USDA United States Department of Agriculture | Forest Service | Alaska Region | P.O. Box 21628 Juneau, AK 99802-1628

File Code: 1570
Date: MAR - 8 2007

Mr. Larry Edwards
Greenpeace
Box 6484
Sitka, AK 99835

Gabriel Scott
Cascadia Wildlands Project
Box 853
Cordova, AK 99574

Dear Appellants:

Pursuant to 36 CFR 215.17, I have reviewed the administrative appeal record for the Scott Peak Project Final Environmental Impact Statement (EIS) and 2006 Record of Decision (ROD). The Tongass Forest Supervisor signed the ROD. I have also considered the Appeal Reviewing Officer's (ARO) recommendation (enclosed) regarding the disposition of your appeal (Appeal No. 07-10-00-0006). The ARO recommended that the Forest Supervisor's decision be affirmed.

DECISION

I concur with the ARO's recommendation and I affirm the Forest Supervisor's decision. Your requested relief is denied.

I received your February 24, 2007, Errata and Addendum to your appeal of the project. The regulations at 36 CFR 215.15(a) state that "[w]ritten appeals, including any attachments, must be filed with the Appeal Deciding Officer within 45 days following the publication date of the legal notice of the decision in the newspaper of record. It is the responsibility of appellants to ensure that their appeal is received in a timely manner." The appeal period for the Scott Peak project closed on January 22, 2006; therefore, the information submitted in the Errata and Addendum is not timely, and was not considered in the review of your appeal.

My decision incorporates, by reference, the entire administrative record, which includes the appeal and project planning records, and constitutes the final administrative decision of the Department of Agriculture [36 CFR 215.18(c)]. The ROD may be implemented 15 days following the date of this decision [36 CFR 215.10(b)].

Sincerely,

DENNIS E. BSCHOR
Appeal Deciding Officer

Enclosure

cc: Tongass Forest Supervisor, Petersburg District Ranger, Tongass Appeals Coordinator

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File Code: 1570 **Date:** MAR - 8 2007

Subject: Scott Peak 2006 Record of Decision and Final Environmental Impact Statement

To: Appeal Deciding Officer

This is my recommendation, as Appeal Reviewing Officer, on the action you should take, as Appeal Deciding Officer, on the pending appeals of the Scott Peak Project Area decision. The following appeals were filed under 36 CFR 215:

- No. 07-10-00-0004 – Sitka Conservation Society;
- No. 07-10-00-0005 – Glen Ith; and,
- No. 07-10-00-0006 – Greenpeace, Cascadia Wildlands Project, and the Juneau Group of the Sierra Club.

On March 8, 2007, Mr. Mark Rorick, Juneau Group of the Sierra Club, withdrew their appeal of the Scott Peak Project.

The decision being appealed is the decision by the Tongass Forest Supervisor, Forrest Cole, to authorize the sale of timber and the construction of roads in the Scott Peak project area on Kupreanof Island on the Petersburg Ranger District, Tongass National Forest. The project area consists entirely of Value Comparison Unit (VCU) 444, an area of approximately 24,112 acres. The selected alternative, Alternative C with modifications, would allow harvest of approximately 347 acres (providing approximately 8.3 million board feet (MMBF) of timber) and the construction of 2.1 miles of temporary road, the reconstruction of one mile of existing classified road, and the temporary reinstallation of one bridge over a Class I stream. The decision also includes a non-significant Forest Plan amendment to adjust the small old growth reserve (OGR) in VCU 444 through the Forest Supervisor's selection of Interdisciplinary OGR Option 3.

Background

A Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Scott Peak project was published in the Federal Register on November 29, 2002. The Draft EIS (DEIS) was released for public comment in July 2005. The Notice of Availability of the Final EIS (FEIS) was published in the Federal Register on January 20, 2006, and a legal notice of decision was published in the Juneau Empire on January 16, 2006. The Forest Supervisor signed the Record of Decision (ROD) on November 25, 2005. The Region received two appeals of the 2005 ROD, and on April 14, 2006, the Appeal Deciding Officer reversed the Forest Supervisor's decision with instructions to complete an additional cumulative effects analysis. Based on the additional analysis, the Forest Supervisor determined that were no additional significant cumulative effects. The 2006 ROD was signed on September 20, 2006.

On February 26, 2007, the Tongass National Forest conducted an open meeting with the appellants of the Scott Peak project and the timber industry. The purpose of the meeting was to discuss the issues raised by the appellants. The results of the meeting were documented in a letter from the Forest Supervisor dated March 2, 2007. Although common ground was achieved regarding resolution of some issues, the appellants did not withdraw their appeals.

My review of these appeals was conducted pursuant to 36 CFR 215.19. The appeals and project planning record have been carefully reviewed in my consideration of the objections raised by the appellants and their requested relief. My recommendation hereby incorporates by reference the entire administrative record for the project.

The appellants list several interrelated issues in their appeals of the Scott Peak project. Although I may not have listed each specific issue, I have considered all the issues raised in the appeals and believe that they are adequately addressed in the following discussions.

Appeal No. 07-10-00-0004 – Sitka Conservation Society

Issue 1. Whether the ROD adopts the proper biological reserve design.

The appellants contend that the Forest Supervisor failed to adopt the biologically preferable interagency-recommended biological reserve in favor of the interdisciplinary team (IDT)-recommended reserve. They contend that the Forest Supervisor's decision was based on the State's desire, rather than on the analysis of how well the reserves fulfill the intent of the Forest Plan.

Discussion

The Scott Peak Project Area ROD discusses the landscape reserve design and selection issues [ROD, p. A1-1]. Although the Forest Plan established 18 small, 5 medium, and 2 large Old Growth Reserves (OGRs) on Kupreanof Island, subsequent interagency discussions during the Kupreanof Island Analysis led to the recommendation of project level adjustments to 7 of the 18 small OGRs [Planning Record Document #193]. These recommendations included adjustments in the size, location, and/or configuration of the OGRs. The small OGR in the Scott Peak Project area was one of the 7 OGRs recommended for adjustment. After reviewing four options for reserve design using the old-growth habitat reserve criteria from Appendix K of the Tongass Land Management Plan (TLMP) and site specific information about the OGR and project area, the Forest Supervisor selected Option 3 for the small OGR in VCU 444. The Forest Supervisor provided the following rationale for his decision:

> OGR Option 3 was selected because it includes much of the same wildlife habitat considered important in the Interagency OGR Option 2 (high value deer and marten winter habitat, key interior old-growth habitat, low elevation productive old-growth, and the lower Twelvemile Creek riparian area and estuary). The advantage of Option 3 is that it includes these features without including Road 6323 so that the option of providing future access into the adjacent VCU 446 along this road can be maintained.

[ROD, p. A1-4].

The ROD also discloses why the other options were not selected [ROD, pp. A1-2 through A1-5]. In providing the rationale for not selecting Interagency Biologist OGR design (Option 2), the ROD states that it does not meet Forest Plan Appendix K criteria because it does not minimize the amount of early seral habitat and roads. The ROD acknowledges that OGR Option 3 does not meet these criteria either. However, compared to OGR Option 2, Option 3 includes fewer acres of early seral habitat and fewer miles of roads.

In my opinion, the Forest Supervisor weighed the advantages and disadvantages of all the options, and the selected OGR is consistent with the desired intent of the Forest Plan.

Issue 2. Whether the FEIS and ROD take a hard look at the effects of the project as required by the National Environmental Policy Act (NEPA).

