



File 1570 (215) Date: March 31, 1999  
Code:  
Route  
To:  
Subject: South Elkhorns Range and Vegetation Project DN, Appeal #99-01-00-0091  
To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson Native Ecosystems Council protesting the South Elkhorns Range and Vegetation Project Decision Notice (DN) signed by the Townsend District Ranger (Helena National Forest); Jefferson District Ranger (Beaverhead-Deerlodge National Forests); and the manager of the Bureau of Land Management, Butte Field Office.

The District Rangers' decision adopts Alternative B with some modifications for the grazing portion of the project and a combination of units from all the vegetation treatment alternatives to maximize benefits to all wildlife species and minimize impacts on big game hiding cover and security areas.

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 Appellants' objections and recommended changes, has been thoroughly reviewed. The Appellant lists many interrelated issues in their appeal. 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.

## FINDINGS

### Appeal Review Findings

The Appellant alleges violations of the National Environmental Policy Act (NEPA), the Administrative Procedures Act (APA), the National Forest Management Act (NFMA), and Congressional direction established for the Elkhorn Wildlife Management Unit (EWMU) to manage for wildlife. The Appellant requests 1) a full remand of the decision including the portions of the project that will occur on Bureau of Land Management (BLM) lands; 2) that any subsequent project proposals and decisions for the South Elkhorns be limited in scope and context; and 3) that range and timber activities be identified as such rather than being improperly classified as wildlife habitat improvement activities. An informal meeting was held but no resolution was reached.

### **Objection 1: The proposed actions will degrade wildlife habitat in violation of the management direction established for the Elkhorn Wildlife Management Unit (EWMU).**

The Appellant contends that as a result of the extensive treatments planned in big game winter range, big game habitat will be degraded. The Appellant states that burning of sagebrush and juniper on winter range will destroy big game forage and that logging, thinning and burning of trees will reduce thermal and hiding cover for elk and mule deer. They also state that burning of sagebrush will destroy habitat for nongame wildlife species.

Response: The Environmental Assessment (EA) adequately discloses the effects of the proposed actions on big game habitat, including forage, and thermal and hiding cover on pages 3-106 through 3-120. As stated in the DN, the selected alternative was designed with the objective of optimizing wildlife

values and balancing the needs of big game and non-game species (DN, p. 2). Part of the rationale for the selected alternative is to "enhance grasslands, shrublands, and forests, while still protecting important winter forage, and hiding and security cover for big game animals..." (DN, p. 12). I concur with the finding that the selected alternative is consistent with management direction for the area provided in the Deerlodge and Helena Forest Plans and the Elkhorn Forest Plan Amendment (DN, p. 25).

**Objection 2: The proposed actions violate the NEPA by failing to provide relevant information requested by the public.**

The Appellant states that information requested on levels of hiding cover and security for the analysis area was never provided.

Response: Upon review of the letters and comments submitted by the Appellant, I found no request for information regarding hiding cover or security. This information is provided in the South Elkhorn Landscape Analysis (Project File, Vol. 2, Doc. 1) and is summarized in the EA on page 3-107.

**Objection 3: The proposed actions violate NEPA and APA because the public has been misled as to the actual purpose of the proposed treatments.**

Contention A: No literature, monitoring results or written correspondence from the Montana Fish, Wildlife and Parks (FWP) were ever provided to demonstrate that burning sagebrush and junipers will improve big game winter range.

Response: The effects analysis for big game was completed by a FWP biologist. The analysis is documented in the EA on pages 3-106 through 3-120 and reveals that vegetation treatments will enhance winter range for elk. Appendix D of the DN is a letter of position from FWP which states, "...FWP feels that the final product reflects our concerns regarding wildlife in this portion of the Elkhorns and will be a positive step towards enhancing wildlife habitats and general resource conditions in the area."

Contention B: Almost no wildlife surveys have been done to identify important source areas for forest interior wildlife and species associated with sagebrush, even though these habitats are going to be extensively removed with the proposed treatments.

Response: The EA discloses that less than 3% of the sagebrush acreage in the project area will be altered by any of the alternatives (EA, pp. 3-73). The EA also documents that many wildlife species, particularly threatened and endangered species, have been surveyed and the analysis indicates that for most of these species impacts are beneficial over the long term, suitable habitat is not included in the proposed treatments, or the effects of treatment are neutral. I find that the EA and project file contain sufficient documentation for the District Rangers to make an informed decision regarding the effects of the project on wildlife.

Contention C: The reduction in sagebrush and conifer encroachment habitats in the South Elkhorns is a range management objective that is being achieved to benefit livestock grazing, not wildlife.

Response: The purpose and need for the proposed action describes in detail the relationship between the vegetation treatments and grazing (EA, pp. 1-6 through 1-10). Specifically, the purpose and need explains that, "All of the treatments are intended to increase the diversity and "health" of existing wildlife habitats while maintaining livestock grazing..." (EA, pp. 1-7). The EA further clarifies that any increase in production resulting from vegetation treatments is intended to maintain or improve plant health and soil conditions. Increased vegetative production will not be allocated to livestock or wild ungulates (EA, pp. 2-8). The rationale for the grazing decision also states, "The main reason to change

livestock grazing from the existing situation...is to improve important wildlife habitats" (DN, p. 13). Based on this information, I conclude that the decisions are consistent with the wildlife management objectives for the South Elkhorns.

