



United States  
Department of  
Agriculture

Forest  
Service

Region 1

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**File Code:** 1570 (215)

**Date:** January 25, 2001

**Route To:**

**Subject:** Taylor Fork TS and Road Restoration ROD, Appeal #01-01-00-0009,  
Gallatin NF

**To:** Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson on behalf of the Native Ecosystems Council protesting the Taylor Fork Timber Sale and Road Restoration Record of Decision (ROD) signed by the Gallatin National Forest Supervisor.

The Forest Supervisor's decision adopts Alternative 3A, with modifications. This alternative provides for harvesting approximately 1.7 million board feet of timber on 198 acres. To facilitate the logging and hauling operations, approximately 0.4 miles of new temporary road will be constructed, and 10.2 miles of existing road will be reconditioned. On existing roads that are normally designated for no public motorized access, temporary access for logging equipment, timber sale contract personnel and log hauling will be allowed behind closed gates. To minimize the effects of allowing vehicles on these closed roads, gates will remain closed at all times, opening only to allow travel of vehicles associated with the logging and road restoration activities. Public access will not be permitted behind currently closed gates. All new roads would be obliterated (scarified, ripped and seeded) once timber harvest and post-reforestation activities are completed.

Apart from the timber harvest and associated road development, this decision allows for the obliteration (restoration) of up to 50 miles of existing roads that are currently closed to public motorized uses in Taylor, Eldridge and Buck Creek drainages.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the appellant's objections and recommended changes, has been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The appellant alleges violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Endangered Species Act (ESA), and the Administrative Procedures Act (APA). The appellants request a remand of the ROD. An informal meeting was held but no resolution of the issues was reached.

## ISSUE REVIEW

**ISSUE 1.** The Forest Service has violated the NEPA, NFMA, APA, and ESA by proposing to implement the Taylor Fork Timber Sale and Road Restoration program on the Hebgen Lake Ranger District.



**Contention 1-A:** The agency failed to ensure that the Forest Plan standard for 40 percent cover within grizzly bear recovery habitat will be met; a Forest Plan amendment may be necessary before more cover is removed; the USFWS may have been unaware of possible insufficient cover levels at the time a Biological Opinion was completed.

**Response:** Issue 6 (Grizzly Bear - Changes in Hiding, Thermal and Security Cover Habitat) describes the analysis and need for a site-specific amendment to the 40 percent cover concern (FEIS, pp. III-47 to III-50). The Dead Horse-Albino Lake area currently has 60 percent hiding cover and 5 percent thermal cover. Although no thermal cover habitat will be harvested in the units that lie within this area, re-entry into the Dead Horse-Albino Lake area for timber harvest is proposed. According to the USFWS Biological Opinion for the Forest Plan (Document 471), re-entry into a drainage should not occur unless 40 percent or more can be maintained in cover (20 percent hiding cover, 10 percent thermal cover, and 10 percent + in hiding or thermal cover). Therefore, a site-specific Forest Plan amendment for this project would be needed in order to implement Alternative 3A-Modified (ROD, pp. 7-8; FEIS, pp. I-7, II-15, III-51 to 54; Appendix C-2, pp. 13 to 15; and Appendix E, p. 7).

The amount and quality of cover existing on private lands was considered in the analysis (Documents 196 through 207). Please see Contention 1-B below regarding use of total compartment acres to determine the forested acres within a compartment.

**Contention I-B:** The agency failed to complete a Forest Plan amendment to address the failure to meet the 30 percent old growth requirement for Management Area 13; insufficient levels of old growth in grizzly bear recovery habitat were not problems that were addressed in the Biological Assessment that was provided for formal consultation.

**Response:** The old growth percent calculated for the Taylor Fork analysis area was derived from forested compartment acres. Forested lands are all lands that under 'natural conditions' grow trees to such an extent that at least 10 percent of the area is tree covered (Gallatin National Forest Plan, p. VI-12). Where tree cover is less than 10 percent, it is defined as grass/forb cover. Although the Forest Plan is not clear that the standard applies to the percent of forested lands within the compartment, discussions with Forest planners involved in developing the Gallatin National Forest's Plan have documented that the intent was to calculate forested successional stages (including old growth) from only forested lands within a compartment (Document 186). The Forest Plan Planning Records state that old growth shall be calculated and managed on capable timberlands, i.e. those lands capable of producing timber. Otherwise, it would be impossible to achieve these successional stage percentages in grass/forb-dominated areas.