The appellants make several allegations regarding the adequacy of the environmental effects analyses presented in the FEIS and ROD.

Issue 2a. Whether approval to harvest of 4 of the 8 interior old-growth patches within the project area poses risks to numerous wildlife species and negatively affects biodiversity on the local scale.

Discussion

The wording of this appeal point suggests that the ROD approves the harvest of 4 interior old growth patches in their entirety. This is not the case. Rather, the Selected Alternative approves harvest within these 4 patches [ROD, p. 3]. The ROD indicates that the analysis area for determining the potential direct and cumulative effects on key interior old-growth habitat patches is the historical extent of "38 patches totaling 23,710 acres, including one large patch of 22,976 acres" and includes portions of VCUs 442, 443, and 445 [ROD, p. 14; FEIS, Figure 3-1, p. 3-23]. Chapter 3 of the FEIS discloses the effects of each alternative on the 8 key interior old-growth patches in the Scott Peak project area [FEIS, pp. 3-28 through 3-41].

The ROD summarizes the cumulative effects analyses conducted for the project on pages 14 and 15. The effects of key patch fragmentation were expressed as reductions in total acres of all key patches combined, reductions in acres to individual key patches, the number of key patches reduced in size by harvest, and the fragmentation of key patches into more than one patch and the resulting patch sizes. Patch sizes are grouped into four categories for purposes of comparison based on what is known about the minimum optimal patch size requirements for three Forest Plan management indicator species: Sitka black-tailed deer, (patches 1000 acres or larger), hairy woodpecker (patches 500-999 acres), and brown creeper (patches 15-499 acres) [FEIS, p. 3-21]. The FEIS Cumulative Effects Summary for all Alternatives states the "[c]ontinued reductions in the size of interior old-growth habitat patches and the removal of connectivity corridors may result in a reduction in the number of animals and the number of key old-growth associated species over time within the project area" [FEIS, p. 3-41]. The FEIS goes on to identify species potentially affected as those "[r]equiring large blocks of habitat such as deer and species with

limited mobility such as many lichen, fungi, bryophytes, plants, and small-bodied animals" [Id.]. The cumulative effects analysis for interior old-growth habitat fragmentation includes additional effects associated with the Todahl Backline Timber Sale. This analysis supports the FEIS summary on page 3-41 and the ranking of the FEIS alternatives, as well as the Forest Supervisor's conclusion that "[t]he interior patches will continue to support the current richness and diversity of species they currently do" [ROD, p. 15].

In my opinion, the FEIS, ROD, and project record demonstrate that the Forest Supervisor took a hard look at the effects of harvest within the 8 key old-growth habitat patches.

Issue 2b. Whether the decision will eliminate 4 important wildlife corridors, reducing connectivity in an already heavily altered landscape.

Discussion

The ROD indicates the Selected Alternative maintains 12 of the 16 old-growth habitat travel corridors for wildlife identified in the project area [ROD, p. 3]. The direct, indirect, and cumulative effects of the alternatives on wildlife travel corridors and wildlife are covered in Chapter 3 of the FEIS [pp. 3-34 through 3-41]. The analysis area is defined as the project area [FEIS, pp. 3-33 and 3-34]. Although not included in the ROD or FEIS, supporting documentation in the planning record provides the logic behind the spatial scope of the analysis area. The document titled Cumulative Effects to Biological Diversity and Wildlife Habitats states "[t]he area of analysis is the project area as the linkage between the key patches occurs within the project area" [Planning Record Document #701, p. 1]. In addition, review of the planning record reveals that no other past, present, or reasonably foreseeable future projects will affect the connectivity of the key interior old-growth patches outside the Scott Peak project area [Planning Record #676, p. Map DN-1].

The direct and indirect effects of the Scott Peak project are presented in the FEIS as a narrowing and loss of corridors and the reduction or loss of connectivity between key old-growth habitat patches. The Cumulative Effects Summary for all Alternatives concludes that the effects of the loss or narrowing of corridors between patches "[s]hould not affect most mobile species to a large degree as the patches are within an average of ¼ mile of each other" [FEIS, p. 3-41]. It goes on to conclude that the effects of the alternatives would be to "[s]pecies with limited dispersal capabilities, such as lichen, fungi, bryophytes, plants and small-bodied animals" and "[l]ocal reductions in populations and/or species richness may be expected."

The ROD provides evidence that the Forest Supervisor considered landscape connectivity in making his decision. His decision to drop Unit 60 and change the retention in Units 169 and 189 from Alternative C was driven by consideration of maintaining wildlife corridors [ROD, pp. 3 through 5]. In addition, the Forest Supervisor committed to maintaining corridors in the project area wherever practical to allow movement of deer between key habitats [ROD, p. A2-6]. This commitment is reflected in the unit cards in Appendix A2 of the ROD. Examples include unit cards 154, 246, 224, 156, 176, 169, and 189.

In my opinion, landscape connectivity is adequately addressed in the FEIS and ROD.

Issue 2c. Whether logging will remove significant habitat for the American marten and Sitka black-tailed deer.

Discussion

The effects analysis area for marten habitat in the FEIS is the project area [FEIS, p. 3-58]. The effect analysis area in the FEIS for deer habitat is dependent on the issue. Habitat suitability and capability expressly for providing for deer is analyzed at the project level [FEIS, pp. 3-45 and 3-49]. The logic for this analysis area is provided in the planning record, and is stated as "[t]he project level is large enough to allow a comprehensive accounting of all activities that may affect this area while at the same time is small enough to allow the analysis to be sensitive to potential effects of the proposed activities" [Planning Record #701, pp. 1-2]. Deer habitat capability is also analyzed at the wildlife analysis area (WAA) scale for determining the potential effects on subsistence use [p. 3-160]. The logic provided is that "[t]he Forest Plan analyzed subsistence at the WAA scale, and the Alaska Department of Fish and Game provides harvest data by WAA" [FEIS, p. 3-160]. In addition, deer habitat capability is analyzed at the biogeographic province level for determining effects on wolves, with the logic that wolves "[h]ave home ranges that cross several wildlife analysis areas" [FEIS, p. 3-64]. Forest-wide direction for use of the deer habitat capability model to analyze effects on wolves indicates the scale should encompass multiple WAAs or a biogeographic province [Planning Record #235, p. 16].

The potential effects of the Scott Peak project on marten and deer habitat are discussed in Chapter 3 of the FEIS [pp. 3-44 through 3-65, 3-160 through 3-162]. Potential effects by alternative are expressed in terms of acres of high value habitat and habitat capability, which is expressed in estimated numbers of animals in the project area. The deer habitat capability to provide for subsistence use is reduced by 36 percent to account for predation by wolves [FEIS, p. 3-160]. The ROD discloses the potential cumulative effects of the project on deer habitat capability to provide for wolves on page 16. Table R-2 of the ROD summarizes the project level analysis for marten and deer habitat by alternative, including the Selected Alternative [ROD, p. 20]. Changes to the amount of high value deer winter habitat (acres) and habitat capability (number of deer) at the project level are presented by alternative in the context of historical (year 1954), present, and future (year 2040) [FEIS, pp. 3-48, 3-52 through 3-57]. Similar analyses were done for marten and reported in the FEIS [pp. 3-60 through 3-63], although future acres of high value marten habitat by alternative are not presented.

