



File Code: 1570-1

Date: July 23, 2003

Route To: (1570 - 215)

Subject: ARO Letter - Post Fire Vegetation and Fuels Management ROD - Beaverhead-Deerlodge NF - Appeal #03-01-00-0056 - Native Ecosystems Council

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson, on behalf of the Native Ecosystems Council, protesting the Post Fire Vegetation and Fuels Management Record of Decision (ROD) on the Beaverhead-Deerlodge National Forest.

The Forest Supervisor's decision adopts Alternative 4-Modified, which allows the following:

Clearcut approximately 835 acres of dead and dying trees; apply MCH on 303 acres in inventoried roadless area #A1-001; thin 29 acres of live lodgepole pine around large Douglas-fir trees outside the burned area, and apply MCH to create stand conditions that are less susceptible to bark beetle attacks; continue monitoring spruce beetle populations with funnel traps and use funnel traps if necessary on 619 acres; clearcut approximately 17 acres of dead lodgepole and spruce, and slash and burn approximately 25 acres of lodgepole saplings; construct approximately 5.9 miles of temporary road, which will be obliterated after the project is completed; and site-specifically amend the Beaverhead Forest Plan standards for Elk Effective Cover within the Mussigbrod Fires of 2000 burned area.

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. 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 appellant alleges 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 appellant requests a remand of the ROD. The appellant states the project should not go forward until an adequate cumulative effects analysis is done, conservation strategies are in place for management indicator and sensitive species, and a habitat restoration plan is implemented for pine marten. An informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Issue 1. There was an inadequate range of action alternatives. There were no action alternatives that would have implemented the Beaverhead Forest Plan elk effective cover (EEC) standard within the project area. There were no alternatives that would have not implemented harvest and disturbance activities within management areas that have a wildlife emphasis. There was no action alternative that would have addressed the



management of the pine marten.

Response: As stated in the EIS (pp. 3.100 to 3.101), the loss of EEC is due to the loss of forest cover from the wildfires of 2000. Because of the fires, the Mussigbrod project area existing condition does not currently meet the Beaverhead Forest Plan EEC standard. The ROD (p. 29) indicates there would be no additional habitat losses from implementing Alternative 4-Modified than has already been lost to the fire. The EIS points out (p. 5.6) monitoring data from the Gibbon's Pass fire indicates hiding cover recovers faster in harvested stands than in unharvested stands. The management described in Alternative 4-Modified would move the project area back into compliance with the Forest Plan's EEC faster than doing nothing.

If it had been chosen, the No Action Alternative would have prescribed no harvest or other disturbance activities within those management areas having a wildlife emphasis (EIS, pp. 2.5, 2.9, and 2.10). The EIS considers the impacts the fires had on pine marten and the direct, indirect, and cumulative effects each of the alternatives would have on the management indicator species (pp. 3.87 to 3.96). There is an adequate range of alternatives as required by NEPA.

Issue 2. The scope of this site-specific project may exceed the 5-year timeline applicable to site-specific projects. Any projects that last longer than 5 years will potentially conflict with new planning direction being developed. A programmatic timeline for this project is not suitable for a site-specific project.

Response: The Decision is site specific, not programmatic (ROD, p. 2). The Forest expects the project would be completed in 5 years (EIS, pp. 1.6 and 2.13). If for some reason the project extends further or there is a change in management direction when a new Forest Plan is signed the project can be reviewed. The Council on Environmental Quality (see *Council on Environmental Quality (CEQ) Forty (40) Most Asked Questions*, March 23, 1981, Federal Register [46 FR 18026], Question 32) and the Forest Service Handbook (1909.15, Section 18.1) allow for review of the NEPA documentation for projects that are ongoing long after the decision was signed and for projects where a change in circumstances necessitates a review of the project. The project and the analysis are in compliance with NEPA.

Issue 3, Contention A. The FEIS and ROD fail to provide adequate information to the public to demonstrate how the Deerlodge and Beaverhead Forest Plans are being implemented. Map 21 in Appendix A is such a small scale that the reader cannot determine where the roads actually will be. There are many other logging projects planned in the analysis area, and it is likely the new roads will continue to be used for these additional projects. There were no security areas for big game mapped for the project area, even though extensive widespread disturbance through logging and road building will occur. It is not clear how agency management actions have addressed big game security.