Documents 398B and 398C show the calculations of how old growth and potential old growth were determined. The discrepancy that occurred from draft to final is well documented in the FEIS (pp. III-3 and A-2). In the draft EIS, successional stages were calculated from total individual compartment acres versus only forested acres within each compartment calculated in the final EIS. Also, the initial calculations did not include any lodgepole pine stands as possible old growth habitat (FEIS, p. E-26). The FEIS analysis for old growth forest habitat concludes that, "Sufficient core old growth and mature habitat will remain under any action alternative to maintain habitat for viable populations of old growth-dependent species" (FEIS, p. A-49).

**Contention I-C:** The agency failed to define the need to provide openings in Forest cover to increase production of browse species for ungulate prey species, as is required for vegetative management within MA 13 lands (Forest Plan, p. III-41).

**Response:** Increasing production for vegetative browse species for ungulate prey species was not a purpose or need described for this project or the decision (FEIS, p. I-5). Effects to grizzly bear foraging habitat (Issue 5, p. III-43) and ungulate prey species use of the area (Issue 14, p. A-9) during the harvest activities were provided in the FEIS (pp. III-43 to III-47; A-9 to A-10; and A-29).

**Contention I-D:** The claims of increased habitat effectiveness for the grizzly as a result of the road restoration program are never supported with site-specific data; the public is expected to simply accept the conclusions without any supporting data, including the claim that open-road densities will decrease.

**Response:** Throughout the analysis process, the public and the USFWS were notified of the types of uses on closed roads during the life of the timber sale activities and the various road restoration options being considered (DEIS, p. II-17; FEIS, p. II-31, C-2 pp. 20 to 22, and E-19 to E-21; ROD, pp. 5, 6, 22 and 23; and Documents 219 and 220). Effects of the road obliteration are addressed in the cumulative effects discussions for the issues and in the cumulative effects worksheets in the project file (Documents 278 to 287, 377, 386, 387 and 387a).

**Contention I-E:** The cumulative effects of disturbances to the grizzly bear in the analysis area were never evaluated in the FEIS, or the Biological Assessment provided to the U.S. Fish and Wildlife Service for formal consultations.

**Response:** Cumulative effects discussions occur at the end of each issue discussion related to grizzly bear in Chapter III of the FEIS including motorized access density and core habitat (pp. III-39 to 42), foraging habitat (pp. III-46 to 47), hiding, thermal, and security habitat (p. III-50), and potential mortalities (pp. III-63 to 64). Each issue discusses the cumulative effects of the project and the cumulative impacts of past and ongoing logging in the analysis area. USFS Biological Assessment identified activities considered in the cumulative effects analysis (C-4 to 6) and their cumulative effects (C-12). The same activities were addressed by the USFWS on page 23 of their Biological Opinion (C-3).

Additional information on the cumulative effects analyses used for the significant issues can be found in the specialists' reports in the administrative record. Analyses for events or activities that occurred between the time of the draft EIS and final EIS were displayed in the Record of Decision (p. 2) and in the administrative record (Documents 136 to 143).

Documentation supporting the interpretation that only major activities that occur on public lands are considered when assessing re-entry for timber harvesting in MS 1 and MS 2 areas is found in the project file (Documents 212 to 217). All activities however, are discussed in the cumulative effects analysis, as discussed above. Due to the short duration of road obliteration activities, ongoing and planned road restoration (obliteration) activities are not considered in re-entry determinations (Documents 212, 213 and 217).

**Contention I-F:** The Forest Plan direction for management of MS 1 habitat is being violated within the Taylor Fork analysis area; similar violations may be occurring across the Forest in recovery habitat; these departures from management direction, along with habitat degradation associated with timber harvests in grizzly bear recovery habitat across the Forest, may provide significantly different grizzly bear recovery habitat levels than were projected in the Forest Plan; decisions made to perpetuate and/or exacerbate ongoing shortfalls of grizzly bear recovery habitat require appropriate Forest-wide NEPA analysis and possible amendments to the Forest Plan.

**Response:** Fifty percent of the Hilgard Bear Management Subunit 2 is classified as core (non-motorized) grizzly bear habitat during Season 2 (July 16 through November 30). This is considered the environmental baseline condition for Hilgard 2 due to existing conditions of motorized access routes in the subunit. The USFWS Biological Opinion (p. 13) states that “The environmental baseline in the Hilgard 1 and 2 is in relatively good condition for grizzly bears.”