In reviewing the ROD, I found acknowledgement of the long lasting effects of timber harvest on deer habitat [p. A2-6]. The ROD indicates that the effects on wildlife habitat, especially for deer, were taken into consideration, and that this consideration drove some of the changes that resulted in the Selected Alternative [ROD, p. 12]. This is evidenced by the Forest Supervisor's decision to drop a harvest unit to preserve the acres of a key old-growth habitat patch and a wildlife travel corridor [ROD, p. 3], and his decision to preserve another corridor by applying a higher retention system to two additional harvest units [ROD, p. 4]. In addition, the Forest Supervisor committed to applying the Forest Plan marten standards and guidelines to all high value marten habitat [ROD, pp. 3, 8, and A2-5]. The Forest Supervisor suggested mitigation of effects on wildlife through post-harvest silvicultural treatment, and he committed to maintaining corridors in the

project area wherever practical to allow movement of deer between key habitats [ROD, p. A2-6]. The value of the Wildlife Conservation Strategy in retaining habitat for marten and their prey is also discussed [ROD, p. A2-5].

In conclusion, the Scott Peak ROD, FEIS, and project record demonstrate that the Forest Supervisor took a hard look at the effects of the project on deer and marten habitat.

Issue 2d. Whether the decision includes several units where high deer, bear, and other wildlife presence has been documented.

Discussion

The appellants did not identify the specific units of concern; however, this review considers units 169, 186, 290, and 298 because the unit cards for these units indicate that this concern was raised during project design [ROD, pp. A2-19, A2-23, A2-41, and A2-43 respectively].

The long lasting effects of timber harvest on deer habitat are acknowledged in the ROD [p. A2-6]. The FEIS analyzed the potential effects on deer and marten habitat at the project level, and these effects are summarized in Table R-2 of the ROD [ROD, p. 20]. The FEIS and ROD also analyzed deer habitat capability at the WAA level (WAA 5136) in considering the estimated number of deer available to meet subsistence demand [FEIS, pp. 3-159 through 162; ROD, p. 15]. The FEIS and ROD also considered the potential effects on key interior old-growth habitat acres and connectivity [FEIS, pp. 3-320 through 341; ROD, pp. 14, 15, and 20]. The criteria used to identify key interior old-growth patches are stated in the FEIS [p. 3-28], and the analysis of the effects of the alternatives on these patches considered the minimum optimal patch size for three MIS species (deer, hairy woodpecker, and brown creeper) [FEIS, p. 3-21].

The ROD summarizes the Forest Supervisor's consideration and response to wildlife concerns raised during the review of the project [ROD, p. A2-5 and A2-6]. The summary states that most of the wildlife concerns for the Scott Peak project are mitigated with the prescribed silvicultural system. In the case of the concern for the units containing a high incident of deer, moose, squirrel, and bear activity, the silvicultural system is two-aged management [FEIS, Appendix B, p. 5]. The ROD states that "[t]he use of reserve trees of differing sizes, with an emphasis on snags and dying trees, helps mitigate the loss of old-growth habitat" [ROD, p. A2-5]. In direct response to the concern for the high wildlife use of these units, the Forest Supervisor increased the percentage of tree retention in Units 169 and 186 from less than 15 percent retention prescribed in Alternative C to 50 percent in the Selected Alternative [ROD, p. 4], and prescribed the Forest Plan marten standards and guidelines to Units 290 and 298 [ROD, pp. A2-41 and A2-43, respectively]. Wildlife concerns are also mitigated through unit selection and the small OGR selected by the Forest Supervisor [ROD, p. A2-5]. The Forest Supervisor also suggested mitigating effects on wildlife through post-harvest silvicultural treatment, committed to maintaining corridors in the project area wherever practical to allow wildlife movement between key habitats [ROD, p. A2-6], and prescribed windthrow buffers to mitigate effects on Riparian Management Areas and adjacent stands [Id.].

In my opinion, the FEIS, ROD, and project record demonstrate that the Forest Supervisor took a hard look at the effects of the Scott Peak project on units with a high incidence of deer, moose, squirrel, and bear activity.

Issue 2e. Whether the decisions guarantees that motorized access and its associated effects will not increase due to expansion of the road system.

Discussion

Since it is not clear what the appellant meant by "associated impacts," this review will focus on whether the FEIS and ROD took a "hard look" at the motorized access associated with the project and increased hunting and trapping pressure.

With regard to road expansion, whether this project will contribute to a net loss or net gain of roads in the Portage Bay area depends on whether all roads are considered, or just open roads. The facts are that the Selected Alternative authorizes the construction of 2.1 miles of temporary road, which will be decommissioned after timber harvest activities are complete. The Selected Alternative also authorizes the reconstruction of one mile of closed road, and the ROD indicates that this one mile of road and an additional 2.1 miles of open road will be placed in storage after harvest activities are complete [ROD, p. 4]. Overall, the miles of road maintained for motorized public access will be reduced [FEIS, pp. 3-151 and 3-162]; therefore, this is not considered an expansion of the road system.

The analysis area for the Road Analysis Process (RAP) analysis was the project area, plus the portion of Road 6319 that connects the project area to the Portage Bay Log Transfer Facility [FEIS, p. 3-149]. Existing and proposed miles of open and closed classified roads and miles of road construction/reconstruction are summarized by alternative on pages 3-151 and 152 of the FEIS. The ROD provides this summary for the Selected Alternative [ROD, pp. 4, A2-48, and A2-49], and indicates that the Forest Supervisor carefully considered the review comments concerning "[r]oad access for non-timber harvest uses" in his decision regarding the minimum road system needed for this project [ROD, p. 6].

The effects of the road system on hunting and trapping were analyzed in several ways. The analyses of effects of roads on wildlife for subsistence users are summarized on pages 3-159 through 3-167 of the FEIS. The effects of the project alternatives on access to wildlife for subsistence were analyzed by calculating road densities for WAA 5136 [FEIS, p. 3-166]. See appeal point 2c, above, for the rationale behind the spatial scale of the analysis area. The Addendum to the Subsistence Specialist Report indicates effects of roads associated with this project on furbearers are not expected because the road system is isolated from the main human settlements in the area (Kake and Petersburg) [Planning Record Document #702, p. 12]. The effects of roads on competition between subsistence and non-subsistence hunters are considered in the FEIS [pp. 3-166 and 167]. The Forest Supervisor carefully reviewed the subsistence analysis and public input from subsistence users and the Alaska Department of Fish and Game (ADF&G), and concluded that "[t]here is not a significant possibility of a significant restriction on subsistence uses of wildlife...as a direct result of this project" [ROD, p. 3].

Although the results of applying the road density suitability index to the marten model are not found in the FEIS, these results are described in the original Wildlife and Biological Diversity Resources Report [Decision Document #4, p. 58] and were available to the decision-maker. The road density index was apparently not applied by alternative because all alternatives would have the same open road density after the project is complete. I considered the sufficiency of the FEIS analysis and disclosure of adverse effects on marten winter habitat capability in my previous response to the Greenpeace appeal of the 2005 Scott Peak ROD [Decision Document #1, pp. 16 and 17]. In my recommendation to the Appeal Deciding Officer on that appeal, I concluded that "[i]n my opinion, the marten model was used correctly. Although results from applying the road density suitability index are not found in the FEIS, these results are described in the Wildlife Report and were available to the decision-maker."

