



File 1570 (215) Date: October 8, 1999
Code:
Route
To:
Subject: Thunderbolt Windthrow Salvage Timber Sale DN, Appeal #99-01-00-0184,
Beaverhead-Deerlodge National Forest
To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson on behalf of Native Ecosystems Council protesting the Thunderbolt Windthrow Salvage Timber Sale Decision Notice (DN) signed by the Jefferson District Ranger (Beaverhead-Deerlodge National Forest).

The District Ranger's decision adopts Alternative C with modifications. The decision authorizes harvest of approximately 1.1 million board feet of sawlogs on 130 acres, prescribed burning in selected units, and construction of 0.4 miles of temporary road.

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. Although I may have not listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The Appellants allege violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), and the Administrative Procedures Act (APA). The Appellants request that the decision be remanded for further analysis. An informal meeting was held on September 7, 1999, but no resolution of the issues was reached.

ISSUE REVIEW

Issue 1. The agency has violated the National Forest Management Act.

Contention A: The Appellants contend that no Forest Plan amendment was proposed, analyzed, or completed to change management area direction in the Forest Plan from MA E1 to MA C3 lands in the project area in accordance with the 1989 Settlement Agreement.

Response: The Appellants are not objecting to the application of MA C3 direction in the Rock Creek area. However, the Appellant is correct in stating that no Forest Plan amendment has been completed to reflect the changes agreed to in the Settlement Agreement. The Settlement Agreement describes many management area boundary adjustments agreed to throughout the Forest (Reference Document 1, Appendix 2). Amendment of the Forest Plan to reflect these Forest-wide management area changes is beyond the scope of this project decision. Although, a Forest Plan amendment has not been completed, I find that the Forest is managing the Rock Creek area lands in accordance with the 1989 Settlement Agreement.

Contention B: The Appellant contends that implementation of the project in the Rock Creek area is not in compliance with C3 management area direction.



Response: The EA discloses that in accordance with the Settlement Agreement, lands in the Rock Creek area are to be managed as MA C3 lands rather than MA E1 lands (EA, p. III-3). The goal of MA C3 is to "Provide usable big game spring, summer, and fall habitat, emphasizing both forage and cover requirements." Timber harvest to diversify habitat and to maintain or enhance big game habitat is allowed (Forest Plan, III-30 and 31). The EA discloses the effects of the project on wildlife resources, including elk, in Chapter 4. A comparison of the overlay map displaying the Selected Alternative (Reference Document 4) and the map showing Forest Plan and Settlement Agreement MAs (Project File, Document 109) indicates the Units 7, 8, and 9 are in MA C3. The EA discloses that none of these units provide any cover nor are they in an elk security area. I find that management of the lands in the Rock Creek area is in compliance with MA C3 direction.

Contention C: The Appellants contend that there is no tie between the Forest Plan and the proposed activities. They contend that there is no discussion to define why or how salvage activities will achieve management area standards, goals, and objectives.

Response: The EA contains a description of the Forest Plan management areas and how the alternatives relate to them (EA, p. II-6), as well as a detailed description of management area direction as it applies to this project (EA, p. III-1 through III-3). The DN states that the decision is based on the direction provided by the Forest Plan (DN, p. 1) and the District Ranger determined that the project is consistent with Forest Plan direction (DN, p. 15). The Appellants are correct in stating that there is no map showing unit locations within the management area. This information can be obtained from the overlay map displaying the Selected Alternative (Reference Document 4) and the map showing Forest Plan and Settlement Agreement MAs (Project File, Document 109).

Contention D: The Appellants contend that salvage harvests and associated road management threatens the viability of local wildlife populations.

Response: The EA adequately discloses the effects of the project on the population viability of various wildlife species in Chapter 4 (EA, pp. IV-20 through IV-31). This information is supported by specialist reports contained in the Project File (PF, Docs. 167-197). The Biological Assessment/Biological Evaluation (BA/BE) determined that there would be no effect on threatened or endangered species and that the project is not likely to jeopardize the continued existence of lynx or its habitat (DN, Appendix A, p. 6). The District Ranger considered travel management issues but decided not to make changes to the travel management plan until a larger area could be considered.

Issue 2. The agency has violated the National Environmental Policy Act.

Contention A: The Appellants contend that the Council on Environmental Quality (CEQ) requirements for scoping were violated because concerns raised during scoping, particularly with regards to wildlife and travel management, were never addressed.

Response: Alternative D was designed to respond to concerns raised about travel management in the project area and includes a package of road closures and obliterations (EA, p. II-8; DN, pp. 9-10). The Response to Comments also contains several responses to concerns regarding travel management and effects to wildlife (DN, Appendix III, pp. 4-6 and 8-11). The District Ranger considered travel management issues but decided not to make changes to the travel management plan until a larger area could be considered.

Contention B: The Appellants contend that the EA fails to adequately address cumulative effects of travel access on wildlife. They contend that cumulative effects of ongoing motorized and human disturbance, in conjunction with additional habitat loss, may be significant to TES species.

Response: The EA discloses the cumulative effects on various wildlife species on pages IV-29 through IV-31. The EA acknowledges that recreation use is increasing in the area and that travel management will need to be addressed in the future. However, as previously mentioned, the District Ranger decided not to make changes to the travel management plan until a larger area could be considered. I find his rationale for this decision to be reasonable.

Issue 3. The agency has violated the Administrative Procedures Act.

The Appellants contend that the decision to create additional motorized disturbances in the Thunderbolt area, and to remove key habitats for TES species without completion of habitat planning or development of mitigation measures, violates APA.

Response: Please see my response to Issue 1, Contention C regarding Forest Plan management area direction and the project's consistency with the Forest Plan. In determining that the project is consistent with the Forest Plan, the District Ranger states:

After comparing the anticipated environmental consequences of the various alternatives (EA, Chapter IV), I believe the selected action is best suited to initiate Forest Plan direction and accomplish the purpose and need. Potential effects on residual trees and adjacent stands were considered in the development of silvicultural prescriptions. Mitigation measures as described in this document will assure site productivity and soil and water resources are protected for future generations. Implementation of the selected alternative will cause the desired effects on the timber resource for the affected management areas as defined in Chapter II of this document and Chapter III of the Forest Plan (DN, p. 16).

The DN describes the mitigation measures to be implemented (DN, pp. 3-5). I find that the decision is supported by documentation contained in the EA, DN and Project File, and in compliance with the APA.

RECOMMENDATION

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

/s/ Alexander G. Morigeau

ALEXANDER G. MORIGEAU
Reviewing Officer
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