acres of winter range producing millions of pounds of palatable forage in the Gros Ventre and in a milder climate that will make even more acres and more forage available to elk and other big game in the future. "The same amount of elk currently fed at three feedgrounds in the Gros Ventre would be fed at the two remaining feedgrounds, Patrol Cabin and Fish Creek." (Ibid) Since the BTNF manages the land at Fish Creek along the Gros Ventre River up valley from Alkali Creek, they can decline allowing elk to be fed anywhere on USFS land, especially during such comparatively milder climactic conditions and amidst bountiful winter ranges. (see our comments above on winter range.) Winters have gotten milder in this region and the BTNF, in passing, admits that "(s)ome changes are already apparent()" (Karl, et al. 2009; Harris et al 2006; Furniss et al 2010)". (Ibid) Why continue to feed?

Additionally, the BTNF admits that "the predicted warmer weather with less snow and more spring rain would improve natural forage opportunities for elk . . .". (Ibid: 149) But the BTNF continues to use the context of elk feedgrounds by saying such conditions would result only in "a *reduced* season for feeding at Alkali Creek" if they issue the permit to the WGFD. (Ibid, emphasis added) This is a mistaken context and only fits the preference of the proponent, the WGFC, which favors feeding of elk in western Wyoming above all other options. Yet, climatic conditions are already milder as the BTNF admits and the science shows. The climate will get even milder in the coming decades so, in the Gros Ventre Valley amidst vast winter ranges, wintering big game may have it even easier on native ranges. So it is obvious that feedgrounds do not need to be part of the equation for managing habitat and elk in this area. If the BTNF permits elk feedgrounds in the face of such information, such a decision would be arbitrary and capricious and a violation of agency discretion.

23. Additional concerns

The BTNF is evidently still relying on old information when it shows no more contemporary information on the known occurrence of Chronic Wasting Disease than is represented by the map contained in the 2004 Elk Feedgrounds in Wyoming by the WGFD, on page 10, Figure 2, Deer Hunt Areas with CWD. CWD has been tracked farther west towards the elk feedgrounds and exists in many more hunt areas than is represented by this map. We will insert in these comments a newer map, below, crafted by GYC with information up through 2012. The BTNF must use the best available information and science in order to take the hard look required by NEPA. It fails to do so concerning Chronic Wasting Disease.

CHRONIC WASTING DISEASE PROXIMITY TO ELK FEEDGROUNDS IN WYOMING



It is incorrect to state that elk feedgrounds "have become an effective tool in reducing damage to haystack yards and winter pastures on private lands," (DSEIS: 2), and "feedgrounds have been very effective in preventing elk depredating private crops," (Ibid: 5) The first statement (and perhaps the second since it follows a few pages later) is attributed to the WGFD 2007 report, but it is incorrect for the Gros Ventre Valley and probably elsewhere. Numerous elk have wintered away from the elk feedgrounds in the Gros Ventre Valley over the years and, because there are still a few private lands locations where hay is spread out for horses and cattle each winter's day and there are not elk-proof fences, free-ranging elk chronically come into the winter livestock feeding lines. The WGFD is repeatedly called out to address the conflict using a variety of labor intensive methods (e.g., repeated hazing with snowmachines and cracker shell guns), but the agencies and landowner still have not erected elk-proof fences around livestock feedlines which would, indeed, solve the comingling and damage problems. Just as livestock owners have done throughout the Rocky Mountains where elk free range. Despite the feedgrounds in the Gros Ventre Valley there are still these issues of damage and conflicts with area livestock. The BTNF has not done any analysis to determine whether there are fewer or more conflicts as a result of elk feedgrounds, nor whether a certain number of comingling events are better from a disease transmission risk than more or less than that number, therefore these statements are incorrect.

It is incorrect at DSEIS, page 5, that CWD exists in only 8 states and one Canadian province. It exists in up to 22 states and two Canadian provinces. (http://www.nwhc.usgs.gov/disease_information/chronic_wasting_disease/)

There is more current information on CWD in cervids in Wyoming than is indicated by the information on page 5 of this DSEIS. As we indicated above, as of late 2012 it is known that endemic CWD deer hunt areas are within 45 miles of elk feedgrounds in the Pavillion, Wyoming and Owl Creek Mountain areas of Wyoming. (<http://gf.state.wy.us/web2011/wildlife-1000284.aspx> viewed in May 2013; and GYC CWD map, revised May 2013) This disease now exists in areas where elk from feedground herds and deer from the endemic areas mix at various times of the year in the same areas. The BTNF used old no longer accurate information in this DSEIS and needs to update the information about CWD to comply with their legal directives.