Response: In order to fit the maps into the EIS document they had to be shrunk considerably in size, which made them difficult to read. The project file contains maps at a scale of 1 inch equals 1 mile. Using those maps (PF, Docs. 811, 833, 843, and 844) gives a better perspective of the project area. The ROD (p. 2) and EIS (p. 5.79) do point out the maps only give an

approximate location for the 5.9 miles of temporary road. The exact location of temporary roads will be determined during project implementation.

Mitigation measure 15 (EIS, p. 2.12) states, “Decommission temporary roads by winged subsoiling or re-contouring, seeding with native or desired species, and spreading available slash over the road surface. This will be done as soon as possible after logging operations are complete using an excavator to reclaim the temporary roads.” The ROD also says the temporary road would be obliterated after the project is complete (ROD, p. 2).

A Hillis analysis for elk security was not completed because the units are in burned forest and essentially all next to roads, so no units qualify as meeting elk security (see response to Issue 1 above). However, the Wilderness and inventoried roadless areas in the Mussigbrod area do provide for big game security (EIS, Appendix A, Map 18; PF, Doc. 812).

Issue 3, Contention B. It is almost impossible to determine where logging is planned in the unsuitable timber management areas. Clearcutting in these areas would be a violation of the Forest Plans. In addition, new roads that are constructed within these unsuitable areas would also be a violation of the Forest Plan. The agency has failed to demonstrate how they are meeting and implementing the Forest Plans as per roads and logging in unsuitable management areas.

Response: Management Area 14 has no treatments proposed in it (EIS, p. 1.11, Table 1.2; ROD, Alternative 4, Modified Treatments table [located between Map 2 and Appendix A, in the back of the ROD]). Therefore, the Forest Plan standards for MA 14 are of no consequence in this project.

As indicated in the FEIS and ROD, treatment units 2, 6, 9, 12, and 12f are located in either MA 1 or 25. Treatments units 2 and 6 only involve the application of MCH, so timber-harvesting standards do not apply. Treatment unit 9 is in Management Area 1 (ROD, Alternative 4, Modified Treatments table [located between Map 2 and Appendix A, in the back of the ROD]). The Management Area 1 timber harvest standard states: “Timber harvest will not be scheduled in this Management Area. The Management Area is unsuitable for scheduled timber management. Timber salvage and firewood removal may occur where access exists. Salvage of dead, dying or high-hazard trees is permitted to prevent disease and insect population build-up” (Forest Plan, p. III-3). Treatment unit 9 is adjacent to a Forest road and there are existing roads in it that are part of the Mussigbrod Post Fire Road Study Project (compare the following maps in the project file: Docs. 811, 833, and 843). (For more information about the Mussigbrod Post Fire Road Study Project see Cumulative Effects, Item 22 [EIS, p. 2.20]). Access already exists up to and throughout treatment unit 9, and there are no proposed temporary roads in the vicinity of treatment unit 9 (PF, Doc. 843). Unit 9 is in compliance with the Forest Plan.

Treatment units 12 and 12f are in Management Area 25 (ROD, Alternative 4, Modified Treatments table [located between Map 2 and Appendix A, in the back of the ROD]). The Management Area 25 timber harvest standard states: “Timber harvest will not be scheduled in this Management Area. The Management Area is unsuitable for scheduled timber management. Timber salvage and firewood removal may occur where access exists. Salvage of dead, dying or

high-hazard trees is permitted to prevent disease and insect population build-up” (Forest Plan, p. III-80). The Facilities standard states: “Road construction and reconstruction may occur to support management activities, or to access adjacent Management Areas and support activities scheduled there” (Forest Plan, p. III-81). According to the Cumulative Effects Map (PF, Doc. 843), a very short amount of temporary road would be built on the west side of treatment unit 12f. This is in compliance with the Facilities standard for Management Area 25 (Forest Plan, p. III-81). Additional field surveys done during preliminary project layout have found the expected tree mortality did not occur in units 12 and 12f. The entire treatment units 12 and 12f are being dropped (PF, Doc. 733). The issue concerning units 12 and 12f is moot. The project is in compliance with the Forest Plans.

