United States Department of Agriculture **Forest Service** **Region One** **200 East Broadway P.O. Box 7669 Missoula, MT 59807**

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Subject: 215 - ARO Letter - Fishtrap ROD - Lolo NF - Appeal #06-01-00-0031 - The Ecology Center, et al.

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Jeff Juel, on behalf of The Ecology Center, Alliance for the Wild Rockies, and Native Forest Network, protesting the Fishtrap Record of Decision (ROD) on the Lolo National Forest.

The Forest Supervisor selected Alternative 2, Modified, which authorized the following activities within the Fishtrap project area, on the Plains/Thompson Falls Ranger District of the Lolo National Forest (ROD, p. 4):

- Timber harvest on approximately 2,260 acres followed by underburning of about 1,030 of those acres.
- Ecosystem burning on an additional 984 acres.
- Non-commercial treatment of vegetation through methods such as precommercial thinning, release and weeding, and grapple scarify and planting on 437 acres.
- Spraying herbicide to control noxious weeds along approximately 124 miles of roadway.
- Construction of approximately 0.75 miles of temporary road.
- Road maintenance on approximately 40 miles of existing road that would be used for timber haul. If funding allows, an additional 10 miles of road maintenance would be performed on roads not used for timber haul.
- Reconstruction of approximately 36 miles of road.
- Decommissioning of about 151 miles of road through various closure methods.
- Placing instream woody debris in approximately 1 mile of Fishtrap Creek.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision is 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 National Forest Management Act (NFMA), the Endangered Species Act (ESA), and the Administrative Procedures Act (APA). The appellants request a reversal of the ROD. District Ranger Randy Hojem contacted Jeff Juel of The Ecology Center to arrange for an informal disposition meeting. After some discussion, they agreed that a meeting would be of no benefit because the positions held by the Lolo National Forest and the appellants regarding the Fishtrap project are too far apart to offer a realistic opportunity for resolution of any appeal point.

ISSUE REVIEW

Issue 1: Old growth and associated old growth wildlife species.

Contentions: The Fishtrap FEIS and ROD do not demonstrate consistency with Forest Plan standards #24 and #25. The FEIS alludes to a Forest Plan "standard" of 8%, however there is no such "standard" in the Forest Plan itself – only some discretionary guidance for 8% old growth found in the Forest Plan. The LNF fails to disclose the historic range of old growth conditions. The Lolo NF has failed to cite any evidence that it's managing for old growth habitat (i.e., "maintain" or "restore") strategy will improve old growth wildlife species' habitats over the short-term or long-term.

Note: Although the appellants previously commented about compliance with all Forest Plan standards, in general, they did not previously raise these specific issues.

Response: Forest Plan Standard #24 states that all threatened and endangered species occurring on the Lolo including the grizzly bear, bald eagle, peregrine falcon, and gray wolf will be managed for recovery to nonthreatened status. The Lolo National Forest has interim management direction for threatened and endangered species to meet this standard, including INFISH, Lynx Conservation Strategy, Wolf Management Plan, Montana Bald Eagle Management Plan, Grizzly Recovery Plan, Forest Plan Amendments for Motorized Access Management within the Cabinet-Yaak Recovery Zones (2004), and Lolo National Forest Grizzly Bear Management Strategy. Project compliance with the ESA is discussed in detail in the ROD (pp. 1, 3, 28, and 39 thru 40), the FEIS (including direct, indirect and cumulative effects to grizzly bear, gray wolf, and Canada lynx on pp. 3-75 thru 3-88) and in the Wildlife Report (Vol. 5, Doc. J4-1).

In September 2005, the USFWS issued its critical habitat designation for bull trout. Lands managed by the Lolo National Forest were excluded because the USFWS determined that INFISH provides a level of conservation and adequate protection and special management essential to the conservation of bull trout. The existing condition, direct, indirect and cumulative effects, and the USFWS designation of critical habitat for bull trout is addressed in the FEIS (pp. S-2, and 3-140 thru 3-192) and in the Project Record (Vol. 4, Doc. J3-25; Vol. 4, Doc. J3-17; and Vol. 4, Doc. J3-19). The USFWS concurred with the determined that the Fishtrap project is not likely to jeopardize the continued existence of the Columbia River population of bull trout.

