



United States  
Department of  
Agriculture

Forest  
Service

Region 1

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File Code: 1570 (215)  
Route To:

Date: April 15, 1998

Subject: Taylor Fork 7700-41 Road Use Permit, Appeal #98-01-00-0041  
Hebgen Lake Ranger District, Gallatin National Forest

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Tim Stevens on behalf of Greater Yellowstone Coalition protesting the District Ranger's Decision Notice (DN) for the Taylor Fork 7700-41 Road Use Permit on the Hebgen Lake Ranger District of the Gallatin National Forest.

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.

This DN grants a Road Use Permit to Louisiana-Pacific Corporation for commercial use of that portion of the Taylor Fork Road under Forest Service jurisdiction to haul about 4 MMBF of timber to be harvested on private land. There is no federal involvement in the private harvest and no road construction or other development is proposed for National Forest lands. Providing access as required by the Alaskan National Interest Lands Conservation Act (ANILCA) is foremost in this DN.

### FINDINGS

My recommendation is based upon the following evaluation:

#### Clarity of the Decision and Rationale

The decision to grant a road use permit to Louisiana Pacific is clearly described in the DN. Comments from the public helped generate permit terms and conditions.

#### Purpose of the Proposal and Comprehension of Benefits

The scope of the decision is limited to the proposal of the proponents to haul logs on Taylor Fork Road. The scope of the analysis is tied to Forest Service policy and the National Environmental Policy Act limiting the analysis to actions within Forest Service discretion.

However, the District Ranger recognized public concern and the Environmental Assessment (EA) discloses additional information on rules for granting access and additional cumulative effects analysis of harvest on private lands. This information was available to the Ranger when making the "Finding of No Significant Impact" (FONSI) call. It is clear that the "No Action" alternative is not a legal option.

#### Consistency with Policy, Direction, and Supporting Information



The decision, limited by its nature, scope and ANILCA, is consistent with the Forest Plan, Agency policy, and direction. The rationale for the decision is adequately supported by information and analysis in the EA and Biological Assessment (BA).

#### Effectiveness of Public Participation Activities and Use of Comments

Public involvement was appropriate to the scale of the project, although documentation of tribal consultation was not present. The use of public comment was very apparent throughout the documentation, and in mitigation. Records of public participation could have been improved and a public involvement plan would have been useful. The tone of response to public comment and use of public input was very positive and professional.

#### Appeal Review Findings

The Appellants allege violations of the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The Appellants request relief by postponement of the project until an Environmental Impact Statement (EIS) is completed.

#### Issue 1: Cumulative Effects.

The NEPA defines "cumulative impact" as the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. In this case, the Forest has analyzed the cumulative impacts of the Forest decision (granting road access on an existing road) with other activities including the logging and road building which will occur on private land.

The private land logging and road building is not a Forest Service action, and therefore, it was appropriately analyzed only in the cumulative effects analysis. In the analysis, the Forest has done an adequate job to meet the standards of NEPA.

#### Issue 2: The FONSI, DN, and EA failed to identify the need for an EIS.

The appellant has claimed significant impacts will result from the project, adversely affecting Management Indicator Species (MIS), old growth sensitive species and threatened and endangered (T&E) species or their habitat. Reviewing this proposal in light of the decision the Forest is making, which is granting road access for 2 winters on an existing road, there is no evidence that an EIS is required or that effects will be significant.

#### Issue 3: Failure to address the scope of impacts (i.e., logging and roading on private lands).

The Forest has adequately analyzed the direct and indirect effects of the Forest decision on granting access on an existing road. In addition, in their analysis of effects on private land activities, they have appropriately considered those impacts in their cumulative effects analysis. I find that the Forest has addressed the range of impacts appropriate for the decision being made and the issues raised.

#### Issue 4: Violation of Endangered Species Act (ESA).

The Taylor Fork Road Use Permit DN is in compliance with the ESA. The Forest included cumulative impacts in the BA (as required), explained and analyzed the effect of the decision to grant access, and completed informal consultation with the United States Fish and Wildlife Service (USFWS).

RECOMMENDATION

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

/s/ Daniel O. Castillo

DANIEL O. CASTILLO  
Appeal Reviewing Officer