The analysis area for cumulative effects of road density on wolves was the Kupreanof/Mitkof Biogeographic Province, and it included all roads below 1200 feet elevation, including non-Forest Service roads [ROD, p. 16], following the rationale above (see Issue 2c, above). The ROD summarizes the methods of analysis, and states that the cumulative road density, considering all past, present, and reasonably foreseeable actions, will be 0.46 miles of road/square mile, which is below the 0.7 threshold recommended by Person et al. (1996); therefore, the ROD concludes that no adverse effects due to trapping are expected [ROD, p. 16]. As discussed below in my response to Issue 7 of the Greenpeace, et al. appeal, this calculation may be in error, but not to the extent that it would raise the road density above 0.7 miles of road/square mile. The potential for increased harvest pressure on wildlife due to workers at the Portage Bay logging camp using the road system are considered on pages 3-162, 166, and 167 of the FEIS.

In my opinion, the FEIS and ROD adequately considered the potential effects of motorized access associated with the Scott Peak project, including the potential for increased hunting and trapping pressure.

Issue 2f. Whether the decision permits harvest in areas with unsuitable terrain.

Discussion

As appellants give no specific examples of where they believe the Forest Supervisor has authorized harvest in unsuitable terrain, I can only assume their concerns relate to harvest on slopes greater than 72 percent. The Forest Plan allows for timber harvest in these areas if an on-site review has been conducted by a soil scientist. The unit cards do not indicate any soils concerns for the units included in the Selected Alternative, and there is no prescribed harvest on slopes greater than 72 percent. The soil survey is well documented in the planning record.

The Forest Plan does not allow harvest in any other areas deemed unsuitable for timber harvest, and my review of the FEIS, ROD, and planning record confirms that the Selected Alternative does not include harvest in any of these areas.

Issue 3. Whether the ROD relies on clearcutting as a primary harvest method, in violation of the National Forest Management Act (NFMA).

Discussion

Section 6(g)(3)(F)(i) of NFMA requires that the Forest Service:

> [I]nsure that clearcutting, seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber will be used as a cutting method on National Forest System lands where -- for clearcutting, it is determined to be the optimum method, and for other such cuts it is determined to be appropriate, to meet the objectives and requirements of the relevant land management plan.

In addition, the Chief's directive of June 4, 1992, on ecosystem management and the Forest Plan [TLMP, 4-96] limit clearcutting to areas where it is essential to meet Forest Plan objectives and where it involves one or more of the following circumstances:

1. To establish, enhance or maintain habitat for Endangered, Threatened, or Sensitive species.
2. To enhance wildlife habitat or water yields, or to provide for recreation, scenic vistas, utility lines, road corridors, facility sites, reservoirs, or similar development.
3. To rehabilitate lands adversely impacted by events such as fires, windstorms or insect or disease infestations
4. To preclude or minimize the occurrence of potentially adverse impacts from insect or disease infestations, windthrow, logging damage or other factors affecting forest health.
5. To provide for the establishment and growth of desired trees or other vegetative species that are shade intolerant.
6. To rehabilitate poorly stocked stands due to past management practices or natural events.
7. To meet research needs.

Appendix G of the TLMP EIS describes the silvicultural systems available; provides a comparison of the systems and the anticipated results of each, along with key site and stand conditions found on the Tongass National Forest; and then identifies the most appropriate systems for given combinations of these factors. As stated in Appendix G, certified silviculturists usually make the site-specific project level selection of silvicultural systems, which are then evaluated through the NEPA process [TLMP EIS, Appendix G, p. G-1].

For the Scott Peak project area, clearcutting (an even-aged management method) was selected for use on 111 acres to preclude or minimize the occurrence of potentially adverse effects from logging damage and windthrow. Specific information and rationale for use of this prescription is shown in the ROD, on the unit cards attached to the ROD, in Chapter 3 of the FEIS, and in the project planning record. Where used, this prescription has been deemed optimal related to site-specific considerations as described above [ROD, p. 23].

In my opinion, the Forest Supervisor's conclusion that clearcutting is the optimal method of harvest is reasonable and supported by the documentation of the site-specific stand characteristics for the harvest units and other information in the project record.

Appeal No. 07-10-00-0005 – Glen Ith

Mr. Ith is currently an employee of the Forest Service on the Tongass National Forest. He was a member of the interdisciplinary team for the Scott Peak Project until May 2005, when he was reassigned to other duties. The appeal regulations state in part:

> Federal employees, who otherwise meet the requirements of this part for filing appeals in a non-official capacity, shall comply with Federal conflict of interest statutes at 18 U.S.C. 202-209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees shall not be on official duty nor use government property or equipment in the preparation or filing of an appeal. Further, employees shall not incorporate information unavailable to the public, *i.e.* Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)).

[36 CFR 215.13(d)].

In my opinion, Mr. Ith's use of the draft wildlife report in his appeal is inappropriate. This report is exempt from disclosure under the provisions of 5 U.S.C. 552(b)(5) and is not available to the public. As I could not conclude that Mr. Ith complied with the regulations at 36 CFR 215.13(d), I have not responded to his appeal in this recommendation.

Appeal No. 07-10-00-0006 – Greenpeace, et. al.

In appealing the 2006 ROD for the Scott Peak project, the appellants raise many of the same issues they raised in their appeal of the 2005 ROD. The appellants make several requests related to that appeal and the review of the 2006 appeal. For example, the appellants request that their comments on the DEIS and their appeal of the 2005 ROD be incorporated by reference into the 2006 appeal, and that the ARO respond to each and every point of appeal raised in the 2005 appeal and its appendix. They also request that the ARO not consider prior ARO recommendations that were completed for Scott Peak and other projects. I was the ARO for the appeals of the 2005 ROD, and I believe that I thoroughly reviewed and responded to the issues raised by the appellants in those appeals. Although the appellants do not agree with all of my findings, I see no reason to revisit my review of the 2005 ROD.

The appellants continue to challenge how wildlife models, particularly the deer model, were applied during the Scott Peak analysis. Some of their issues related to the use of the deer model are outside the scope of a project-level EIS. The Tongass National Forest and the Alaska Department of Fish and Game (ADF&G) continue to work on a deer-predator-habitat interaction study, which will enhance understanding of the effects of forest management on deer populations.

Issue 1. Whether the deer habitat capability analysis in the Scott Peak FEIS used the proper value for the deer multiplier and properly associated that value with the correct range of Habitat Suitability Index (HSI) values.

Appellants assert that the Forest Service changed the range of HSI scores from a range of zero to 1.0 with a carrying capacity (deer multiplier) of 100 deer per square mile (the Suring et.al. 1992 model) to a range of zero to 1.3 without adjusting the carrying capacity accordingly. They contend that the Suring model ranks habitat quality (HSI) on a scale of zero to 1.0, and the multiplier was designed to apply to the best quality habitat (which was the value 1.0). The HSI scale built into the 1997 deer model has a range of zero to 1.3. The appellants contend the Forest Service applies the deer multiplier to an HSI of 1.0 on that scale, and state that is an error because the multiplier represents the theoretical carrying capacity of the best quality habitat (or HSI = 1.3). They contend that the use of HSI scores ranging from zero to 1.3, without the adjustment to the multiplier, skews the deer model toward overestimating habitat and underestimating effects. Appellants argue that the way the Forest Service is using the model over estimates habitat capability by at least 30 percent, and that the effects on habitat capability are correspondingly underestimated. The appellants contend that as a result of this continuing error, the Forest Service has not fairly disclosed the effects of the project to the public or the decision-maker, nor has it applied the best available science; therefore, they believe the decision violates NEPA.