Forest Plan Standard #25 states that in the portion of the Forest more than 200 feet from all system roads, sufficient snags and dead material will be provided to maintain 80 percent of the population of snag-using species normally found in an unmanaged Forest. Mitigation measures identified in the ROD (p. 33) and FEIS (pp. 2-20 thru 2-21) require compliance with the Lolo National Forest snag guidelines for the project. The FEIS states that adequate existing cull and snags suitable for replacement would remain (p. 3-21). FIA data shows that snag densities sampled across the Lolo National Forest are above snag retention standards (FEIS, pp. 3-65 thru 3-66; and PR, Vol. 5, Doc. J4-1, pp. 9-10). Monitoring of timber sales on the Plains/Thompson Falls Ranger District since the mid 1980s shows that compliance with snag guidelines has improved with time, and more recent timber sales meet the guidelines (FEIS, p. 3-66; and PR, Vol. 5, Doc. J4-1, p. 10). Harvest treatment descriptions include leaving snag replacements and

long-term woody debris recruitment (FEIS, Appendix E, pp. E-1 thru E-3). I find the project is consistent with Forest Plan Standard #24 and 25.

The Forest clearly discloses the Forest's old growth strategy goal of 8 percent old growth and how it is being met at both the Forest and Fishtrap watershed scales in the ROD (p. 22), FEIS (pp. 3-34 thru 36, and 3-62) and Project Record (Vol. 6, Docs. J5-1, J5-7, J5-8; and Vol. 5, Doc. J4-1).

Contentions: The Fishtrap FEIS and ROD do not demonstrate that for plant and animal species where viability is a concern (i.e., sensitive species and management indicator species), that viable populations are being maintained forest wide, especially species that rely upon the habitat characteristics found in old, relatively untouched forests for habitat needs.

Response: The FEIS and Project Record disclose the existing condition of and the direct, indirect, and cumulative effects to sensitive wildlife species and management indicator species (FEIS, pp. 3-88 thru 3-108; Vol. 5, Doc. J4-1), sensitive plant species (FEIS, pp. 3-54 thru 3-56), and fisheries (FEIS p. 3-143 to 3-192; Vol. 4, Doc. J3-2 and Doc. J3-1). The Forest responded to general comments concerning species viability (FEIS, pp. 6-32 thru 6-33), as well as specific species including goshawk (FEIS, pp. 6-22 thru 6-23), flammulated owls (FEIS, pp. 6-25 thru 6-26), and MIS fish species (FEIS, pp. 6-71 thru 6-72). The FEIS also refers to *A Conservation Assessment of the Northern Goshawk, Black-backed Woodpecker, Flammulated Owl, and Pileated Woodpecker in the Northern Region (Samson 2005*) (PR, Vol. 5, Doc. J4-26) which discloses that habitat is abundant and well-distributed in the Northern Region and that there is no scientific evidence that shows these species are decreasing in number. I find the Forest has adequately documented that species viability is not a concern as a result of the project.

The FEIS identified the methodology for determining the existing condition of old growth amounts compared to the historic reference condition by landtype associations in the FEIS (pp. 3-38 thru 3-39, Appendix E); with supporting information in the Project Record (Vol. 6, Doc. J5-1). This issue was also addressed in Response to Comments (FEIS, pp. 4-24 thru 6-43).

The Forest has identified implementation and monitoring of past old growth treatment on the Lolo National Forest that demonstrates the Forest's ability to accomplish these treatments successfully (FEIS, pp. 3-39, 3-46, 3-64, 3-91, and 3-93 thru 3-94). A Case Study Evaluating Old Growth Treatments on the Lolo National Forest is also addressed in the FEIS and presented in the Project Record (Vol. 6, Doc. J5-12). The results of treatment were open, park-like stands of ponderosa pine with some western larch, indicating that there may be a need in the future to focus more in these areas, as age class distribution may be skewed to the older-aged classes.