The current standard for management of core areas is to allow for no decrease in the amount of core habitat from what currently exists (Forest Plan, Amendment 19, 1996). Proposed activities will result in a temporary decrease in potential interim core habitat in the Hilgard BMU of less than 1 percent during Season 2. This is documented under Issue 4 in the FEIS (pp. III-34 to 43) and resulted in the site-specific amendment to exempt this project from the Forest Plan standard that there will be no decrease in the amount of grizzly bear core area habitat from the current level. Although there will be an initial decrease in access density, there will be a subsequent increase in core habitat areas with the road obliterations and closures.

**Contention I-G:** The value of mitigating measures provided by grizzly bear core habitat was never demonstrated.

**Response:** One-half of the existing grizzly bear recovery habitat within the Hilgard 2 subunit will not be lost or made unavailable to grizzly bears during Season 2 (see Contention I-F), as stated by the appellant. An analysis of effects on grizzly bear core habitat was provided as Issue 4 in the FEIS (pp. III-36 to III-43), and presented to the USFWS in the Biological Assessment (C-2, p. 23). As a result, the USFWS determined, “...(these) impacts would (be) limited in both scale and duration, ...(due) to existing habitat quality, moderate to low level of existing open and total road densities and substantive core areas within each of the grizzly bear subunits. (Therefore) the reduction in core area is not expected to increase the level of incidental take of grizzly bears...” (FEIS, C-3, pp. 20 and 21).

**Contention I-H:** There is no analysis process in place to evaluate how site-specific losses and degradations of grizzly bear habitat within individual projects will affect Forest-wide habitat availability and mortality risks of the grizzly bear.

**Response:** The spatial and temporal bound used for all grizzly bear issues analyzed in this project are described in Documents 277 and 278, and basically encompass Hilgard Bear Management Subunits 1 and 2. Cumulative effects analysis discussions can be found in the FEIS at the end of each of the grizzly bear issues (pp. III-39 to III-40; III-46 to III-47; III-63 to III-64; A-4; A-8; and A-10).

**Contention I-I:** The Forest-wide impacts of site-specific amendments to HEI have not been evaluated.

**Response:** The reason for a site-specific amendment to the HEI of 70 percent to implement the decision is described in the FEIS (pp. I-6; II-16 to 17; III-54 to 59; and E-6 through E-7) and in the ROD (pp. 6 and 11). As stated, the short-term use of a currently closed road in the Dead Horse-Albino Lake area during the harvest of proposed units 113 and 114 results in a temporary change from the current HEI of 70 percent to 68 percent. HEI would return to 70 percent upon completion of harvest-related activities. In addition, a description of an alternative considered to address this issue was briefly analyzed in the final EIS (p. II-34).

The Forest-wide impact of site-specific amendments to HEI outside of the cumulative effects analysis area is outside the scope of this project.

**Contention I-J:** The road restoration proposal for the Taylor Fork project has not been adequately defined to the public (e.g., alternatives for road restoration were not defined or evaluated; the location and timing of

road restoration activities are extremely difficult if not impossible to determine; this program appears to have already been implemented), while impacts on the grizzly bear were not evaluated.

**Response:** The objectives of the road restoration portion of the project are described in the FEIS (pp. II-25; II-31 to II-32; and E-19 to E-21) and Record of Decision (p. 6). The road segments considered are not open to public motorized uses.

Information on planned road restoration activities can be found in the administrative record (Documents 431 through 435), and was available for public review throughout the analysis process (Documents 032, 161 and 163). Effects of the road obliteration are addressed in the cumulative effects discussion for the issues, as well as in the cumulative effects worksheets in the project file (Documents 278 to 287, 377, 386, 387 and 387a).

Road restoration (obliteration) actions are viewed as a positive benefit to grizzly bears. As stated in the Biological Assessment for the FEIS, the road restoration proposal will reduce total access density by 4 percent in the Hilgard 1 bear Management Subunit and by 2 percent in Hilgard 2 bear Management Subunit (C-2, p. 22).

#### RECOMMENDATION

I recommend the Forest Supervisor's decision be affirmed and the appellants' requested relief be denied.

/s/ J. Doug Glevanik

J. DOUG GLEVANIK  
Reviewing Officer  
Interregional NEPA, Appeals and Litigation Leader  
Ecosystem, Assessment and Planning