United States Department of Agriculture
Forest Service
Region 1
Federal Building
P.O. Box 7669
Missoula, MT 59807

File Code: 1570 (215)
#97-01-00-0100

Date: September 26, 1997

Rob Hamilton
9624 Meadowlark Drive
Bozeman, MT 59718

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dear Mr. Hamilton:

This is my decision on disposition of the appeal you filed protesting the Wise River District Ranger's Decision Notice (DN) for the Flume Creek Timber Sale Proposal on the Beaverhead-Deerlodge National Forests.

The District Ranger's decision implements Alternative 4 which will harvest timber on 142 acres and burn sagebrush and grasslands on 161 acres. Harvest will be accomplished by thinning and selection cutting. No new, permanent roads will be constructed. Approximately .75 miles of temporary road may be constructed and will be obliterated following harvest activities. Road 8251 will be reconditioned.

DECISION

After careful consideration of the Appeal Reviewing Officer's recommendation, I affirm the District Ranger's decision to implement Alternative 4. Your requested relief is denied.

My review of your appeal was conducted pursuant to, and in accordance with, 36 CFR 215.17 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. I have thoroughly reviewed the appeal record, including the recommendation of the Appeal Reviewing Officer (copy enclosed) regarding the formal disposition of your appeal. My decision hereby incorporates by reference the entire appeal record.

APPEAL SUMMARY

Central objections identified in your appeal concern westslope cutthroat trout habitat, opportunity to appeal after fieldwork and data can be reviewed, and road construction.

You request a detailed analysis showing how stream crossings affect westslope cutthroat trout, providing 30 days for appeal review after field work is completed, and no road construction.

You were unable to attend an informal meeting, but did discuss the appeal by telephone. No resolution was reached, and no interested party comments were received.

APPEAL REVIEWING OFFICER RECOMMENDATION

The Appeal Reviewing Officer recommends the District Ranger's decision be affirmed and your requested relief be denied.

FINDINGS

Following is my evaluation of the objections raised in your appeal and your requested changes.

Scope of Decision

Decisions made in Forest Plans are subject to administrative review under 36 CFR 217 and are not subject to review in project or activity decisions [36 CFR 215.8(a)(1)]. These decisions are considered to be beyond the scope of the project-level decision, and the opportunity to challenge these decisions has been exhausted.

Similarly, Appellants may not request review of activities that are not "connected" to the project decision being challenged or ask that additional decisions be made that are not "ripe" for decision. Under NEPA, the Responsible Official has the discretion to propose actions and determine which actions warrant a decision and those that do not.

I have determined your objections are within the scope of the decision.

Scope of Decision Documentation

Appeal Regulations at 36 CFR 215 allow for expanded opportunities for public involvement in Forest Service decisionmaking. The public is best served by mutual efforts to resolve differences during the decisionmaking process rather than after a decision is made.

Your objections correspond closely to comments you raised in scoping and during the comment period. Because of your early participation in the pre-decisional process, the District Ranger was able to analyze these concerns by incorporating them into the environmental analysis and consider them in making the decision.

Procedural Determination

I have thoroughly reviewed your arguments and the information referenced in the District Ranger's August 25, 1997, Transmittal Letter (copy enclosed). The Transmittal Letter provides specific page references to discussions in the Environmental Assessment (EA), the DN, and project file which bear upon your objections. The objections you raise in your appeal are similar to the comments you made on the EA. The project file indicates your objections were either addressed as environmental issues in the EA or are discussed in the DN. I specifically incorporate in this decision the references and citations contained in the Transmittal Letter. Based upon a review of the references and

citations provided by the District Ranger, I find the objections you raised were adequately considered in the EA/DN and the District Ranger made a reasoned decision concerning those issues. I find the District Ranger has complied with all laws, regulations and policy.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Kathleen A. McAllister

KATHLEEN A. MCALLISTER
Appeal Deciding Officer
Deputy Regional Forester

Enclosures (2)