Discussion

The Scott Peak FEIS uses the deer habitat capability model developed for the Forest Plan to evaluate the quality of deer winter habitat in the project area [FEIS, p. 3-44 through 3-57]. The FEIS confirms that the "[d]eer habitat capability model HSI values range from 0, including no habitat value, to 1.3, indicating optimal habitat value" [Id.]. The use of this range of values is consistent with direction in the Tongass Forest Plan [TLMP FEIS, Part 1, p. 3-367]. The Scott Peak FEIS also states that "[t]he deer model assumes that an area with an HSI value of 1.0 could support 100 deer per square mile" [FEIS, p. 3-45]. This value is consistent with direction found in the Tongass National Forest Annual Monitoring and Evaluation Report for Fiscal Year 2000 [Decision Document #6], which adjusted downward the value used in the Forest Plan.

Information regarding the evolution of HSI scores for deer and the relationship between HSI scores and estimated carrying capacity were previously described in a December 14, 2005, letter from the Forest Supervisor to Mr. Larry Edwards of Greenpeace, and in my recommendation on the appeals of the 2005 Scott Peak ROD [Decision Document #1]. As stated in these documents and other prior correspondence (notably the ARO's recommendation regarding the Emerald Bay Timber Sale appeal [Decision Document #14]), there is no documentation to support the appellants' repeated assertion that the 100 deer per square mile carrying capacity multiplier was intended to match an HSI score of 1.3. On the contrary, the forest-wide direction in the Monitoring Report cited above [Decision Document #6] and the letter from the Forest Supervisor to Mr. Edwards discussing deer model coefficients [Decision Document #15] clearly state that a 100 deer per square mile carrying capacity multiplier is intended to match an HSI score of 1.0.

In my opinion, the Scott Peak project analysis followed established direction and used the appropriate values in the deer habitat capability model. As noted in the previous response [Decision Document #1], any changes to the deer model will be the result of field observation, thorough analysis, and peer review, and are not appropriate at the project-specific level.

Issue 2. Whether the Scott Peak FEIS over estimates habitat capability by 60 percent, compared to the 1997 TLMP.

The appellants present an analysis which compares the 1995 estimate of habitat capability in the Kupreanof/Mitkof Island Province to the estimate made in Table 3-112 of the Forest Plan FEIS. The appellants updated the Forest Plan analysis to reflect the 2002 corrections in the use of the deer model, specifically the change in the habitat capability guideline from 13 deer/square mile to 18 deer/square mile and the change in the multiplier from 125 deer to 100 deer . Based on their analysis, the appellants contend that the Scott Peak project analysis shows 60 percent more habitat capability (at 22.5 deer/square mile) than the analysis conducted for the Forest Plan FEIS, as updated with the multiplier correction (at 14 deer/square mile). They contend that the disparity must be a result of how the model was run for the project or of changes since 1997 to data for the province (e.g., vegetation or snow zone), and that the FEIS fails to disclose any data changes and the project record contains no documentation as to how the model was run.

Discussion

The Forest Plan Deer Model assigns a habitat suitability index (HSI) to an area of land based on 4 main factors: winter snow level, aspect, elevation, and timber volume. The processes for determining deer habitat capability were described in various documents before the release of the 1997 Forest Plan [Planning Record Documents #736, #857, #738, and #637], within the 1997 Forest Plan FEIS [Decision Document #3], and in discussions since the Forest Plan [Decision Documents #27, #4; Planning Record Documents #653, #441, #584, #690, and #150]. Much has been written about the adequacy of the deer model used for the Forest Plan.

Several factors and much dialogue went into modifying the data used in the deer model and describing deer habitat capability. In all, deer look for a heterogeneous landscape mosaic (with various metrics of juxtaposition) stratified by the ratio of unproductive to productive forest for forage and shelter needs, access to maritime winter range, the presence or absence of wolves, and high volume stands. This means that certain parts of the landscape will support more or less deer. The project record adequately explains the habitat types, number of deer supported, and reported harvest.

There will be differences between the results of deer model runs for the Forest Plan FEIS and any current project, due to multiple factors. The Forest Plan FEIS estimates appellants refer to included only National Forest System (NFS) lands, while current projects may incorporate NFS, State, City, and private lands. Another factor for the difference in total deer habitat capability results from having better site-specific information and better spatial resolution since the original estimates were made. This discrepancy is explained, in part, in Decision Document #13, the deer panel discussions of 1996. As explained in that document, the Forest Plan estimate was based on a 20-acre grid and provided a theoretical framework for deer habitat capability. The 1996 habitat

capability estimates were particularly effective for providing landscape level (forest-wide) evaluations, and less effective for site-specific values. As a result of improved and updated GIS layers, the model now evaluates habitat capability more accurately. For example, the current data input into the model uses polygons depicting volume strata, an improvement from the coarser 20-acre grid used for the Forest Plan FEIS.

In my opinion, the analysis conducted for the Scott Peak project followed established direction and used appropriate values in the deer habitat capability model.

Issue 3. Whether the Scott Peak ROD provides for wolf viability and wide distribution.

The appellants expand on the discussion of their concerns with the deer model by asserting that the application of the 100 deer per square mile multiplier to a mid-point (HSI=1.0) value, rather than to the model's best quality habitat (HSI=1.3), is an error that results in an over-estimation of habitat capability. They contend that due to these flaws in the use of the deer model, the Forest Plan standard and guideline for wolf viability and wide distribution is not currently satisfied, and that the Scott Peak action alternatives and the cumulative effects of the project and other activities will further reduce habitat capability.

Discussion

See my response to Issues 1 and 2, above, for a discussion of the validity of the deer habitat capability analysis conducted for the Scott Peak FEIS. Each issue is responded to in detail above, but I will recap those responses here. Issue 1 questioned whether the analysis used the proper value for the deer multiplier and associated that value with the correct range of HSI values. As stated in my response to that issue, there is no documentation to support the appellants' assertion that the 100 deer per square mile carrying capacity multiplier was intended to match an HSI score of 1.3. On the contrary, direction in both the Monitoring Report [Decision Document #6] and the letter from the Tongass Forest Supervisor to Mr. Edwards discussing deer model coefficients [Decision Document #15] indicate that a 100 deer per square mile carrying capacity multiplier is intended to match an HSI score of 1.0.

Issue 2 questioned whether the habitat capability displayed in the Scott Peak FEIS was overestimated by 60 percent, compared to the 1997 TLMP. The data layers for the deer model continue to be improved since the model was used in developing the 1997 TLMP. Differences between the results of deer model runs for the Forest Plan FEIS and any current project will exist due to multiple factors. These include the Forest Service and ADF&G agreed-upon changes to the model coefficients, the extent of the land base included in the analysis area, and differences in the specificity and resolution of the data used in running the model.

As I concluded above, I find that the Scott Peak project analysis followed established direction and used the appropriate values in the deer habitat capability model. As noted in my recommendation on the appeals of the 2005 ROD [Decision Document #1], any changes to the deer model will be the result of field observation, thorough analysis, and peer review, and are not appropriate at the project-specific level. This also applies to any changes to the Forest Plan Standards and Guidelines for the wolf.

Issue 4. Whether the described problems with the deer model result in an inaccurate assessment of effects on subsistence and sport hunting.