Issue 3, Contention C. It is not clear to the public as to where the Forest Plan amendment applies and does not apply in the 352,000-acre project area. In some areas, only dead trees will supposedly be cut, while in other areas, green trees will be cut for timber management purposes.

Response: As indicated in the ROD (p. 2, and Appendix A, p. A-2), the amendment applies only to the area burned in 2000 by the Mussigbrod fire (approximately 59,000 acres). The amendment does not apply outside the fire area. Green tree harvest for timber management purposes will only occur in unit 24 (thinning lodgepole pine from around Douglas-fir) (EIS, Appendix B, p. B.6). Unit 24 is outside of the fire perimeter area, and therefore, the Forest Plan amendment does not apply to this unit.

Issue 3, Contention D. The agency failed to demonstrate that within clearcut units all the trees are dead and/or dying and hence will be covered by the Forest Plan amendment, whereby no live trees will be cut.

Response: Any live trees would be reserved except where they interfere with safe logging. So, some live trees may be cut. The ROD (Appendix A, p. A-2) states, “Site Specific Forest Plan Amendment: This site-specific amendment applies only to the Mussigbrod Fires of 2000 burned area and pertains to the Forest Plan standards for elk effectiveness cover. The Mussigbrod Fires of 2000 burned area currently does not meet the 70 percent level of elk effectiveness cover or an elk use potential of 95 percent of optimum due to the loss of forest cover from the fire. Timber management will be permitted in MA’s 13, 16, 17, 19, 20, 21, and 26; however, harvest will be limited to dead, dying and hazard trees only in the burned area. Hiding cover recovery is expected to take 20-25 years, depending on site potential. The incidental removal of live trees is permissible to the extent that it facilitates safe logging practices. Salvage of dead, dying or high-hazard trees is permitted in MA’s 1, 14, 24, and 25 to prevent disease and insect population build-up.”

During preliminary sale layout the Forest found some units did not experience the level of tree death they expected. The Forest has dropped or modified those units (PF, Doc. 733). The Forest is demonstrating it is following the intent of the amendment.

Issue 3, Contention E. The agency failed to demonstrate that the open road density throughout the summer would provide 70 percent habitat effectiveness for big game in management areas where wildlife is to be emphasized.

Response: Tables 3.30 and 3.31 (EIS, p. 3.101) display that elk habitat effectiveness before and after the fire is 70 percent or higher for all habitat analysis units and for the analysis area as a whole. Table 3.34 (EIS, p. 3.105) displays that elk habitat effectiveness will remain at or above 70 percent for Alternative 1. The discussion of Alternative 4 in the EIS (pp. 3.106 and 3.107) states, “The elk habitat values for Alternative 4 are the same as shown in Table 3.34 for Alternative 1 above. The HE for this alternative averages 82% for the analysis area, because of the low open road density...” The analysis demonstrates the project would meet the 70 percent level for elk habitat effectiveness.

Issue 3, Contention F. The old growth analysis is impossible to understand. The maps are on such a small scale that they are unreadable. The text contains conflicting information. The quality of old growth was never clearly demonstrated as per Region 1 criteria. The availability of replacement old growth, or corridors, was not addressed. The value of old growth, as per size and distribution, to old-growth-related species was never addressed. The value of partially burned stands as old growth and replacement old growth was not addressed as well. It is questionable as to whether an actual old growth management is actually taking place.

Response: During the summer of 2001, the District silviculturalist field-verified the old growth stands in the project area to determine whether or not the fires had impacted the old growth. The fires of 2000 burned through 21,338 acres of old growth spruce and 1,088 acres of old growth Douglas-fir. The fires in 2002 eliminated an additional 350 acres of old growth spruce and 160 acres of old growth Douglas-fir. The fires eliminated old growth conditions on the intense burns that covered half of the area and reduced much of it in the other mosaic burned area. Due to the fires, harvest units 9, 14, 31f, 32f, 33f, 34f, 36f, 37f, and 101 no longer meet the old growth characteristic as defined by Green, et al. (1992). Prior to the fire old growth occupied 20 percent of the analysis area. After the fires, the area still has 13 percent old growth (EIS, p. 123). The EIS displays which timber compartments meet Forest Plan old growth standards and which do not after the fires in 2000 (EIS, pp. 3.122 to 3.127). Only four compartments do not presently meet the 10 percent old growth standard (p. 3.127).

