United States Department of Agriculture
Forest Service
Region 1
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File Code: 1570 (215)
Date: December 15, 1998
Route To:
Subject: Shoot Creek Timber Sale, Appeal #99-01-00-0069
Clearwater National Forest
To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Gary Macfarlane on behalf of Friends of the Clearwater; The Ecology Center, Inc.; Alliance for the Wild Rockies; Northern Rockies Preservation Project; and Idaho Sporting Congress protesting the Shoot Creek Timber Sale and Watershed Restoration Project Decision Notice signed by the Clearwater National Forest Supervisor (Lochsa Ranger District, Powell Ranger Station).

The Forest Supervisor's decision adopts Alternative 2, including regeneration harvest of 338 acres and watershed restoration.

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 the National Environmental Policy Act (NEPA), the Clean Water Act, and the National Forest Management Act (NFMA). The Appellants request the decision be withdrawn. No informal meeting was held, and interested party comments were received from Dan Johnson of ROOTS and John R. Swanson.

Objection 1: The EA fails to analyze an adequate range of alternatives.

Response: Appellants contend that the range of alternatives is inadequate because only two action alternatives were considered, both of which include timber harvest. Appellants suggest consideration of an alternative which would restore the area without logging.

Chapter II of the EA describes how comments received in public scoping were used to identify issues and develop alternatives. The EA describes alternatives considered but not evaluated in detail, as well as the alternatives considered in detail. The two action alternatives have different levels of timber harvest, different levels of road construction, different levels of sediment repair, and were designed to meet the purpose and need described in Chapter I of the EA. This issue is also addressed in the Response to Comments (DN, Appendix B, pp. 2, 13). These responses further explain the rationale behind development of the action alternatives. The response on page 13 of Appendix B states in part:

In a small Planning Area such as Shoot Creek, the range of viable alternatives is limited by a few opportunities. Watershed restoration was included in both action alternatives. A watershed restoration

only alternative was not considered because the Shoot Creek Drainage is not the District's highest priority for watershed restoration work.

I find the rationale behind the development of the alternatives to be reasonable and the range of alternatives to be adequate.

Objection 2: The EA fails to meet NEPA's requirements for cumulative impact analysis.

Response: Appellants contend that the Shoot Creek, Spruce Moose, and Brushy Fork Creek Bridge Replacement projects, as well as the projects listed in their October 26, 1997 appeal, should be analyzed in one EIS because they may have significant effects, are within the same watershed, and would occur at about the same time.

The cumulative effects of the Shoot Creek project in conjunction with other past, present, and reasonably foreseeable projects, including past and present projects listed in the October 26, 1997, appeal; Plum Creek Timber Company activities on adjacent lands; and the upcoming Spruce Moose project are discussed for each issue and resource (EA, pp. I-14, IV-2, 4, 5, 7-10, and 13). The Brushy Fork bridge replacement project is a recent proposal within the Brushy Creek watershed, not the Spruce Creek watershed. I find that the cumulative effects analysis for the Shoot Creek project is adequate.

Objection 3: An EIS should be prepared to analyze the effects on roadless lands.

Response: Appellants contend that because the Shoot Creek project area contains a portion of the North Fork Spruce-White Sand Roadless Area and Alternative 3 proposes harvesting 15 acres within the roadless area, an EIS must be done.

The EA evaluates the effects of all the alternatives on roadless areas and concludes that, "The core of the roadless area is not affected by any of the alternatives. The North Fork Roadless Area would meet all criteria for Wilderness designation under all alternatives" (EA, p. IV-25). Further, the selected alternative does not propose any timber harvest in the roadless area. The Forest prepared an EA to determine whether or not to prepare an EIS [40 CFR 1501.4(c)]. As documented in the DN and FONSI, the Forest Supervisor determined that "there are no significant beneficial or adverse impacts on the physical, biological, or social portions of the human environment" associated with the Shoot Creek project (DN, p. 24). I concur with his conclusion that an EIS is not necessary.

Objection 4: The EA and DN propose cutting an area classed as unsuitable for timber harvest in the Forest Plan but contain no analysis or discussion of amending the allocation decisions made in the Forest Plan.