The appellants contend that the decision for the Scott Peak project was made on the belief that Wildlife Analysis Area (WAA) 5136 currently has a habitat capability of 19 deer/square mile, and that that value was calculated by applying the multiplier (100 deer per square mile) to an incorrect HSI value on the model's scale (see Issue 1 above). Expanding on the analysis they presented in Issue 2, the appellants claim that when the official correction for the deer multiplier is applied to the 1995 Forest Plan model estimate, habitat capability would be 16 deer/square mile. Further, they assert that if the needed correction of applying the multiplier to an HSI value of 1.3 is done, the Forest Plan's estimate for 1995 average habitat capability in WAA 5136 would only be 12 deer/square mile. The appellants claim that the Scott Peak project's NEPA and planning record documents contain insufficient disclosure of how project-level deer modeling was done, preventing determinations of the cause of the disparity between the calculation of habitat capability presented in the Scott Peak FEIS (19 deer/square mile) and what the appellants believe to be the correct figure for the project-level estimate for 2006 (15 deer/square mile).

Appellants also assert that the Scott Peak ROD is based on a misunderstanding that it is only necessary to "try to maintain" the habitat capability guideline of 18 deer/square mile. They contend that the guideline cannot be treated loosely, and that a substitute value for the guideline is appropriate only if it meets the standard's specified purpose and not simply to accommodate a desired amount of logging.

Discussion

As discussed above, the Scott Peak project's deer habitat capability analysis followed established direction and used the appropriate values in the deer model. In addition, documentation in the planning record adequately explains how the modeling was done, including descriptions of habitat types, number of deer supported, and reported harvest. In my opinion, the Forest Supervisor's finding that the project itself will not have significant possibility of a significant restriction on the subsistence use of deer is supported by the analysis in the FEIS and project record.

Issue 5. Whether the ROD's reliance on deer numbers determined from the deer model is valid.

The appellants contend that the calculation of a deer availability of 1,106 to 1,118 animals is incorrect because it is based on using the deer model with the deer multiplier associated with an HSI value of 1.0 rather than 1.3. They contend that if their suggested corrections are applied, the calculated available deer population would range from 850 to 860 animals, which is well below ADF&G's population objective of 1,067 animals.

Discussion

The FEIS states that the "[c]urrent deer habitat capability in WAA 5136 is approximately 1,746 deer, with 1,118 deer theoretically available to hunters after accounting for wolf predation"

[FEIS, pp. 3-161 and 3-162]. In the use of the current model, wolves in the area reduce the number of deer theoretically available to hunters by approximately 36 percent (FEIS p 3-160). As appellants note, ADF&G set a population objective of 1,067 for WAA 5136. This was based on 1988 hunter demand data [FEIS, p. 3-161]. Theoretical populations for this WAA by alternative are displayed in the FEIS [Table 3-55, p. 3-162], with Alternative C showing a theoretical number of 1,106 deer. Model run results in the ROD [p. 15] include the potential cumulative effects on deer, and these results also show a theoretical number of 1,106 deer.

In regards to the deer model, see my discussions above regarding HSI scores and carrying capacity multipliers. Given that the values used in the deer model were correctly applied, the model outputs used to analyze the number of deer theoretically available for subsistence were also correct and are not misleading to the public or cooperators.

Issue 6. Whether the subsistence analysis in the Scott Peak FEIS is too narrowly focused in time.

The appellant's argument with regard to this issue is not fully developed as the text ends abruptly. However, the appellants contend they have demonstrated that the amount of deer habitat capability available to support subsistence and sport hunting is inadequate and the situation has not been recognized in the planning of the Scott Peak project.

Discussion

The analysis in the Scott Peak FEIS and project record considers the potential cumulative effects on deer through the year 2040 [FEIS p. 3-52]. As stated above, I believe that the Scott Peak FEIS subsistence analysis for deer is based on the correct use of the deer model and values; therefore, the outputs displayed in the FEIS are correct and not misleading to the public or cooperators.

Issue 7. Whether the Forest Plan standard and guideline (WILD XI.A.1.c) for open road density adequately addresses the science related to using open road density versus total road density to assess effects.

The appellants contend that total road density (including all closed roads), not open road density, must be considered when assessing effects. They base this belief on a presentation made by ADF&G biologist Dave Person at the April 2006 Tongass Conservation Strategy Review Workshop. They also assert that the documentation for the Scott Peak project fails to disclose whether the statistics used are for open road density or total road density; they conclude that the figures are for open road density.

The appellants assert that the difference in calculated road densities between the FEIS and the Supplemental Information Report is not adequately explained in the ROD. Existing road density dropped from 0.59 to 0.443 miles of road/square mile. The appellants contend the only explanation provided in the ROD was that "(t)his change was due primarily to an updated GIS layer that became available since the FEIS was published." They contend that is insufficient disclosure and that the magnitude of the road density change is not described anywhere in the

planning record. To support their argument, the appellants point to documentation in the record which they contend confirms that only system roads were used in the road density calculation. They state that Document #443 indicates the 0.59 density figure in the FEIS was developed on the basis of system and non-system roads below 1200 feet elevation in the province, totaling 640 miles, on a land area of 1082 square miles below that elevation. They argue that if the density is calculated only for the system roads (470 miles), the result is a density of 0.434 miles of road/square mile, which they contend is suspiciously close to the value relied upon in the ROD.

Finally, the appellants contend that at the biogeographic province scale, the basis for the ROD's conclusions regarding road density effects on wolves is not supported because adequate disclosure and a verifiable analysis are absent.

Discussion

The appellants' points regarding the underlying science for the Forest Plan Alexander Archipelago Wolf Standards and Guideline XI.A.1.c are beyond the scope of the analysis for the Scott Peak project. Road density estimates were calculated as required by the Forest Plan and included in the Scott Peak FEIS [p. 3-164] and ROD [p. 16]. In addition, the calculation of road density displayed in the ROD included all roads, including all NFS system and non-system roads and all roads on non-NFS lands in the GIS database [ROD, p. 16]. This includes closed non-system roads [Decision Document #19, Supplemental Information Report, p. 17]. Therefore, the road density analysis for the Scott Peak project exceeded the Forest Plan requirement.

The 2006 ROD indicates that the current road density estimate for the Kupreanof/Mitkof Biogeographic Province changed from what was reported in the FEIS and in the 2005 ROD [ROD, p. 16]. The 2006 ROD explains that this difference is due "[p]rimarily to an updated GIS layer that has become available since the FEIS was published" [ROD, p. 16]. Review of the project record indicates that changes were indeed made to the GIS layer used to calculate miles of roads. The layer used for the 2006 estimate had been updated, and these updates likely changed the total miles of both system and non-system roads in the GIS layer [Decision Document #23, Transportation Information and Data Dictionary, p. 1). This GIS layer likely produces a more accurate estimate of miles of road than what was obtained in 2005.

The project record indicates there may be other causes for the change in road density estimates between 2005 and 2006. One reason is that the 2006 calculation of road density includes the closed non-system roads [Decision Document #19, Supplemental Information Report, p. 17], whereas the 2005 calculation did not [FEIS, 3-65]. Another reason may be that the area of the biogeographic province used for the 2005 and 2006 calculations is different [Decision Document #21, Scott Peak – Road Density, pp. 3 and 4; Decision Document #24, GIS Road Density Calculation, p. 1]. The area used in 2005 excluded the area of the province above 1200 feet in elevation, but it is not clear whether this was done for the 2006 calculation. The 2006 area calculation is 226 square miles larger than the 2005 calculation, which is roughly the area of the province above 1200 feet calculated in 2005 (210 square miles). This suggests that this is an additional cause of the difference in road density estimates. The intent was for both of these analyses to be restricted to roads below 1200 feet in elevation [ROD, p. 16; FEIS, p. 3-64]. Using the more accurate estimate of the current miles of road below 1200 feet from the updated

GIS layer (579.63 miles) and the 2005 estimate of the area of the province below 1200 feet (1082 square miles), I calculated the current road density at 0.54 miles of road/square mile. The density is the same when the correction is applied to both the Selected Alternative (modified Alternative C) and the most heavily roaded alternative for this project (Alternative B). These road densities are still well below the threshold road density of 0.7 miles of road/square mile recommended by Person et al. (1996) and specified in the Forest Plan.

