



United States
Department of
Agriculture

Forest
Service

Region 1

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File 1570 (215) Date: June 16, 1998
Code:
Route
To:
Subject: Toomey Creek AMP, Appeal #98-01-00-0055, Beaverhead-Deerlodge National
Forests
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 Toomey Creek Allotment Management Plan Decision Notice signed by the Wise River District Ranger (Beaverhead-Deerlodge National Forests).

The District Ranger's decision adopts Alternative 4 modified to implement the Allotment Management Plan.

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

My recommendation is based upon the following evaluation:

Clarity of the Decision and Rationale

The Decision Notice (DN) is generally clear and understandable but would have been enhanced by a more thorough description of the vegetation treatments. The rationale for modifying Alternative 4 is clearly stated. Appropriate references to the Environmental Analysis (EA) and project file were included in the decision document.

Purpose of the Proposal and Comprehension of Benefits

The Purpose and Need are clearly stated and tie directly to the decision criteria, but the source and rationale for the decision criteria could have been more thoroughly explained. The benefits and consequences of all alternatives are compared in relation to the decision criteria.

All alternatives received equal consideration, and the rationale for the selected alternative was clear. The rationale for the alternative not considered in detail was well explained through reference to the EA.

The decision document could have more specifically explained how the selected alternative responds to public comments.

Consistency with Policy, Direction, and Supporting Information

The reasons and rationale for making the decision to implement Alternative 4 is well explained in terms of consistency with law, policy and direction. Supporting information is included in the EA and referenced in the DN.

The decision and analysis are well written and thorough, but terminology and explanations could have been more consistent. A table or section comparing what each alternative would accomplish would be helpful.

Effectiveness of Public Participation Activities and Use of Comments

The public involvement strategy and techniques were consistent with the scope and magnitude of the project. The issues analyzed in the EA and decision documentation addressed the comments and concerns raised during scoping. The tie between issues and comments would have been more easily understood if documented in a content analysis. The DN and the response to comments demonstrate that the Responsible Official considered public input in making a decision.

Appeal Review Findings

Objection 1. Violation of NFMA and APA (Administrative Procedures Act) by failing to manage for viability, ignoring management area direction, and utilizing non-system roads.

Response: The Forest completed a Biological Assessment (Appendix B) that documents the potential effects on viability of those species listed as threatened, endangered, or sensitive. The Forest determined there would not be effects that would threaten viability. In addition, the Forest analyzed effects on elk, moose, goshawk, Douglas-fir forests and related birds, sagebrush-dependent species, and riparian-dependent species (EA, Ch. IV). Although there will be some reduction in hiding cover for some species, Forest Plan standards will be met and increases in forage will benefit species. The documentation supports the Forest's assertion that viability will be maintained. The analysis was based primarily on habitat information. ECODATA plots were established. In addition to habitat information, animal use was recorded. Although there is no evidence of population surveys, the habitat analysis is thorough and effects are predicted to be less than under the current condition. The Forest has adequately analyzed the effects of the project proposal. The action will not endanger viability, nor is it in violation of the APA or NFMA with regard to this issue.

MA 20 has a management goal of maintaining high quality wildlife habitat while allowing domestic livestock grazing. There is no indication that the quality of habitat will not be maintained with this proposal. MA 24 has a goal of maintaining and protecting habitat condition while maintaining or improving range condition and livestock forage. The proposal is in compliance with this MA.

The roadless issue has been analyzed adequately in Appendix C of the EA. This decision does not propose a change of road use and does not affect the roadless characteristics of the area.

The Forest is not in violation of NFMA or APA with regard to these issues.

Objection 2. The agency has violated the National Environmental Policy Act (NEPA) by misleading the public concerning net public benefits, and by a failure to provide analysis information requested by the public.

Response: Appendix A to the EA documents the economic analysis for the project, including a conclusion that the benefit/cost ratio for Alternative 4 is 0.82. A number less than one indicates costs exceed monetary benefits. This is disclosed in the EA. In addition, NEC comments on the Draft EA and agency responses are public records, and part of the information the Responsible Official used to make her decision. In particular, the DN (p. 4) states, "I reviewed the Economic Analysis and find it provides cost/benefit analysis which compares direct monetary costs associated with each proposed alternative. It contains information by which to compare the relative economic effects of the alternatives." The NEPA has not been violated with regard to this issue. The economic analysis was disclosed and public comments were addressed.

Objection 3. Information requested by the public was never provided regarding wildlife impacts.

Response: EA, Chap. III, p. 22, shows five population objectives. Response #15 to NEC's Draft EA comments (Project File, p. 132) states that the first and second objectives on the list are being met. By inference, items 3-5 are the objectives not being met. Response #15 did not say information would not be provided. It said, "It is not within the scope of this project to satisfy the other objectives (3-5, by inference), which are affected more by Fish, Wildlife and Park's actions."

Objection 4. NEC requested to know what the impacts of cover reduction on the Toomey Creek allotment would be, instead of reporting cover impacts with a much larger habitat analysis unit.

Response: The Beaverhead Forest Plan directs specialists to use elk habitat analysis units to calculate elk-effective cover. Response #11 (Project File, p. 131) explains that Wildlife standards on page II-26 state, "effective cover ratings of at least 70 percent will be maintained during general hunting season." Information calculated on any area other than that specified by the Forest Plan in Appendix C would be meaningless when compared to the Forest Plan standard.

Effects of cover reduction, elk habitat indicator on the allotment scale, and calving and fawning habitat are all adequately disclosed in the EA and Response to Comments.

Objection 5. NEC was concerned about burning impacts on mule deer, and requested more information which wasn't provided.

Response: The Forest's response indicated no specific objectives for mule deer (Project File, p. 132). Comment #16 asked how habitat for mule deer will be promoted by proposed projects in MAs 20 and 24. Response to Objection 1. addresses this point.

RECOMMENDATION

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

/s/ Katherine Q. Solberg

KATHERINE Q. SOLBERG
Reviewing Officer