Under Alternative 4-Modified, some harvest would occur in one 29 acre unburned Douglas-fir stand that meets old growth criteria. In this treatment unit live lodgepole pine would be removed from around the large Douglas-fir trees. The treatment would not eliminate the old growth character of the stand (EIS, p. 3.127).

The EIS discusses the methodology the biologist used in assessing population viability (p. 3.64). Satellite imagery was used to identify the Forest-wide habitat distribution for the viability analyses. Where possible, information about species records and quantity of habitat available was provided (EIS, p. 3.57 to 3.58). The maps used in the wildlife habitat analysis are located in the project file (Docs. 811, 837 to 842, and 845).

Issue 3, Contention G. The FEIS refers to Forest-wide reviews of population viability of wildlife as documentation that populations are viable. However the results of these reviews are not summarized or documented in the FEIS.

Response: The Forest Service is required to maintain population viability across the planning area by managing fish and wildlife habitat (36 CFR 219.19). In the Upper Sunday Timber Sales on the Kootenai National Forest, the U.S. District Court of Montana found, “Neither is it plainly erroneous or inconsistent with regulation for the Forest Service to strive to maintain viable populations of species by focusing on the critical habitat requirements of Sensitive, Threatened, and Endangered species within and without the Decision Area.” In order to determine the viability of Sensitive, Threatened, and Endangered species the wildlife biologist plotted and reviewed maps of the species’ appropriate habitat (PF, Docs. 837 to 845) and together with other information made a determination of viability for each species (EIS, pp. 3.57 to 3.99, 3.113, 3.193 to 3.194, and 5.36; EIS, Appendices E and J).

Issue 4. The Forest Service failed to amend the management direction for management areas that have a wildlife emphasis where logging and road building will occur. There is a conflict in Forest Plan implementation if wildlife standards for a management area (MA) are deleted; yet MA direction that stresses wildlife is not also amended. The Forest Service should have also amended MA direction for those areas that are supposed to have a wildlife emphasis in cases where the EEC standard was exempted.

Response: Wildlife Standards for entire Management Areas were not deleted. As stated in the FEIS (pp. 1.12, 1.13, 3.100 and 3.101; Appendix C) and ROD (p. 2, and Appendix A, p. A-2), due to the loss of forest cover from the fire, the Mussigbrod project area does not currently meet the Beaverhead Forest Plan EEC standard. As indicated in the ROD (Appendix A) the Site Specific Amendment applies *only* to the area burned by the Mussigbrod Fires in 2000 (approximately 59,000 acres). Management area direction has not been changed elsewhere on the Forest, or even permanently in the project area. The amendment only allows for vegetation management (per MA direction) for the life of this project, and only in the burned area that does not presently meet the Forest Plan EEC standards.

Issue 5. The cumulative effects of logging and roads on this landscape were not evaluated in the FEIS. Activities are displayed on Map 21 in Appendix A, but the impacts were never evaluated. The basic analysis for wildlife is there is enough habitat left in portions of the analysis area, but these areas, their quality and acreage, are never identified. Examples include snags and habitat for goshawk, pileated woodpecker, black-backed woodpecker, three-toed woodpecker, and great gray owl.

Response: The analysis considered numerous past, present, and reasonably foreseeable actions for cumulative effects (EIS, pp. 2.15 to 2.21). The wildlife biologist considered the direct, indirect, and cumulative effects for various wildlife species and their habitat in the EIS (pp. 3.60 to 3.133, and Appendices E and J), including old growth forest (pp. 3.126 to 3.127), northern goshawk (pp. 3.83 to 3.85), pileated woodpecker (pp. 3.98 to 3.99), black-backed woodpecker (pp. 3.74 to 3.78), three-toed woodpecker (pp. 3.98), and great gray owl (p. 3.113).