The appellants' point regarding whether non-NFS roads were included in the calculation of the 2005 ROD suggest they lack of knowledge of Forest Service transportation system terminology and points to the complexity of the terminology. Part of the complexity is that the official terminology changed between the 2005 and 2006 calculation. The term "system" roads in the 2005 calculation included all roads under Forest Service jurisdiction, which included roads owned by other entities. The more recent definition of a system road only includes roads built by the Forest Service. This is why the documentation of the 2006 calculation of road density makes a distinction between system and non-Forest Service roads.

Conversion of the miles of road/square mile to miles of road in the analysis area is not required by the Forest Plan. The importance of the number of roads is only revealed when put in the context of the analysis area. Therefore, the most informative parameter is miles of road/square mile. In addition, this is how the threshold in the Forest Plan is expressed.

In my professional opinion, although not all aspects of the differences between methods used for the 2005 and 2006 analysis of road density were made clear in the 2006 ROD, the analysis for the 2006 ROD meets the requirements of the Forest Plan. Although it appears an error was made in calculating the area of the Kupreanof/Mitkof Biogeographic Province, it was inconsequential and would not have greatly changed the information available to the decision-maker as the corrected road densities are below the threshold recommended by Person et al. (1996) and specified in the Forest Plan. Therefore, the Forest Supervisor had adequate information for his decision.

Issue 8. Whether the ROD considered road density effects on wolves at the WAA and project levels.

The appellants assert that the ROD only considered the effects of open road density on wolves and only the effects at the province scale, and that it failed to take a hard look at total road density effects on wolves at all scales. They contend that the ROD is based on a NEPA review that failed to disclose important information related to the analysis methods that resulted in different road density estimates in the FEIS and ROD.

Discussion

An analysis of the potential effects on wolves at the project level is not biologically meaningful because wolves tend to have home ranges that cross several wildlife analysis areas. Therefore, forest-wide direction regarding the appropriate scale of effects analysis for wolves calls for the deer habitat capability model to be run for the biogeographic province scale or multiple WAAs [Tongass Land and Resource Management Plan Implementation Policy Clarification, p. 16].

This logic is also applied to the road density estimate and is in the ROD [p.16]. With this in mind, the response to all the other points the appellants make regarding project level analyses is complete.

With regard to the disclosure of information related to whether open road or total road densities were used in the wolf effects analysis and the explanation of the difference between the road density estimates in the FEIS and the ROD, see my response to Issue 7, above. To recap, Forest Plan direction is for open road densities to be used in the analysis of effects on wolves. That said, the analysis for the ROD included closed non-system roads. The differences in the road density estimates between the FEIS and the 2006 ROD appear to be due to updates to the roads data layer in GIS, the inclusion of closed non-system roads, and the acres of the biogeographic province above 1200 feet elevation.

Appellants indicate that the ROD's silence on an issue or effect disclosed in the FEIS indicates that they were not considered in the decision. This is incorrect. The ROD is a summary of the Forest Supervisor's rationale for his decision and not all the factors he considered in making his decision are included in the ROD. With regard to road density, a feature of the decision is to store and decommission over 6 miles of road [ROD, p. 1], resulting in a reduction of open roads in the Scott Peak project area.

In conclusion, I find that the Forest Supervisor took a hard look at the effects of road density associated with the Scott Peak project on wolves.

Issue 9. Whether the ROD adequately considered road density effects on marten.

The appellants assert that the planning team failed to seek and apply readily available information concerning marten and road density, and therefore, the veracity of the marten analysis is in doubt and cannot serve as a basis for the decision. The appellants believe that clarity regarding road density effects on wolves was established during the April 2006 Tongass Conservation Strategy Workshop (although the Forest Service failed to incorporate it into the Scott Peak decision), and that similar clarity should have been sought by the Forest Service on the marten/road density issue.

Discussion

This issue is largely beyond the scope of this project. Achieving clarity regarding the appropriate analytical methods for the effects of road density to martens requires research. Until such time as the information is available and, if appropriate, incorporated into forest-wide direction, the Forest is required to follow the current direction. The purpose of the Conservation Strategy Review Workshop was to develop information for the Forest Plan. This information will only become applicable to projects if it is incorporated in the Forest Plan or other forest-level direction. Planning teams do have the discretion to go beyond this direction, and this is evidenced by the fact that the road density analysis for the Kupreanof/Mitkof Biogeographic Province included "closed non-system roads that are inaccessible to vehicle traffic" [Decision Document #19, pp. 15-17]. This exceeds the Forest Plan's requirement for road density analysis [TLMP, p. 4-116].

Finally, the sufficiency of the FEIS analysis and disclosure of the potential adverse effects of the project on marten winter habitat capability has already been responded to in my recommendations on the appeals of the 2005 Scott Peak ROD [Decision Document #1, pp. 16 and 17]. In this recommendation, I concluded that "[i]n my opinion, the marten model was used correctly. Although results from applying the road density suitability index are not found in the FEIS, these results are described in the Wildlife Report and were available to the decision-maker." I believe this analysis is still valid; therefore, no additional response is needed.

Issue 10. Whether the ROD properly justifies the decision and considers significant effects.

Issue 10a. Whether the ROD accurately describes features of the Selected Alternative.

The appellants contend that the ROD does not accurately describe the Selected Alternative. They specifically refer to several factors listed in the section "Features of the Selected Alternative" that they believe are inaccurate, misleading, or otherwise in error.

Discussion

The appellants contend that simply dropping Unit 60 from the Selected Alternative does not respond to habitat concerns raised by the public as claimed by the ROD. As appellants point out, the Forest Supervisor states that he decided to drop Unit 60 to avoid harvest of 18 acres of coarse canopy old-growth habitat [ROD, p. 2]; however, this is not his only response to wildlife habitat concerns. His decision also modified Alternative C to change the prescriptions for Units 169 and 186 "[f]rom even-aged management to uneven-aged management to preserve old-growth structure and function in an area that contains coarse canopy old-growth forest habitat and that serves as an old-growth travel corridor for wildlife" [ROD, p. 2]. The Addendum to the Wildlife Report describes the modifications made to Alternative C, and explains in detail how the modifications address concerns regarding fragmentation, connectivity, and retention of more low elevation, high volume, coarse canopy forest [Decision Document #27].

The appellants also challenge the statement that the Selected Alternative harvests only ten percent of the existing low elevation, high volume strata old-growth forest in the project area. They contend that volume strata should not be used as a unit of measure because it considers timber volume irrespective of tree size and is not correlated to habitat quality. They also state that ADF&G has asked that volume strata data not be used for wildlife analysis. The appellants have raised this issue in past appeals as it relates to use of volume strata in the deer model. As discussed in response to those appeals, use of volume strata is consistent with Forest Plan direction [TLMP FEIS, p. 3-365]. The ADF&G has funded and conducted several studies over the past 20 years that have shown that timber volume is a good predictor of deer winter range, and they have argued that low elevation, high volume old-growth timber stands be conserved. In my opinion, the Scott Peak decision is consistent with Forest Plan direction and research related to timber volume strata.