The Lolo National Forest Plan allows treatments like burning and logging in old growth forests. In Monitoring Item 1-3, Forest biologists assess treatments for any detrimental effects on old growth quality. In some forest types, removal of understory and underburning are beneficial to old growth quality and may occur in stands to reduce competition and the threat of stand-replacing fires. Lolo National Forest Plan Monitoring Reports from 1998, 1999, and 2000/2001 disclose that no degradation of old growth quality or reduction in amount of old growth occurred

as a result of treatments in old growth (Monitoring Item 1-3) (FEIS, p. 3-39; PR, Docs. N-4, N-5, and N-6.

The FEIS clearly discloses the direct, indirect, and cumulative effects to old growth (FEIS, pp. 3-39 thru 3-47 and 3-61 thru 3-65). The wildlife analysis of old growth and old growth-related species used the combination of existing old growth and "potential" old growth (stands that would meet the definition of old growth within 20 years) because: 1) wildlife species utilize a variety of forest types and are not self-limited to forests with trees of specific size and age; and 2) no wildlife species on the Lolo National Forest solely relies on old growth for its life history. Nearly 20 percent of the project area is considered old growth for the wildlife analysis (FEIS, pp. 3-61 thru 3-62). The FEIS discloses criteria used to assess effects to old growth and old growth-related species including acres of old growth, number of old growth patches, average patch size, and distance to nearest patch by old growth type within the Fishtrap project area (FEIS, p. 3-62).

The FEIS proposed a total of 60 acres of shelterwood seed harvest within units 56 and 193, which have been verified as old growth stands as defined by Green, et al. 1992. However, the Forest Supervisor decided, based on public comments received, that there will be no regeneration harvest treatments in old growth stands (ROD, p. 5). As a result, there will be no net loss of old growth, and all treatments within existing old growth stands will maintain or enhance their old growth condition as defined by Green, et al. 1992 (ROD, p. 22). The treatments authorized in some of the mature stands that currently have a substantial component of over mature trees approaching ages, sizes, and numbers that indicate old growth stand structural conditions are intended to facilitate their development into old growth within several decades.

Contentions: The FIA old growth data cited does not provide any information on the block size, spatial relationship, nor integrity of old growth areas that make up the estimated 11.6%. Open roads exist in, and fragment old growth, resulting in firewood cutting that destroys snag habitat and reduces recruitment of down woody debris in old growth. The degree to which that is a factor for old growth in the project area is not disclosed in the FEIS.

Response: A grid of 6,000 acre blocks was used resulting in 347 randomly selected acres being surveyed across the Lolo National Forest for the presence or absence of old growth characteristics as described in Green, et al, 1992. This Forest-wide survey based on FIA or continuous forest inventory plots was not designed to determine the average acreage and range of block sizes of old growth. That information was developed at the watershed and landscape levels using aerial photos, stand exams, and spatially explicit mapping for purposes of analyzing old growth conditions and cumulative effects (FEIS, pp. 6-8).

Lolo Forest Plan Standard #25 (p. II-14) directs that "In the portion of the Forest **more than 200 feet from all system roads**, sufficient snags and dead material will be provided to maintain 80% of the population of snag-using species…" (emphasis added). This standard accounts for firewood cutting along roads (PR, Doc. N-1). In addition, the map of the distribution of old growth within the project area shows that the majority of old growth within the project area is not accessible by open roads (FEIS, Appendix A, Map 3-2). Finally, the FEIS discloses that only

20 percent of the road miles within the project area are available for public use (FEIS, p. 3-229). I find the Forest adequately considered the effects of open roads and firewood cutting.