Contention D: No data or monitoring was provided in the South Elkhorns Vegetation Treatment EA to demonstrate that forest thinning will benefit wildlife, including forest interior species and big game.

Response: The EA adequately discloses the effects of thinning on various wildlife species (EA, pp. 3-84, 3-85, 3-89 through 3-91, and 3-108). The EA also states that the objectives of thinning are to create conditions which would allow the use of prescribed fire (EA, pp. 2-8). The information regarding thinning and the effects on wildlife is supported by specialist reports contained in the project file (Project File, Vol. 5, Doc. 5-6 and Vol. 6).

**Objection 4: The proposed actions violate NEPA by a failure to evaluate cumulative effects.**

The Appellant lists several potential cumulative effects that they contend were not considered. These include impacts of habitat fragmentation on wildlife; impacts of logging and burning for the EWMU, including the North Elkhorns project; long term impacts on conifer and shrubland species; impacts of burning on weeds; burning sagebrush and other sagebrush loss factors; grazing effects on grazing-intolerant wildlife species; and impacts of losses of forest interior habitat on goshawk foraging.

Response: The EA discloses the cumulative effects of past, present, and reasonably foreseeable actions on all of the resources throughout Chapter 3 (see the Transmittal Letter for specific references). The Elkhorn Forest Plan Amendment further discloses the cumulative effects of the objectives for vegetation, livestock management, and other programs (Project File, Vol. 1, Doc. 1-9). Based on my review of the EA and project file, I find that the analysis and disclosure of cumulative effects is adequate.

**Objection 5: The proposed action violates NEPA by failing to develop an adequate range of alternatives.**

The Appellant contends that alternatives that analyzed no grazing without burning, water development in more than one alternative and closing of other areas to off-set expansion of grazing into new areas should have been considered.

Response: Chapter II of the EA describes how comments received in public scoping were used to identify issues and develop alternatives (EA, pp. 2-1 through 2-7). The EA describes alternatives considered but not given detailed study (EA, pp. 2-17), as well as the alternatives considered in detail. Chapter III of the EA discloses the effects of Alternative C (no grazing) in combination with Alternative 1 (no vegetation treatments) and the DN provides the rationale for not selecting either of these alternatives (DN, pp. 12-13). Alternative B, Options 1 and 2, disclosed the effects of varying levels of water development and Alternative D considers the effects of minimizing water developments. Finally, Alternative B considered resting some of the ungrazed BLM lands. I find that the decision was reasonable and based on consideration of the issues and an adequate range of alternatives.

**Objection 6: The project proposal is too large and complex for the public to understand the entire proposal or its ramifications on the environment.**

The Appellant lists several items that they believe confuse the public. The list includes the different appeal requirements for the BLM and Forest Service; the number of allotments and acres involved in the project; the relationship between the grazing alternatives and the vegetation treatment alternatives; and the change in grazing AUMs.

Response: The DN acknowledges the complexity of the proposal and provides the reasoning for combining the grazing and vegetation treatment decisions into one document (DN, p. 2). This issue is further addressed in Appendix A of the DN (Response #16, p. A-5). The Forest Service and BLM appeal procedures are clearly described on pages 26-28 of the DN. The relationship between the grazing and vegetation treatment proposals is well described in the EA on pages 1-6 through 1-10 and the estimated changes in stocking rates are displayed in Table 6, pp. 2-18.

**Objection 7: The proposed action violates NEPA due to a failure to complete public involvement in management decisions.**

The Appellant contends that the public did not have the opportunity to participate in development of management objectives outlined in the Elkhorns Landscape Analysis.

Response: The Helena and Deerlodge Forest Plans were amended in 1996 to include findings of the Elkhorn Landscape Analysis. The desired future conditions contained in the landscape analysis were formally brought forward to the public through NEPA in the EA for the Elkhorn Forest Plan Amendment. Public involvement for the Forest Plan Amendment is discussed in the amendment EA and DN (Project File, Vol. 1, Doc. 1-9). Public involvement for the South Elkhorns Range and Vegetation Project is described in the EA (pp. 2-1 and 2-2) and DN (p. 21). I find that the public had the opportunity to fully participate in management decisions for the Elkhorns through both the Forest Plan Amendment process and the South Elkhorns project.

**Objection 8: The Appellant incorporates by reference the issues raised in the North Elkhorns Vegetation complaint.**

The Appellant's list of contentions in their North Elkhorns complaint includes violations of NFMA and NEPA.

Response: U.S. District Court Judge Donald Malloy has not issued a decision in *American Wildlands, et. al. v. United States, et. al.* (CV 97-160-M-DWM). Therefore, we cannot comment on the information presented in the case.

**RECOMMENDATION**

I recommend the District Rangers' decision be affirmed and the Appellants' requested relief be denied.

/s/ J. Doug Glevanik

J. DOUG GLEVANIK  
Reviewing Officer