Issue 6. The analysis of project impacts on almost all wildlife species was arbitrary because no criteria were used to measure existing or future habitat values. The old growth criteria conflict with current management direction for the goshawk. The southwest goshawk guidelines were even cited by the agency in the analysis. It is not clear how the agency determined that habitat loss for a potential 51 pairs of black-backed woodpeckers would not impact local population persistence of this species. No population criteria were ever provided to demonstrate why this loss would not impact local population health of this species.

Response: There is no requirement in NEPA, NFMA, or the Forest Plans that habitat criteria be established in order to measure existing or future habitat values. Effects to wildlife, including Threatened and Endangered Species, Management Indicator Species, and Sensitive Species were a key issue identified during scoping (EIS, p. 2.2). The effects of the alternatives were analyzed in the EIS (pp. 3.54 to 3.134) according to three issue indicators: 1) acres of habitat affected; 2) effects determination; and 3) compliance with Forest Plan standard and guidelines. The supporting documentation for the analysis can be found in the project file (Docs. 431 to 500).

The goshawk analysis uses the best available science and local monitoring data from the Beaverhead-Deerlodge National Forest (pp. 3.78 to 3.85, 5.39 to 5.40, Appendix E, pp. 25 to 29; PF, Doc. 840).

Black-backed woodpeckers move around the landscape because they are dependent on recently burned forests. The wildlife biologist does question the long-term population viability of the black-backed woodpecker in the project area (EIS, p. 3.76). He states, “even with the flush of habitat created by the wildfire, it is questionable whether the available habitat would be enough to ensure the long-term population viability of the black-backed woodpeckers and other cavity nesters without continuous wildfire events being allowed to occur at 2-3 year intervals throughout the landscape.” However, across the Beaverhead and Deerlodge National Forest habitat is well distributed (EIS, pp. 3.77 and 3.78), and the wildlife biologist determined Alternative 4-Modified may impact individuals or habitat, but would not be likely to contribute to a trend towards federal listing or cause a loss of viability to the population or species (EIS, Appendix E, p. 25).

Issue 7. Viability of management indicator and sensitive wildlife species cannot be maintained within adequate conservation strategies when habitat is modified. Although the Forest Plan criteria for old growth spruce for pine marten are being met, the area is a “sink” for marten. Although there is inadequate habitat, additional spruce habitat will be logged.

Response: The Forest Service Manual (FSM) at 2621.2 states, “units must develop conservation strategies for those sensitive species whose continued existence may be negatively affected by the forest plan or a proposed project.” The wildlife biologist found Alternative 4-Modified may impact individuals or habitat, but would not be likely to contribute to a trend towards federal listing or cause a loss of viability to the population or species for northern goshawk, black-back woodpecker, western big-eared bat, wolverine, fisher, northern bog lemming, boreal toad, and northern leopard frog. He determined none of the alternatives would impact pileated

woodpecker on the Deerlodge National Forest (EIS, p. 3.99). He also determined Alternative 4-Modified would have no impact on flammulated owl, peregrine falcon, sage grouse, common loon, and pygmy rabbit (EIS, Appendix E, pp. 1 and 2). Conservation strategies are, therefore, not required.

The Mussigbrod area is a sink for marten due to heavy trapping pressure and the extensive wildfires (EIS, pp. 3.89 and 3.94), not due to this project of the Forest Plans. Even before the fire, the project area was dependent on its interconnections with the mature spruce-fir and lodgepole pine forests in the adjacent Anaconda-Pintler Wilderness and Bitterroot Mountains to have the 74,000 acres necessary to maintain a viable population of marten (EIS, p. 3.94). Field reconnaissance by the silviculturist confirmed the burned units had contained old growth, but no longer had enough green trees to meet old growth characteristics (EIS, pp. 3-123 to 3-127). Lacking the old growth characteristics, the burned area is no longer marten habitat. No unburned spruce-fir or lodgepole pine forest would be cut (EIS, p. 3.92). Only Unit 24 involves the harvest of green trees. Lodgepole pine will be thinned from around Douglas-fir trees in this 29-acre unit to make the stand less susceptible to beetle attack (ROD, p. 23). Implementation of the project would not change the situation for marten in the project area or across the Forest. The wildlife biologist determined that marten habitat is well distributed across the Beaverhead and Deerlodge National Forests (EIS, p. 3.96) and in the absence of more large wildfire, it is likely that the availability of mature and old growth forest will be adequate to maintain a viable marten population as long as the analysis area is connected with the source areas (EIS, p. 3.94).