Contention: The FEIS fails to disclose the degree to which artificially-induced edge effects on old growth species' habitat exist, and how much total edge effect would be increased by Alternative 2-modified. The FEIS ignores the fact that some types of old growth are maintained by low intensity disturbances (Arno, Smith & Krebs 1997; Habeck 1990; Habeck 1988) – the "process" of natural fire.

Response: Fragmentation, connectivity, past logging, and road effects are discussed in the FEIS (pp. 3-61 thru 3-71) and Project Record (Vol. 5, Doc. J4-1). The effects discussed concerning old growth and wildlife species are those outlined and discussed at length in Fundamentals of Conservation Biology (1996). Amount of old growth habitat, size of old growth patch, number of patches, and distance between patches were the critical factors that determine the effectiveness of conservation reserves of any sort. Connectivity between old growth patches (or any suitable patch of wildlife habitat) is discussed and measured by: area of recent regeneration harvest (measures high contrast edge), motorized route density, and areas or "core habitat" (greater than 500 meters from motorized travel routes). This is also addressed in Response to Comments (FEIS, pp. 6-44 thru 6-45). Finally, the vast majority of old growth within the project area is within the SW corner, where no vegetation treatments are proposed. (FEIS, Appendix A, Map 3-2).

The ROD (p. 21) and FEIS (pp. 3-17, 3-28 thru 3-30, and 3-60; and Appendices E and A) clearly discuss how some types of old growth are maintained by low intensity fire disturbances. Effects on old growth species,' viability caused by the current conditions and by the Fishtrap Timber Sale have previously been addressed.

Contentions: The FEIS does not adequately consider that snags may be cut down for safety reasons during logging operations due to OSHA regulations. The FEIS does not disclose what fire history methodology it uses, does not acknowledge the limitations of its fire history methodology, and does not disclose adequate project area data its fire history methodology relies upon.

Response: The ROD (p. 33) and FEIS (pp. 3-65 thru 67, and 6-27) clearly disclose that snags may be cut during harvest activities to insure worker safety. Felled or knocked over snags would be left on site per contract requirements. In addition, some snags may be lost and others created during burning activities.

Fire regimes and fuels conditions within the Fishtrap project area are disclosed in the FEIS (pp. 3-257 thru 3-262) and in Response to Comments (FEIS, p. 6-5).

Contentions: The EIS ignores many structural habitat components necessary for the pileated woodpecker. The FEIS provides no firm commitments for leaving specific numbers and sizes of largest trees favored by so many wildlife species, resorting instead to vague statements in descriptions of the "treatments" proposed.

Response: Pileated woodpecker, designated as a management indicator species for wildlife species that use large snags and mature forests, is addressed in the FEIS (pp. 3-107 thru 3-108) and in Response to Comments (FEIS, pp. 6-27 thru 6-28). Harvest treatments (focusing on thinning from below with an average diameter of 9 inches) and quantity and size of residual trees are also addressed in the FEIS and Project Record (pp. 3-21, and 6-111 thru 6-112; Vol. 6, Doc. J5-2, p. 5; and Appendix B). Treatments that create a forest opening would reduce habitat availability for pileated woodpeckers. Within these treatments areas, however, snag (dead tree) densities would be maintained at or above the Lolo National Forest Guidelines (FEIS, p. 3-108).

Contention: The FS has yet to design a consistent, workable, scientifically defensible strategy to ensure viable populations of the black-backed woodpeckers.

Response: Black-backed woodpecker habitat is limited in the Fishtrap analysis area. No large fires (greater than 100 acres) have occurred in the Fishtrap area since well before 1961, and thus, fire suppression/prevention has been effective at preventing recruitment of black-backed woodpecker habitat. Alternative 2 would increase black-backed woodpecker habitat with high elevation stand replacement, mixed severity, and understory fires that would likely kill small groups of trees on 244 acres (FEIS, p. 3-100). This habitat would last from 2 to 4 years. The project may affect individuals or habitat but would not contribute to a trend toward federal listing (FEIS, p. 3-101).