Response: Appellants contend that Unit 4 falls within an area identified on the Clearwater National Forest Plan Management Area map as being unsuitable for timber management. Appellants also contend that the portion of Unit 3 classified as unsuitable cannot be harvested without an analysis and amendment to the Forest Plan.

Appellants are correct in stating that the management area map indicates that Unit 4 is within an area classified as unsuitable for timber management. However, the Forest Plan management area map is at a small scale and should be used for reference only. A set of larger scale maps are on file in the Forest Supervisor's Office which show that only a portion of Unit 4 is classified as unsuitable (also see EA, Appendix A-7, Shoot Creek Planning Area Suitability Map). This unsuitable land is excluded from the unit on maps in the EA (EA, I-4, II-10, II-14).

The EA discloses that the east half of Unit 3 was mapped as being unsuitable for timber harvest. Upon field verification, it was determined that the landtype in Unit 3 is 48L91, a landtype not listed in the

Forest Plan as unsuitable. The project file contains documentation supporting this determination (Project File, Vol. 1, Doc. 17). The information obtained from the field verification will be used to correct the Management Area classification in the stand data base. Site-specific corrections to the stand data base do not require a Forest Plan amendment.

Objection 5: The EA and DN fail to adequately analyze the effects of the project on fisheries and water quality.

Response: Appellants contend that the EA and DN fail to meet the ESA because bull trout are erroneously listed as sensitive in the EA. Appellants also contend that the no-effect determination for bull trout, salmon, and steelhead is based upon incomplete and erroneous analysis of water quality.

Appellents are correct in stating that bull trout is discussed as a sensitive species in the EA. However, bull trout was listed as a threatened species on July 10, 1998, after the EA was completed and sent out for public comment. The Biological Assessment (BA) for the Shoot Creek EA (DN, Appendix D) identifies the bull trout as threatened as does the Decision Notice which states, "A review of the environmental effects for the Shoot Creek project indicates that Alternative 2 will not jeopardize the continued existence of the species" (DN, p. 14).

The EA describes the current watershed and fish habitat conditions in Chapter III, pp. 2-9, and discloses the direct, indirect, and cumulative effects on water quality and fish habitat in Chapter IV, pp. 1-3. The rationale for the determination of effects on bull trout, salmon, and steelhead is documented in the BA (DN, Appendix D). The Project File contains additional supporting information (Vol. 1, Doc. 14). In my opinion, the effects of the project on fisheries and water quality are adequately disclosed in the EA.

Objection 6: The EA and DN fail to adequately analyze the effects of the project on wildlife, old growth, and TES species.

Response: Appellants contend that the EA and DN fail to adequately address lynx, which is proposed for listing under the ESA and that there is no documentation of conferencing with the U.S. Fish and Wildlife Service (USFWS) as required by the ESA. Appellants also contend that the EA and DN provide no information to justify assumptions that PACFISH buffers will provide adequate protection for species such as fisher, harlequin duck, Coeur d'Alene salamander, and Oregon bluebells.

The effects of the project on lynx are disclosed in the EA (p. IV-9) and the Biological Assessment (DN, Appendix D). The BA concluded that the effects of the project are "not likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of proposed critical habitat" for lynx. A conference with USFWS is only required when a "likely to jeopardize" determination is made by the Forest Service (FSM 2671.45b).

PACFISH guidelines were designed to improve riparian vegetation conditions and wildlife habitat (PACFISH EA, pp. 57-58). These guidelines are applied in the Shoot Creek project to maintain habitat quality for riparian-related habitat requirements of the species mentioned above. The EA describes the application of PACFISH guidelines on pages IV, 8-10.

Objection 7: The EA and DN contain inconsistencies that reflect on the lack of quality in the planning process.

Response: Appellants contend that information regarding Units 4 and 5 is inconsistent between the 1997 EA/DN and the 1998 EA/DN. A review of the record reveals that Unit 5 was erroneously included in the public scoping information mailed out for the original proposal. It was not included in either the 1997 or 1998 EA/DN. Unit 4 was also incorrectly shown in the original scoping information and corrected in the 1997 EA/DN. A correction in the acres for Unit 4 was made between the 1997 and

1998 EA/DN. In my opinion, these corrections are a part of the planning process and do not reflect on a lack of quality in the process.

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

/s/ Katherine Q. Solberg

KATHERINE Q. SOLBERG
Reviewing Officer
Director, Human Resources