Issue 8. Before this project is implemented, the Forest Plans need to be amended to delete objectives for maintaining healthy wildlife populations on this landscape since the proposed action will degrade wildlife population health. Creating fuel breaks is the creation of barriers to wildlife, including lynx and pine marten, and removes habitat for black-backed woodpecker.

Response: The Beaverhead Forest Plan objectives of maintenance and enhancement of wildlife habitat, and maintenance of viable wildlife populations is still a high priority on the Forest (Forest Plan, p. II-3). The intent of the project is to break up the fuel continuity and reduce fuel loads (EIS, p. 1.3). It is not to create fuel breaks. The EIS points out (p. 3.129) there are forested linkage zones in the analysis area to the south, north, and west. The linkage zones allow species intolerant of large open expanses and human activity to move between the John Long Mountains (north), the Sapphire Mountains, the Anaconda Range, and the Bitterroot Range (south and west of the analysis area). The wildlife biologist determined the project may affect lynx but is not likely to adversely affect lynx or its habitat (EIS, Appendix J, p. J-21). The wildlife biologist analyzed the impact to black-backed woodpecker (EIS, pp. 3.73 to 3.77, Appendix E, pp. 24 to 25, and PF, Docs. 460, 461, 463, and 638). The impacts to black-backed woodpecker are discussed in Issue 6 (above). The impacts to marten are discussed in Issue 7 (above).

Issue 9. There is inadequate survey data on wildlife, including MIS and sensitive wildlife species, to implement any further activities on this landscape.

Response: Satellite imagery was used to identify Forest-wide habitat distribution for the viability analyses. Where possible, information about species records and quantity of habitat available was provided (EIS, pp. 3.57 to 3.58). Based on known habitat requirements of MIS and sensitive wildlife, the existing condition of the project area and the description of the alternatives, the wildlife biologist determined what the impact to the MIS and Sensitive species would be (EIS, pp. 3.54 to 3-134, and Appendices E and J). Based on this and other resource specialists' input, the Forest Supervisor made a Decision on what management activities would be implemented (ROD, pp. 1 and 2).

Issue 10. The agency failed to provide the public adequate notification that a Forest Plan amendment for elk effective cover would be implemented for the project. The amendment language was not finalized before the DEIS was released for public review.

Response: The notification of the need for a Forest Plan amendment for EEC was presented to the public in the DEIS (pp. 1.12 to 1.15), the FEIS (pp. 1.12 to 1.13), and in the ROD (pp. 2, 38 to 40, and Appendix A). The comment period on the Post-Fire DEIS ended on August 5, 2002. On December 12, 2002, the Forest received a letter from the Native Ecosystems Council commenting on the site-specific amendment (PF, Doc. 698). There was adequate public notification concerning the Forest Plan amendment.

Issue 11. The agency has failed to ensure viability of Canada lynx, a threatened species, by failing to provide adequate travel corridors across this 352,000-acre landscape.

Response: The analysis for lynx is found in the Biological Assessment (EIS, Appendix J). The wildlife biologist determined the project may affect lynx but is not likely to adversely affect lynx or its habitat (EIS, Appendix J, p. J-21). The USFWS issued a Biological Opinion (PF, Doc. 495). They found "all applicable standards in the LCAS would be met for the Vegetation and Fuels Management Project" (p. 19). They concluded the project would not jeopardize the continued existence of lynx and the "impact to the lynx and its habitat would be insignificant and/or discountable" (p. 20).

Issue 12. The relationship between two road management programs on this landscape, and how they affect the proposed and future planned projects, was never addressed in the FEIS.