Finally, the appellants contend that the addition of Unit 298 to the Selected Alternative appears to be more damaging than indicated because there is a high incidence of deer, moose, squirrel,

and bear activity in the unit. I disagree with their assertion. The ROD acknowledges that there is a high incidence of deer, moose, squirrel, and bear activity in some of the units. This concern was addressed by prescribing the retention of 30 percent of the original stand structure to provide future old-growth stand characteristics and stand structure [ROD, p. A2-43].

In my opinion, the ROD accurately describes the features of the Selected Alternative and how they address concerns related to effects on wildlife habitat.

Issue 10b. Whether the rationale for the decision is justified.

The appellants contend that some of the reasons for the Forest Supervisor's decision are not justified by the analysis presented.

Discussion

The appellants claim that dropping Unit 60 to reduce harvest of coarse canopy old-growth habitat results in additional harvest in travel corridors in two substitute units and that this is not addressed. It is not clear to me what the two "substitute" units the appellants refer to are, although I assume they mean Units 290 and 298. The ROD states that Unit 298 was added to the Selected Alternative and that it replaces some of the volume lost when Unit 60 was dropped [ROD, p. 2]. The ROD also discloses that the addition of Unit 298 has limited potential effects on wildlife as it does not harvest any coarse canopy forest and only harvests three acres from a 326-acre patch of interior old-growth forest habitat. The unit cards for Units 298 [ROD, p. A2-43] and 290 [ROD, p. A2-41] do not indicate that they are in wildlife travel corridors. The unit card for Unit 290 indicates that the stand is susceptible to medium windthrow potential, and that this concern is addressed by retaining reserve trees in clumps. No windthrow risk is identified for Unit 298. In my opinion, the potential effects of harvesting these two units are adequately addressed.

With respect to the appellants' claim that the decision fails to balance timber sale opportunities while still protecting subsistence resources, I disagree. The Forest Supervisor clearly considered the potential effects of the project on various resources, including subsistence, and he concluded that "[t]here will not be a significant possibility of a significant restriction to the customary and traditional subsistence uses of wildlife, fish and shellfish, marine mammals, other foods, or timber resources as a result of this project" [ROD, p. 25].

Finally, the appellants state that although the ROD concludes that the unit locations, designs, and harvest prescriptions used will reduce the possibility of catastrophic windthrow, no estimate has been provided of the additional loss of habitat or habitat quality due to windthrow. The appellants are correct that the estimates of the acres or percentage of habitat that may be impacted by windthrow are not specifically discussed in the FEIS. However, the unit cards identify units where windthrow is a possibility and include prescriptions for clumps of leave trees to minimize potential windthrow affects. The ROD acknowledges that "[t]here may be some windthrow in the leave trees. This risk is tolerated because if blowdown occurs, the trees would still have benefits to wildlife and would still contribute to stand structure" [ROD, p. A2-4]. The Silviculture Resource Report discusses the objectives for the Scott Peak unit

prescriptions, which include minimizing windthrow, and it goes on to describe how that will be accomplished in the project area [Decision Document #29, pp. 20-24]. In my opinion, the potential effects of the project related to windthrow and the loss of habitat or habitat quality are adequately addressed in the project record.

Issue 11. Whether the FEIS and ROD adequately consider cumulative effects.

The appellants raise several points regarding the cumulative effects analysis conducted for the Scott Peak project, some of which relate back to issues previously raised in their appeal. First, they contend that the FEIS failed to consider the potential effects of the Central Kupreanof and Central Mitkof projects. They also continue to object to the way the deer model has been applied to the project, particularly with regard to the finding that WAA 5136 has sufficient habitat to meet ADF&G deer population objectives and that there will not be not be a significant possibility of a significant restriction of subsistence use. Finally, the appellants reassert their position that the road density figures presented in the ROD are incorrect and that all road miles should have been considered.

Discussion

The ROD acknowledges that there were foreseeable future activities within the Kupreanof/ Mitkof Biogeographic Province that were not analyzed in the FEIS and additional analysis of cumulative effects has been added to the record since the 2005 ROD. These activities include:

- Bohemia Mountain, Todahl, and Shamrock timber sales on Kupreanof Island, (most of these sales have been harvested to date);
- Woodpecker and Overlook timber sales on Mitkof Island; and,
- Three planning areas identified for future sales (Big John/Central Kupreanof and Bohemia Towers on Kupreanof Island and Central Mitkof on Mitkof Island).

The Cumulative Effects to Biological Diversity and Wildlife Habitats document states that "[t]he location of harvest units in the NEPA cleared sales is easily identified and has been included in this cumulative analysis for deer habitat capabilities. The Big John/Central Kupreanof, Bohemia Towers, and Central Mitkof planning areas do not have formal proposed actions at this time with identified harvest units and any analysis would be speculative" [Decision Document #20, p. 10]. In October 2006 (after the 2006 Scott Peak ROD was signed), the Petersburg District sent out a newsletter describing preliminary information for the Central Kupreanof project [Decision Document #33]. The newsletter includes a map that offers a general sense of where the project will propose harvest, but does not include a formal proposal with identified harvest units.

The Council on Environmental Quality regulations implementing NEPA state, in part, that a:

> "Proposal" exists at that stage in the development of an action when an agency...has a goal and is actively preparing to make a decision... A proposal may exist in fact as well as by agency declaration that one exists.

[40 CFR 1508.23].

Since neither the Central Kupreanof nor Central Mitkof projects had formal proposed actions at the time the Scott Peak decision was made, I find it reasonable that the cumulative effects analysis in the Scott Peak FEIS acknowledged the possibility of the projects occurring but did not consider the specific aspects of them. The NEPA documents for those projects will consider the potential cumulative effects associated with the Scott Peak project in their analyses.

In regards to the deer model, HSI scores and carrying capacity multipliers were discussed in previous responses above. Given that the values used in the deer model were correctly applied, the model outputs used to analyze the number of deer theoretically available for subsistence were also correct. I find that the additional analysis documented in the ROD [p. 15] and Supplemental Information Report [Decision Document #19, p. 2] is sufficient for the Forest Supervisor to conclude that deer population objectives for WAA 5136 are being met and that "[t]here will not be a significant possibility of a significant restriction to the customary and traditional subsistence uses of deer" [ROD, p. 15].

Finally, with respect to the appellants' claim that the road density figures presented in the ROD are incorrect and that all road miles should have been considered, see my response to Issues 7 and 8, above. In my opinion, the road density analysis presented in the FEIS meets Forest Plan standards and guidelines, and the potential effects of road density on wolves are adequately disclosed and supported by documentation in the project record.

Recommendation

In my opinion, the analysis in the Scott Peak FEIS and project record is sufficient to support the Forest Supervisor's decision with respect to all the issues raised in these appeals. Based on my review of the FEIS, the ROD, and the project record, and my discussions of each specific appeal issue above, I believe the FEIS and ROD meet all applicable requirements of law, regulation, and policy. Therefore, I recommend that you affirm the Forest Supervisor's decision with respect to the Sitka Conservation Society, Greenpeace and Cascadia Wildlands Project appeals. Regarding the appeal submitted by Mark Rorick, Juneau Group of the Sierra Club, I recommend that you dismiss their appeal without review in accordance with 36 CFR 215.16(a)(9). Regarding the appeal submitted by Glen Ith, I recommend that you not respond to his appeal as it is unclear whether he has met the requirements of the appeal regulations at 36 CFR 215.13(d).

Paul K. Brewster

PAUL K. BREWSTER
Appeal Reviewing Officer