Contention: The FEIS does not discuss the levels of mid-aged, mature, and old forest in the affected goshawk territories pre- and post-project implementation.

Response: Existing condition and direct, indirect, and cumulative effects to goshawk are disclosed in the FEIS (pp. 3-88 thru 3-91), in the Wildlife Report (PR, Vol. 5, Doc. J4-1), and in Response to Comments (FEIS, pp. 6-22 thru 6-23). In 2003, 2,721 acres were surveyed for new goshawk detections along Roads 7553, 7570, 16211, and 18753 within the Fishtrap project area, and no goshawks were detected. Previously, there was one nest within the project area (near Wee Peak), and another adjacent to the project area (on the Beatrice Creek Ridge). These known goshawk nest areas were surveyed in 2002, 2003, and 2005, and no goshawks were detected. These nests have not been active since 1999. Because the nest trees can no longer be located (may have fallen), they have been classified as historic. Both areas will, however, continue to be surveyed every 1 to 3 years to locate the alternative nest sites that may exist. Effects on goshawk habitat were measured at several scales (FEIS, p. 3-89). Within the project area, about 97 percent of the old growth and mature forest goshawk habitat would remain unaffected or improved in quality for goshawks. The selected alternative would reduce about 2 percent of the mature forest or old growth in the project area by creating forest openings larger than those used by foraging goshawks. This would have insignificant effects on goshawks because research (Reynolds, et al. 1992, Daw and DeStefano 2001) has shown that less old forest is needed by a goshawk population than is available in the project area. The majority of timber harvest and prescribed burn units in these alternatives are designed to maintain and/or improve old growth or mature stands by improving resistance to crown fires, improving tree vigor and altering species composition in favor of “at risk” tree species such as larch, ponderosa pine, and white pine

(FEIS, pp. 3-90 thru 3-91). The proposed action may impact individuals or habitat but would not likely contribute to a trend toward federal listing or cause a loss of viability to the population or species.

Contention: The FEIS does not adequately consider cumulative effects on upland habitat for boreal toads. The FEIS has no genuine analysis of cumulative impacts of logging activities on boreal toads.

Response: Direct, indirect, and cumulative effects on boreal toads are discussed in the FEIS (pp. 3-101 thru 3-103), in the Wildlife Report (PR, Vol. 5, Doc. J4-1), and in Response to Comments (FEIS, p. 6-26).

Issue 2: Soil and land productivity.

Contentions. It is not clear that the LNF made proper estimates of existing and past detrimental disturbances. The FEIS fails to link the current and cumulative soil disturbance across thousands of acres in the Project Area to the impacts on water quantity and quality. The FEIS fails to cite the results of any monitoring that shows the mitigation measures have been effective at adequately restoring soil productivity on those soils formerly displaced, compacted, and often burned at log landings. The FEIS fails to disclose the implications of all landtype limitations for detrimental impacts. The FEIS does not demonstrate that post-project cutting units will have amounts of fine or coarse woody debris. The LNF has no idea how the productivity of the land has been affected in Fishtrap activity areas, the project area, and forest wide due to noxious weed infestations.

Response: Analysis methods for soils, exiting condition, direct, indirect and cumulative effects are disclosed in the FEIS (pp. 3-194 thru 3-195, and 3-201 thru 3-215). The FEIS also discloses that detrimental disturbances are defined in Forest Service Manual, R-1 Supplement 2500-99-1 (FEIS, pp. 3-194 thru 3-195, and 3-201 thru 3-202). Mitigation measures to protect soils are identified in the FEIS (pp. 2-22 thru 2-23) and in the ROD (p. 34). Monitoring of soil conditions would occur following ground-based harvest operations to determine if detrimental disturbance (e.g. compaction, displacement) exceeds the Regional guideline of 15 percent. If the Regional guideline were exceeded, restoration activities to improve soil conditions would include ripping heavily-used skid trails and landings that were compacted (FEIS, p. 2-27; ROD, p. 37). A special contract provision would be included in the stewardship contract to ensure scarification of compacted skid trails and landings. Supporting documentation in the Project Record indicates that the Forest has completed a soil assessment and field review, including field surveys of units with past activity (FEIS, Vol. 3, Docs. J2-7 thru J2-24, and J2-27). The FEIS discloses that BMP effectiveness is monitored Forest-wide (p. 2-27) and was most recently reported in the Lolo National Forest's Best Management Practices Effectiveness Monitoring Report (PR, Doc. N-8). Best Management Practices are identified in Appendix D of the FEIS.

