



File 1570 (215) Date: April 21, 1999
Code:
Route
To:
Subject: Lime Kiln Timber Sale DN, Appeal #99-01-00-0108,
Beaverhead-Deerlodge NFs
To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Dale Fredlund protesting the Lime Kiln Timber Sale Decision Notice (DN) signed by the Butte District Ranger (Beaverhead-Deerlodge NFs).

The District Ranger's decision adopts the proposed action to harvest approximately 366 acres of sawtimber and roundwood, using 1/2 mile of temporary roads.

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.

FINDINGS

Appeal Review Findings

The Appellant alleges violations of the National Forest Management Act and the National Environmental Policy Act (NEPA). The Appellant requests the decision be remanded. An informal meeting was held on March 30, 1999; however, no resolution was achieved. No interested party comments were received.

Objection 1: The National Forest Management Act of 1976 (NFMA). The decision is based on an Environmental Assessment (EA) which does not comply with NFMA and its implementing regulations, as it did not comply with requirements of the Deerlodge National Forest Plan (September 1987 Forest Plan).

Contention A: The Forest Plan elk standards were not applied in the EA process and, therefore, the EA and decision are not in compliance with the Forest Plan.

Response: Elk security and MFWP elk objectives for the project area are discussed at EA pages III-9 and 10. Page IV-14 discloses effects common to all action alternatives, "none of the treatment units lie in an identified elk security area and no loss of hunting season security is expected." All alternatives call for closing .6 miles of existing road. Page IV-19 concludes, "All Alternatives are consistent with Forest Plan wildlife standards..." Big game security was also addressed in the scoping Content Analysis, PF Vol. 1, page 235, point 15. Elk-effective cover was addressed in Appendix C to the DN, Response to Public Comments, p. C-9, point 5; p. C-11, point 10; and p. C-12, point 14.

Elk population statistics are addressed on p. III-9 of the EA and in Response to Public Comment, pages C-9 and 10, point 6. The response talks about historic elk numbers and concludes, by consultation with MFWP, that elk numbers in this area were meeting the (State of Montana) Elk Plan objectives. No changes in elk numbers for the Highlands are expected as a result of this proposal.



Contention B: The EA, decision, and project implementation are not (or would not be) in compliance with Forest Plan standards.

Response: Forest Plan consistency in general is disclosed in the DN, p.13, and by each resource in Chapter IV. Evidence for effects is also disclosed in Chapter IV, in the BA/BE (Appendix A and B to the DN), and in the Response to Public Comments, DN, Appendix C.

This concern is addressed in general on p. C-2 of the DN, point 2; for wildlife on p. C-10, points 7 and 8; and for fisheries, water, and riparian standards on p. C-17, point 5.

Contention C: The EA, decision, and project implementation are not (or would not be) in compliance with Forest Plan standards for westslope cutthroat trout habitat.

Response: The Biological Evaluation for westslope cutthroat trout, Appendix B to the Decision Notice (and PF Vol. 2, pp. 97-100), references population sampling, habitat evaluations, mitigation, and sale and road design before concluding, "any of the proposed action alternatives may impact individuals or habitat, but will not likely contribute to a trend toward federal listing or loss of viability to the population or species." The DN, p. 3, discusses fisheries and water quality, and how they are protected, with cites to the EA.

Chapter IV, p. 20, discusses effects of the alternative and sediment projections. This concern is also addressed on DN, p. C-17, point 8. Other comments and responses dealing with sedimentation are found on pp. C-16 through C-22. These responses clarify and supplement the analysis presented in the EA.

Objection 2: The National Environmental Policy Act (NEPA). The decision is based on a NEPA disclosure document (EA) that is not in compliance with NEPA and its implementing regulations.

Contention A: The EA did not "insure the professional integrity, including scientific integrity of the discussions and analyses" ...and did not "identify methodologies used, ... and other sources relied upon for its conclusions" (40 CFR 1502.24).

Response: The analysis has been designed to respond to the overall guidance of the Deerlodge Forest Plan, including Desired Future Condition of the Forest Plan, standards and the goals and objectives. Forest specialists for each of the resource areas addressed in the EA conducted their analysis both in the field and through the use of available data at the Butte Ranger District. The EA, DN and project file identify methodologies and sources of information used in the analysis. The analysis is well documented in the EA.

Contention B: The EA did not "succinctly describe the environment or the area(s) to be affected or created by the alternatives under consideration" (40 CFR 1502.15).

Response: Chapter III and IV of the EA describe the environment and the area(s) to be affected, along with Appendices A-C of the DN.

Contention C: The EA did not disclose cumulative impacts (as defined at 40 CFR 1508.7).

Response: Cumulative effects are disclosed in the EA on pages IV-1, 2, 7-12, 19-21, 23-25, 28-31, and 33. These effects include actions on private land. Reasonably foreseeable future actions in the project area are listed on page IV-1, along with a description of past timber harvest. The descriptions of the

affected environment in Chapter III of the EA reflect the effects of past and present actions. Each resource write-up in Chapters III and IV includes the information on which conclusions were based.

RECOMMENDATION

On March 12, 1999, an Update of the Northern Region Sensitive Species List was sent to Forest Supervisors. This is new information that was not available to the Responsible Official at the time this decision was made. Pursuant to FSH 1909.15, Section 18.1, this new information must be reviewed to determine its importance to this decision. I recommend that the Responsible Official conduct a review to consider this information within the context of the project, that the District Ranger's decision be affirmed and that the Appellant's requested relief be denied.

/s/ Maureen McBrien

MAUREEN MCBRIEN

Reviewing Officer

Deputy Director, Recreation, Minerals, Lands, Heritage and Wilderness