



United States  
Department of  
Agriculture

Forest  
Service

Region 1

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**File Code:** 1570 (215)

**Date:** February 1, 2001

**Route To:**

**Subject:** Beaver Butter N' Eggs Land Exchange DN, Appeal #01-01-00-0019,  
Clearwater NF

**To:** Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Erik Ryberg on behalf of the Western Land Exchange Project protesting the Beaver Butter N' Eggs Land Exchange Decision Notice (DN) signed by the Clearwater National Forest Supervisor.

The Forest Supervisor's decision selected a modification of the Environmental Assessment (EA) Alternative 2. Under the selected alternative, the Forest Service will convey out of 2,452.65 acres of National Forest System lands in the Beaver Block and McGary Butte areas, while acquiring 2,261.02 acres of Potlatch Corporation owned lands in the Elk Creek, Potlatch Canyon, and Big Sand drainages.

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 not have 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 Administrative Procedures Act and the Forest Land Policy and Management Act (FLPMA). The appellants request that the decision be withdrawn. The appellants did not wish to participate in an informal disposition meeting.

## **ISSUE REVIEW**

None of these issues were raised either by the appellants or any other commenter prior to the pre-decisional comment period.

### **Issue 1: Forest Service violated NEPA by failing to adequately analyze old growth.**

**Response:** The effects of exchanging out of all lands in the Beaver Block, including all old growth, were disclosed in the Beaver/Cedar EIS. As identified in the Beaver Butter N' Eggs DN (p. 9), the old growth acres being conveyed now were included in the Beaver/Cedar EIS analysis (Doc. 126). Based on field data, the three parcels being acquired in the Elk Creek drainage would qualify as old growth or potential old growth habitat. These parcels are contiguous to existing, verified, old growth on Federal land (Doc. 114).



**Issue 2: Forest Service violated NEPA by failing to conduct an adequate effects analysis.**

**Response:** Wildlife issues were analyzed on all of the Federal lands as part of the three previous exchanges; Beaver/Cedar EIS (Doc. 126), Johnson Creek/McGary Butte EA (Doc. 130) and Meadow Creek CE (Doc. 127). This additional information was available for public review during the scoping process and is part of the administrative record. During the scoping on this project, no new wildlife issues were identified. A Biological Evaluation and Biological Assessment were completed on this exchange with determinations of no effect or no impact (Doc. 30).

As documented in the EA (pp. 7, 9 and 14), there will be a loss of 128 MBF of timber volume. However, the lands being exchanged are of equal value as indicated by the appraisals (DN, p. 4). The exchange will also result in a loss of 164 acres of old growth; however, the three parcels to be acquired in the Elk Creek drainage will qualify as old growth or potential old growth habitat. These parcels are contiguous to verified, old growth on Federal land. In contrast, the old growth being conveyed is scattered throughout the remaining acreage within the Beaver Block (Doc. 111).

The 80 acres of wetlands included in the Federal land to be exchanged will be protected with a deed restriction. As per Forest Service Handbook 33.42C, "In processing an exchange with wetland/floodplains there are 3 options which meet the intent of the Executive Orders." The first option is to balance the wetlands. The second option says if we can't meet option one, then reservations and restrictions must be added to the document of conveyance. By placing the deed restrictions in the Exchange Deed conveying Federal lands to Potlatch, we have met the intent of the Executive Orders 11990 and 11998.

The EA (p. 7) displays the roads lost and roads gained with the land exchange. Also, the project file (Doc. 78) breaks down the types of roads in the analysis area. All primary roads listed to be acquired are to FS standards, while the secondary, and primitive roads will be reviewed on a case-by-case basis as projects are developed.

**Issue 3: Forest Service violated NEPA by failing to have an adequate range of alternatives.**

**Response:** A total of eight alternatives were considered, providing an adequate range of alternatives. Five alternatives were not considered in detail (EA, p. 5), in part because Potlatch is not interested in selling their lands. As per Potlatch letter dated February 16, 2000, (Doc. 75), they do not wish to sell their fee lands in lieu of pursuing a land exchange. Based on this information, the purchase alternative was not considered in detail.

**Issue 4: Forest Service violated NEPA by failing to adequately describe how it would carry out the mitigation measures described in the Cultural Resource Section of the EA and the DN.**

**Response:** The Beaver Butter N' Eggs land exchange does not include any parcels with cultural resources (EA, p. 9). However, the Forest agreed to complete mitigation required for the Beaver/Cedar EIS prior to proceeding with this exchange. The State Historic Preservation Office (SHPO), Forest Service, and the Advisory Council agreed that this project may continue if six stipulations identified in the 1996 Memorandum of Agreement between SHPO, Potlatch, Forest Service, and the Advisory Council are met. All six stipulations have been met. No additional mitigation measures are required as

part of this (Beaver Butter N' Eggs) land exchange.

**Issue 5: Forest Service violated NEPA by failing to conduct an adequate Cumulative Effects analysis.**

**Response:** Past activities are included in the description of the existing condition of the parcels being conveyed and acquired (EA, pp. 8 to 11). Planned activities include present and ongoing Potlatch and Forest Service timber sales (Doc. 122). Potlatch's Conceptual Plan for the Beaver Block (Doc. 119 and Doc. 120) anticipates that timber harvest would occur on 4,750 acres and 45 miles of road would be built in the Beaver Block over the next 10 years. This has been documented in the Beaver/Cedar EIS (Doc. 126). Potlatch has updated their plan based on events since the Beaver/Cedar Exchange (Doc. 119). They have also documented their intentions for those parcels they will acquire in the Palouse area as part of the Beaver Butter N' Eggs Exchange (Doc. 120).

**Issue 6: Forest Service violated NLPMA by making a decision that does not show the exchange is in the best interest of the public.**

**Response:** The purpose and need for the land exchange (EA, pp. 1 to 2) is to adjust the National Forest System landownership pattern into large consolidated blocks (ecosystem management), providing for more efficient and effective conservation stewardship and management of natural resources. This purpose and need is consistent with specific direction provided in the Forest Plan related to land adjustments (EA, pp. 7 to 8). The rationale for the decision is described in the DN (pp. 2 to 4) and is consistent with the purpose and need for the project, the Forest Plan, and applicable law, regulations, and policies. The selected action supports the primary purpose of improving land ownership patterns for more efficient and effective management. It was also determined by the Deciding Officer that the public interest is well served through this exchange as described by the selected action (DN, p. 3).

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

/s/ Thomas Pettigrew, Jr.

THOMAS PETTIGREW, JR.  
Reviewing Officer  
Director, Engineering