The FEIS discloses all the landtypes in the project area, including descriptions, proportion of the area, interpretation for soil and water implications, and their limitations (FEIS, pp. 3-196 thru 3-199). Table 3.7-4 displays existing conditions in planned harvest units proposed for tractor yarding, stratified by landtype limitations (FEIS, pp. 3-203 thru 3-204).

Mitigation will require retention of woody debris in accordance with Forest Plan standards (FEIS, p. 2-22; ROD, pp. 33-34), and harvest treatment descriptions include leaving snag replacements and long-term woody debris recruitment (FEIS, Appendix E, pp. E-1 thru E-3). The FEIS (Appendix E, pp. E-9 thru E-40) displays reference and existing condition for coarse woody debris by landtype association.

The selected action includes spraying herbicide along roadways to reduce noxious weeds and their potential spread (FEIS, p. 2-8; ROD, p. 4). Mitigation is identified to reduce noxious weed spread (FEIS, p. 2-20; ROD, p. 33). The FIES discloses the existing condition of and direct, indirect, and cumulative effects to noxious weeds. (FEIS, pp. 3-48 thru 3-52). Appendix C of the FEIS includes discussion on the spread of noxious weeds resulting from past management activities.

I find the Forest has also responded to these soil and land productivity issues in Response to Comments (FEIS, pp. 6-76 thru 6-83).

Issue 3: Vegetation Manipulations are unproven as Big Game Habitat "Enhancement"

Contention: The FEIS claims there is declining forage base and "excess cover" for big-game species, but provides no quantification of the trends for either habitat or populations.

Response: A portion of the purpose and need for the project is to "improve and maintain big game winter range" (ROD, p. 3; FEIS, p. 1-7). This is in conjunction with the Lolo National Forest Plan goal to "provide habitat for viable populations of all indigenous wildlife species and for increasing populations of big-game animals" (LNFP, p. II-1). Standards 22 and 23 (LNFP, p. II-13) pertain to management of big game animals. Table ROD-3 (ROD, p. 16) displays the acres and percent of winter range improvements by alternative. The FEIS (pp. 3-104 thru 3-106) discloses the existing condition of and direct, indirect, and cumulative effects to elk (big game). Several aspects of big game habitat are quantified on pages 3-104 to 3-105 of the FEIS. Actual population numbers of big game are unknown in the area, but trends from the Montana Department of Fish, Wildlife, and Parks are discussed, as is the importance of improving and maintaining big game winter range.

Issue 4: Water quality and fisheries.

Contentions: How the LNF determined that Fishtrap Creek is no longer a Water Quality Limited Segment was not adequately disclosed. The analysis failed to adequately address the effects of unmaintained, poorly maintained roads left on the landscape, and roads needing other BMP upgrades, the significance of the foreseeable lack of road maintenance, and the direct, indirect and cumulative effects of poorly maintained roads on water quality. The FEIS does not consider the cumulative effects of storm events. The FEIS fails to disclose the limitations of the LOLOSED model. The FEIS ignores the FS's research (King 1989) on the accuracy of a peakflow model. The LNF does not confirm there are viable populations of native fish species in analysis area streams. The FEIS fails to disclose the values of Riparian Management Objectives for project area streams, which by implication

the INFISH/Forest Plan requires.

