



United States
Department of
Agriculture

Forest
Service

Region 1

200 East Broadway
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File Code: 1570 (215)

Date: December 10, 1997

Route To:

Subject: Big Dry Timber Sale and Ecosystem Management Project
Appeal #98-01-00-0012, Beaverhead-Deerlodge NFs

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson on behalf of Native Ecosystems Council protesting the Wisdom District Ranger's Decision Notice (DN) for the Big Dry Timber Sale and Ecosystem Management Project.

The District Ranger's decision adopts Alternative 2 modified. The decision will implement harvest of approximately 875 to 1,160 CCF of timber from approximately 170 acres, enhance 16 acres of aspen and willow and restore fire processes to 141 acres. No new permanent roads will be constructed; however, approximately 1.5 miles of temporary road may be constructed. All temporary roads will be obliterated following harvest activities. Removal of conifers overtopping aspen and willow along Dry Creek will occur through personal use firewood removal and the firewood will be hand carried out of the riparian zone.

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 Appellant's objections and recommended changes, has been thoroughly reviewed.

FINDINGS

My recommendation is based upon the following evaluation:

Clarity of the Decision and Rationale

The decision and the rationale for modifying Alternative 2 are clearly stated. The decision is strongly tied to the purpose and need and to the identified issues.

Purpose of the Proposal and Comprehension of Benefits

The purpose and need are clearly stated and will move the area toward the desired condition. Consequences of taking no action are clear. Benefits of the selected alternative are displayed for each component of the purpose and need. The decision criteria is clearly stated, but the rationale for the criteria is not as explicitly explained.

Consistency with Policy, Direction, and Supporting Information

Ecosystem management principles are used for developing the project, and the project will take action to restore the key ecosystem components. The modified alternative is compared to the other alternatives. The determination and rationale for the Finding of No Significant Impact are clear and are supported in the Environmental Assessment (EA). The significance is explained in both context and intensity.

Effectiveness of Public Participation Activities and Use of Comments

No public involvement plan was developed; however, a variety of public involvement methods were used throughout the process. Issues were identified from scoping information with the exception of visual concerns which drove Alternative 3. The Responsible Official demonstrated responsiveness to concerns over water quality by changing treatments on a unit adjacent to a creek. Consideration of comments is one of the information sources used in reaching a decision.

Appeal Review Issues

The Appellant alleges violations of the National Forest Management Act, the National Environmental Policy Act (NEPA) and the Forest Plan (FP). The Appellant requests Unit 2 be dropped from this sale. An informal meeting was held by telephone, but no resolution was reached. No Interested Party comments were received.

The appeal record was reviewed with respect to the Appellant's issues. Analysis and documentation are adequate and cover the objections raised. It was determined the District Ranger complied with law, policy, and regulations pertaining to the appeal points raised.

Objection I: The Forest Service has violated the National Forest Management Act by violating the Management Area (MA) direction for the Big Dry Project Area as defined in the FP.

Response: Some of the project area includes lands in MA-1, which is unsuitable for scheduled timber harvest but which allows non-scheduled timber harvest and other vegetative manipulation for wildlife enhancement and range improvement (FP, pp. III 2-4). Also, Forest-wide Range Management Standard #3 allows prescribed fire and other approved methods of vegetative manipulation (FP, p. II 33).

The direction for MA-24 is to protect and enhance wildlife habitat conditions while maintaining or improving range vegetative conditions and livestock forage (EA, p. III 2). The analysis and disclosure in the EA show an increase in forage for elk is expected while security areas will remain unaffected (EA, p. IV 5) and forage is expected to improve for mule deer and black bear (EA, pp. IV 8-10) with some short-term loss of hiding cover. Proposed treatments will not adversely affect the area's suitability for foraging habitat for goshawk and may improve foraging habitat by opening up the understory (EA, p. IV 14).

I conclude that although the proposed treatment is not going to be beneficial for all aspects of wildlife habitat, the District Ranger has provided sufficient information to show that wildlife habitat enhancement will occur; and therefore, the proposal is in compliance with MA-1 and MA-24 direction in the FP. In addition, the project meets the FP goal to provide diverse habitats to ensure ecological stability.

Objection II: The Forest has violated the NEPA by failing to address public issues in alternative development.

Response: The NEPA regulations require that an agency shall assess and consider comments and shall respond (40 CFR 1503.4). The District Ranger provided, in Appendix C of the EA, responses to all those who commented, including Native Ecosystem Council. In reviewing the response, the District Ranger provided a detailed letter addressing the Appellant's concerns and providing further explanations and clarifications. NEPA does not require alternatives be added or modified to respond to concerns. Scoping comments are used to "determine the scope of issues to be addressed and for identifying the significant issues related to a proposed action" (40 CFR 1501.7). Your comments in response to scoping were used in formulating issues that were tracked through the analysis in the EA.

I conclude the District Ranger has not violated NEPA with regard to the use of public comments.

RECOMMENDATION

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

/s/ Thomas Pettigrew, Jr.

THOMAS PETTIGREW, JR.
Reviewing Officer
Director, Engineering