



File 1570 (215) Date: March 19, 1999  
Code:  
Route  
To:  
Subject: Dutchman Salvage Timber Sale DM, Appeal #99-01-00-0088,  
Clearwater National Forest

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Dieka Gericke and Joshua Burnim on behalf of Friends of the Clearwater, Alliance for the Wild Rockies, The Ecology Center and The Lands Council, American Wildlands, and Idaho Conservation League protesting the Dutchman Salvage Timber Sale Decision Memo signed by the Lochsa District Ranger (Clearwater National Forest).

The District Ranger's decision implements a timber salvage sale of 900 MBF of dead, dying, damaged and green trees.

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.

## FINDINGS

### Appeal Review Findings

The Appellants allege violations of NFMA, the Forest Service Handbook (FSH), NEPA, PACFISH, and the Clean Water Act (CWA). The Appellants request a remand of the decision and that an Environmental Assessment (EA) be prepared for this project. An informal meeting was discussed but not held. Interested party comments were received from Daniel G. Johnson of R.O.O.T.S.

### **Objection 1: The Forest Service violated NFMA by not meeting the Forest Plan standards for old growth by analysis area, management indicator species and by not meeting the Forest-wide standard of 10% old growth.**

Response: None of the stands proposed for harvest are classified as old growth or replacement old growth. The project is not entering any designated old growth stands (DM, pp. 2, 8). The stands proposed for harvest were reviewed by the wildlife biologist and the silviculturist and determined by both as not meeting the old growth standards in Appendix H of the Clearwater Forest Plan (Project File, Documents 10, 36, and 45).

The project meets the requirements of the Forest Plan and the old growth settlement agreement, which stipulate that an EIS is required when a proposed action directly affects over 100 acres of old growth. This project would not harvest any old growth or replacement old growth. Therefore, this project is not violating the Forest Plan standard for old growth.



**Objection 2: The Forest violates FSH 1909.15.[31.2(4a)], timber harvest, by exceeding the volume requirements of this category.**

Response: The criteria in FSH 1909.15.[31.2(4a)] for use of a Decision Memo are a salvage harvest of less than a million board feet with less than 1 mile of temporary road. This salvage timber project meets those criteria. The green component of the harvest is dead and dying trees and therefore meets the criteria for salvage harvest.

**Objection 3: This project violates FSH 1909.15 because of the presence of threatened and endangered species, specifically bull trout and steelhead trout.**

Response: Document 4 in the Project File, "Categorical Exclusion Review Checklist," shows that there would be no effect to extraordinary circumstances in the project area. Also, "Threatened, Endangered and Proposed Species Biological Assessment Summary and Conclusion of Effects" (Document 12, pp.1-3) indicates no effect to either plant or animal threatened and endangered species. The project will have no effect on bull trout or steelhead trout.

**Objection 4: The construction of temporary roads and the cutting of trees will cause an increase in water yield.**

Response: The review by the Fisheries Biologist and the Hydrologist indicate that there will be no effect to the watershed or fisheries resources from project activities (Project File, Document 11, p. 4).

The project includes two temporary roads of about 300 feet each which will be obliterated after use by outslipping, water barring and seeding. There will be an immeasurable short-term increase in water yield and a long-term decrease as stands are reestablished in a vigorous growing condition (Decision Memo, p .2).

**Objection 5: The project violates NEPA by failure to address cumulative effects.**

Response: Although cumulative effects analysis and documentation are not required for Categorical Exclusions, the Decision Memo does discuss the absence of cumulative effects on water quality, fish and wildlife (pp. 3, 5). This conclusion is supported by Specialists Reports in the Project File (Document 10, Wildlife Report, TES and Old Growth Status Report; Document 11, Wildlife and Fisheries Report; Document 12, Biological Assessment, Summary and Conclusion of Effects). Since the project has no effect, there cannot be cumulative effects.

**Objection 6a: The analysis relies on PACFISH to protect bull trout.**

Response: As discussed in Objection 3, the Biological Assessment states that there will be no effect to bull trout (Project File, Document 12). Moreover, as explained in the Transmittal Letter, the PACFISH and INFISH strategies are not significantly different and will not impact bull trout habitat or populations any differently. The PACFISH standards and guidelines and the applicable BMPs will provide adequate protection and restoration of inland fish including bull trout (Decision Memo, p. 3; Transmittal Letter, p. 4).

**Objection 6b: There is no documentation of formal consultation with the NMFS or USFWS.**

Response: Formal consultation with NMFS and USFWS is not required for projects with a "no effect" determination (Project File, Document 58, "A Framework to Assist in Making endangered Species Act

Determinations of Effect for Individual or Grouped Actions at the Bull Trout Subpopulation Watershed Scale").

**Objection 7: Violates Clean Water Act and Forest Plan Lawsuit Agreement by Degrading Water Quality.**

Response: Sediment delivery was avoided by limiting the amount of activity, the application of PACFISH default buffers, avoidance of activities on high-risk landtypes and stringent application of BMPs. Stands that were harvested in the past continue to recover so water yield is currently decreasing. Stream reaches should continue to recover from past impacts. The project does not violate the Clean Water Act.

The stipulated agreement in the Clearwater National Forest Plan lawsuit settlement states that the Forest Service agrees to perform instream analysis on all new road construction and timber harvest projects that would normally be analyzed and documented by an environmental assessment or environmental impact statement, but would not include categorically excluded projects such as Dutchman Salvage Timber Sale.

**Objection 8: Violates NEPA by Purpose and Need being too narrow.**

Response: The Agency Deciding Official has the discretion to determine the Purpose and Need for a project proposal. The NEPA implementing regulations state the NEPA document shall "briefly specify the underlying purpose and need to which the agency is responding..." The Forest has provided information on the project to support the stated Purpose and Need. In addition, the Purpose and Need relates to the Forest-Wide Management Direction.

**Objection 9: Project has been changed since scoping. Forest Service is required to redo the scoping process since Unit D was unit 4 and unit 4 has been moved and that the acres have increased from 65 to 81 acres since scoping. These are significant changes to the initially proposed sale.**

Response: Unit D was not changed to Unit 4. After analysis, the Forest decided to defer activities in this stand until a larger analysis could be completed so the stand could be reviewed for old forest characteristics. Roadside salvage acreages were increased from the original estimates because additional dead and dying timber was identified. These trees were within the study area, along open roads, and accessible to woodcutters. This change is not a significant change to the initially proposed sale.

**RECOMMENDATION**

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

/s/ J. Doug Glevanik

J. DOUG GLEVANIK  
Reviewing Officer  
Director, Ecosystem Assessment and Planning