Response: Both the ROD (pp. 17 and 27) and the FEIS (Changes Between DEIS and FEIS, pp. 1 thru 3, S-10, 1-3, 2-16, 3-119 thru 3-120, 3-139, and 3-192) disclose that the Montana Department of Environmental Quality determined that Fishtrap Creek is no longer water quality-limited. Despite that, the Forest Supervisor continued to stress how committed she is to further improving water quality and fish habitat through the watershed restoration activities included in the project. An in-depth discussion of the effects on aquatic resources can be found in the Hydrology and Fisheries sections of Chapter 3 of the FEIS. This is well documented in the Project Record (Vol. 2, Doc. H-17; Vol. 3, Docs. J1-1, J1-14, and J1-15; Vol. 4, Doc. J3-2; and Vol. 1, Doc. B-47) and in Response to Comments (FEIS, pp. 6-51 thru 6-52, #139).

The FEIS addresses the lack of future road maintenance funds and the potential effect that unmaintained roads may have on water quality. In fact, reducing the roaded infrastructure was described in three of the six primary purposes of the Fishtrap project. This was also clearly addressed in Response to Comments (FEIS, pp. 6-61, and 6-53 thru 6-54).

The FEIS discloses the direct, indirect, and cumulative effects to water quality and the calculated sediment outputs from roads, which includes both the reduction in sediment from road decommissioning and BMP implementation as well as the "chronic" long-term sediment from the entire road system, the number of stream crossings that will remain in the project area following implementation and their effect on water quality (FEIS, pp. 3-131 thru 3-139).

Cumulative effects are addressed on pages 3-137 thru 3-139 of the FIES. Chapter 3 of the FEIS (pp. 3-115 thru 3-130) and Response to Comments (FEIS, pp. 6-53, and 6-56 thru 6-59) both address the appellants' concerns related to peak flows, methods used in evaluating potential effects, proper application, limitations, and interpretation of LOLOSED model outputs, other FS research (King, 1989), water yield timing including peak flows and the associated effects of roads, canopy openings and rain-on-snow events.

Analysis methods, existing condition and direct, indirect and cumulative effects to fisheries are addressed in detail in Chapter 3 of the FEIS (pp. 3-140 thru 3-192). The 2000 Montana State Bull Trout Restoration Plan identified Fishtrap Creek as a core area for bull trout. Core areas are drainages that currently contain the strongest remaining populations of bull trout. The Draft Bull Trout Recovery Plan (USFWS 2002) identified Fishtrap Creek as having a local population of bull trout, and was listed as a priority watershed. INFISH identifies Fishtrap Creek as a priority watershed for inland native fish, particularly bull trout (FEIS pp. 1-3 thru 1-4; and 3-141 and 3-143). The FEIS discloses the population status and results of fisheries surveys within the project area (FEIS, pp. 3-145 thru 3-147). The Fisheries Biological Assessment discloses the assessment of extinction risks for sensitive fish species (PR, Vol. 4, Doc. J3-17). The USFWS determined that bull trout are likely to remain viable with implementation of the proposed action and that the Fishtrap project is not likely to jeopardize the Columbia River Basin Distinct Population Segment of bull trout (Vol. 4, Doc. J3-19). Fish population and habitat surveys, and viable populations of fish species are also addressed in Response to Comments (FEIS, p. 6-71, #188).

Comparisons of Riparian Management Objectives (RMOs) (both from INFISH and the Lolo National Forest) are displayed in Table 3.6-3 of the FEIS. The FEIS discloses the existing condition of habitat variables within the Fishtrap Creek watershed, compared to Riparian Management Objectives (RMOs) (FEIS, pp. 3-147 thru 3-155). The sources of the reference conditions for aquatic habitat used in the fisheries analysis are identified in the FEIS on p. 3-150. INFISH provides interim RMOs and National Forests are encouraged to establish site-specific RMOs (Doc. N-2).

Issue 5: Inventoried and uninventoried roadless lands.