The map, Existing Feedground Locations in the Vicinity of Alkali Creek, Figure 3, DSEIS: 13, shows the Gros Ventre Valley, but does not indicate a very important feature: big game winter ranges. Neither does the map, Corridor Analysis Area Boundary, DESIS: 26. Since the best alternative to elk feedgrounds is winter range (see our comments above) the BTNF curiously omits this feature on these maps. The BTNF claims there is no winter range available to elk in this area, but as our comments prove, there is ample winter range to sustain thousands of free-range elk.

The BTNF claims incorrectly, "The conclusions (in this DSEIS) are based on the scientific analysis that shows a thorough review of relevant scientific information." (DSEIS: 27, parentheses added) As we have shown repeatedly in these comments and others we have submitted to the BTNF, the BTNF has consistently ignored relevant science. See our comments above and throughout. The DSEIS also claims, "Resource specialists determined that the potential effects of this project are predictable and well documented with no significant scientific uncertainties or risks associated with this proposal." (Ibid) We have gone to great lengths to submit information that counters this assertion by the BTNF. See our comments above and elsewhere.

At page 36, it is incorrect that there are only 550 "animal unit months" permitted in the Upper Gros Ventre Allotment. I believe there are 550 cattle (mostly cow/calf pairs) permitted for that allotment during the summer months.

At Summary of Alternative Elements: No Action Alternative 1, DSEIS:18, the BTNF states that *not* permitting the feedground will result in "More elk would likely congregate on the National Elk Refuge Feedground, increasing potential for disease transmission." How many more elk? 25? 150? If it is significant numbers of elk that the BTNF thinks would leave the Gros Ventre, *why* does the BTNF believe elk would leave the Gros Ventre Valley en masse and congregate on the National Elk Refuge? Since the Gros Ventre is excellent winter range- much better than the Elk Refuge- it contains everything elk need. While some wild elk normally and naturally drift from one winter range complex to another in response to a variety of natural influences, that is a natural function of wild elk in an ecosystem and to be encouraged and protected by the BTNF, not prevented. The DSEIS alludes to a "more mobile elk herd" in the absence of a permit to feed at Alkali Creek (DSEIS:49). Ecologists promote the benefits of a "mobile elk herd" and we certainly support that. The BTNF should support this important component of a functioning ecosystem.

If the BTNF believes there is an alleged "potential for disease transmission" if some elk move to or towards the Elk Refuge, increase compared to what? Fewer elk? That's not a risk assessment. It's not always necessarily *numbers* of elk that is the important variable in calculating risk from transmissible diseases, it can also be *density* of infected and vulnerable animals, rates of contact, length of contact and so forth. For most of these variables the feedgrounds in the Gros Ventre, including at Alkali Creek, maintain densities of elk that are at the extreme of *any* known in North America for elk. Given the numbers of elk congregating on a feedground in the Gros Ventre of less than 100 acres, there are many

hundreds- possibly thousands- of elk standing, feeding, and loafing per square mile or square kilometer for weeks at a time, and longer. The Elk Refuge is 24,700-acres. Alkali Creek feedground is 91 acres. The density on the Elk Refuge may- or may not be- less elk per square mile than on a state operated feedground. The BTNF should offer the public an analysis based on quantifiable facts and current conditions, and anticipated future conditions, to assess any alleged risk attributed to elk moving around the Gros Ventre, to and from Jackson Hole, to and from the Upper Green and the Upper Wind River basins, to give an accurate assessment of effects of not permitting a feedground at Alkali Creek. In addition, any elk moving to or spending a portion of a winter on the National Elk Refuge will, according to the USFWS testimony in court, soon not find hay or alfalfa pellets. "(T)he agencies are committed to ending feeding" at the Elk Refuge. (Defenders of Wildlife, et al, v. Salazar, Decision 10-5144, decided August 3, 2011 at p. 11) The Elk Refuge should be managed as part of an interconnected complex of winter ranges in and around Jackson Hole if they end feeding as they told the Appeals Court Judges they will. Elk may move from the Elk Refuge to the Gros Ventre, and indeed have in past years. The BTNF must factor the promised paradigm change on the Elk Refuge into their cumulative effects analysis as it is a connected federal action affecting elk in the very same Jackson Elk Herd as the Gros Ventre elk.