Response: As discussed in the EIS (p. 5.81), beyond those roads needed for access to implement this project, access and travel management is being handled in a separate analysis. The public was made aware of the Road Management Project in a scoping letter dated December 6, 2002. This analysis considered the Road Management Project in the cumulative effects (EIS, Appendix A, Map 21). The ROD, EIS, and project file also considered the impacts of the temporary road construction, including existing conditions of the transportation system, post-fire road rehabilitation, effects of temporary road construction, mitigation measures, and cumulative effects (ROD, pp. 2, 17, 19, 21 to 22, 38, and 45; FEIS pp. xiv, xvii, 1.6, 2.6 to 2.8, 2.12, 2.25, 3.39, 3.60, 3.62, 3.90, 3.92 to 3.93, 3.104 to 3.107, 3.109, 3.208, 3.214, 3.234, 3.243 to 3.247, 3.249, 3.273, 4.18, 4.25, 5.43 to 5.44, 5.54, 5.65, and 5.79; PF, Docs. 221, 260, and 633). The direct, indirect, and cumulative effects of roads on wildlife were considered in the wildlife

analysis under each species, as necessary (pp. 3.60, 3.62, 3.90, 3.92 to 3.93, 3.104 to 3.107, and 3.109).

Issue 13. The agency has failed to monitor wildlife population viability on the Forests, as is required by the NFMA. Although some estimates of habitat for wildlife were made, there are no clearly defined habitat criteria for almost all MIS and sensitive species on either the Beaverhead or Deerlodge Forests.

Response: The Forest Service is required to maintain population viability across the planning area by managing fish and wildlife habitat (36 CFR 219.19). In the Upper Sunday Timber Sales on the Kootenai National Forest, the U.S. District Court of Montana found, “Neither is it plainly erroneous or inconsistent with regulation for the Forest Service to strive to maintain viable populations of species by focusing on the critical habitat requirements of Sensitive, Threatened, and Endangered species within and without the Decision Area.” In order to determine the viability of Sensitive, Threatened, and Endangered species the wildlife biologist plotted and reviewed maps of the species’ appropriate habitat (PF, Docs. 837 to 845) and together with other information made a determination of viability for each species (EIS, pp. 3.57 to 3.99, 3.113, 3.193 to 3.194, and 5.36; EIS, Appendices E and J). Issue 6 (above) discusses habitat criteria. The project is in compliance with NFMA.

Issue 14. The agency will violate Forest Plan direction by logging old growth habitat even though levels required by the Forest Plan are not currently being met, and by clearcutting forest stands within unsuitable timberlands.

Response: The EIS (pp. 3.122 to 3.127) discusses the existing condition of, and the project’s effects to old growth. The fires eliminated old growth conditions in the intense burn areas and reduced much of it in the other mosaic burned areas. With the exception of one unit, the project only harvests dead timber in stands that no longer meet the old growth definition (EIS, p. 3.125). The thinning in the one unburned old growth stand will be done in a manner that the old growth character is retained. Issue 3, Contention B (above) discusses harvesting in “unsuitable” timberlands.

Issue 15, Contention A. The Forest has failed to amend the current Forest Plans to address the severe shortcomings of Plan direction for management indicator and sensitive wildlife species. The current Forest Plans do not address the conflict between fuels management and wildlife. The current Plans did not anticipate the extensive fuels management programs that are being implemented. The current plan is also severely outdated with regards to management of old growth and snags. Guidelines for goshawk and black-backed woodpecker need to be incorporated into the Plans. The Plans fail to address the importance of unlogged burned forest as wildlife habitat.

Response: Significant, Forest-wide amendments of the Forest Plans are beyond the scope of this project analysis. The Beaverhead-Deerlodge National Forest recognizes the Plans are in need of updating and they are currently working to revise them. Until the planning process is completed they are bound by the existing Plans (EIS, p. 5.3).

Issue 15, Contention B. It is not clear where any burned forest habitat will be preserved for wildlife, and connected by unroaded, unlogged corridors at least 600 feet wide.

Response: A review of the maps in the project file shows the thousands of acres of burned forest habitat in relation to inventoried roadless areas, wilderness, and the proposed treatment units (PF, Docs. 422 to 425, 811, 833, and 843). The analyses for various wildlife species contain calculations for amounts of burned and unburned areas (PF, Docs. 450 and 460). The vast majority of the Mussigbrod fire and all of the Middle Fork fire on the Beaverhead-Deerlodge National Forests will remain untreated by this project.

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

/s/ Robert L. Schrenk
ROBERT L. SCHRENK
Appeal Reviewing Officer
Director of Forest and Rangeland