Contentions: The FEIS does not clarify roadless boundary issues. To analyze impacts on uninventoried roadless lands separate from inventoried roadless areas is completely illogical and constitutes a violation of NEPA. The FEIS fails to consider the fact that the two separate unroaded areas it considers are geographically connected. The FEIS and ROD did not constitute the "hard look" requirement with respect to the environmental impact of logging and roading uninventoried roadless areas. The FEIS failed to address the effects of logging and roading the uninventoried roadless areas on their characteristics vis-à-vis potential for future wilderness or inventoried roadless area designation.

Note: Although the general issue of Roadless was raised by the appellants in response to initial scoping, the appellants raised no issues regarding Roadless in their comments on the DEIS (PR, Vol. 2, Doc. F-9).

Response: None of the alternatives considered in detail propose any physical activities within inventoried roadless areas (FEIS, p. 2-4). The FEIS discloses the existing condition of and direct, indirect, and cumulative effects to Inventoried Roadless Areas, lands identified for preservation within the proposed Northern Rockies Ecosystem Protection Act, and unroaded areas identified as "proposed conservation areas" (FEIS, pp. 3-246 thru 3-256). A map of Inventoried Roadless Areas and unroaded areas (identified as "proposed conservation areas" by an environmental organization in response to scoping for Forest Plan revision) is located in Appendix A (Map 3-6) of the FEIS. I find that the Forest adequately addressed roadless issues.

Issue 6: Cumulative effects.

Contention: We contend there is a lack of comprehensive cumulative effects analysis in the FEIS of the past logging activities in the cumulative effects analysis area. The level of analysis in the FEIS does not meet the requirements of NEPA at 40 CFR 1508.7 and 40 CFR 1508.8.

Response: A description of past, present, and reasonably foreseeable future actions and summary of their effects can be found in Appendix C of the FEIS. This section was developed in detail in response to the 9th Circuit Court ruling in the Lands Council v. Powell decision and contains a thorough catalog of past timber harvest, road construction, and livestock grazing that have occurred within the project area (FEIS, p. C-2). This

information, combined with the detailed cumulative effects analyses by all resources throughout Chapter 3, presents very comprehensive cumulative effects analyses.

Issue 7: Grizzly bear.

Note: This section of the NOA discusses and references a *Draft* EIS, that is not Fishtrap. This appears to be an excerpt from a comment letter in response to the issuance of a DEIS on the Kootenai National Forest. For example, there is reference to Map M-8, which does not exist in Fishtrap DEIS or FEIS. The referenced DEIS page numbers do not pertain to the content the NOA refers to. This section in the NOA also references Bear Management Unit (BMU) 15 – the Fishtrap project is located within BMU 22. Because this section of the NOA is not specific to the Fishtrap project, it does not meet the appeal content requirements of 36 CFR 215.14 (ROD p. 31). However, a response to the key issue raised is provided below.

Contention: The DEIS fails to adequately address the cumulative effects of past and ongoing actions which would displace grizzly bears during the timber sale.

Response: Grizzly bear analysis, including existing condition and direct, indirect and cumulative effects are discussed in the ROD (pp. 9, 15, 19, 28 and 33), the FEIS (pp. 2-21, and 3-77 thru 3-84), and the Biological Assessment (PR, Vol. 5, Doc. J4-20). The USFWS concurred with the Biological Assessment's determination that the project may affect but is not likely to adversely affect the grizzly bear on March 29, 2005 (PR, Vol. 5, Doc. J4-22). A summary of the rationale for the decision in regard to grizzly bear security and core habitat is presented on page 19 of the ROD. It discloses the substitution of core habitat during project implementation and the total increase in core habitat after all activities are completed. The selected alternative will increase grizzly bear core habitat, and reduce open-motorized route density and total-motorized route density.

RECOMMENDATION

I have reviewed the record for each of the contentions addressed above and have found that the analysis and decision adequately address the issues raised by the appellants. I recommend the Forest Supervisor's decision be affirmed and the appellants' requested relief be denied.

/s/ Steve Williams
STEVE WILLIAMS
Appeal Reviewing Officer