24. Conclusion

Just as we quoted the BTNF **Vision Statement** at the beginning of these comments, we approach the conclusion of our comments with the **Mission Statement** for the BTNF:

"The employees of the Bridger-Teton National Forest are dedicated to sound natural resource management. We care for the land by improving and maintaining healthy Forests and rangelands, clean air and water, and diverse habitat for fish and wildlife populations. We serve the people by encouraging responsible use of the resources our Forest provides.

We aim to be progressive leaders in natural resource management. We work effectively as a team, committed to timely completion of projects to meet resource and public needs. We value public comment, we foster partnerships and we are active in our communities.

Above all else, Bridger-Teton National Forest employees respect each other and the public we serve."

While this is an excellent Mission Statement the Alkali Creek Feedground SDEIS does not exemplify the application of this Mission Statement, nor does any other elk feedground. As is shown by the science, law, and information we have continually submitted to the BTNF permitting or operating elk feedgrounds is not "sound natural resource management." The BTNF continues to off load the responsibility of operating the feedgrounds onto the WGFD and defers to a 1990 Forest Plan that contains elk feedgrounds as a conditionally allowable special use. Despite the BTNF insinuating otherwise, elk feedgrounds are not a *requirement* on the BTNF or any USFS lands. Contemporary readily available science shows that this special use is archaic and not sound and does not comply with modern wildlife management standards. Continuing to permit and operate the feedgrounds do not improve or maintain "healthy Forests" but, in fact, undeniably continue what are known to be *unhealthy* practices. How else can any agency or persons reasonably interpret the reality of disease ridden elk confined en masse on small tracts of land, eating baled hay atop layers of feces built up over decades amidst overbrowsed, stunted and dead aspen? There is no other way to interpret elk feedgrounds, as virtually all other wildlife managers and scientists throughout North America acknowledge and, hence, counsel to abolish feeding of big game.

We are hopeful that the BTNF *does* value public comment and, more importantly, *applies* the sound science and law included in our comments. Unfortunately the cryptic and dismissive responses in the BTNF's **Winter Elk Management Activities- Public Comments and Agency Response Revised as of 7-15-08** to our May 5, 2008 DEIS comments and the resulting ROD to re-permit 5 elk feedgrounds for

another 20 years show that our comments and those of our members and supporters- and the contemporary science submitted in our comments- were not valued or heeded by the BTNF because the BTNF released a virtually identical DSEIS for Alkali Creek feedground five years later. Also, during an in person, video and conference call meeting about this Alkali DSEIS held with some BTNF staff and staff from the Sierra Club, GYC, Wyoming Outdoor Council, Biodiversity Conservation Alliance and a board member of Wilderness Watch, on Monday May 13, 2013, the Deputy Forest Supervisor made statements that indicated that public comments are *not* valued by the BTNF. That contradicts what your Mission Statement says.

A last point about the BTNF Mission Statement: It says quite plainly that BTNF staff “aim to be progressive leaders in natural resource management”. Not permitting elk feedgrounds and phasing out the BTNF’s involvement in an archaic unhealthy wildlife management paradigm, winter feeding of elk, would be progressive and would truly display leadership.

25. Recommendation

It is the foremost duty of the Bridger-Teton National Forest managers to protect the resources of USFS lands, habitats, and the wildlife that depend on them. Permitting elk feedgrounds and thereby enabling the harmful impacts resulting from feedgrounds does not accomplish this. The BTNF is not required to permit elk feedgrounds or allow vaccinations of elk, and also has the authority to close the USFS land to vaccinations and other harmful practices.

The BTNF must comply with NEPA, 42 U.S.C. sec 4321 et seq., the National Wilderness System Preservation Act 16 U.S.C. 1131, the National Forest Management Act, 16 U.S.C. 1604, the Administrative Procedures Act 5 USC 706, and the BTNF Forest Plan.

We recommend that no permit for a feedground at Alkali Creek be issued beyond the winter of 2013-2014 and no Strain 19 vaccination for elk be allowed.

We thank you for this opportunity to comment on this DSEIS, and we look forward to continuing the dialogue with the USFS on this and related issues. We commit ourselves to help all parties achieve a sustainable outcome and expeditiously phase out elk feedgrounds. We would be happy to help the BTNF acquire any of the cited and/or listed reference materials if they are unable to get them. Please notify us promptly of your actions on this and related issues.

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