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**Subject:** ARO Letter - Middle-Black Ecosystem Management Project ROD - Clearwater NF - Appeal #03-01-00-0021 - Clearwater Elk Recovery Team

**To:** Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Ed Lindahl, on behalf of the Clearwater Elk Recovery Team (CERT), protesting the Middle-Black Ecosystem Management Project Record of Decision (ROD) on the Clearwater National Forest.

The Forest Supervisor's decision adopts Alternative 4, which includes the following actions and management activities: Prescribed fire is planned in timbered stands within the roadless areas, recently acquired lands in the NE corner of the analysis area, and portions of selected shrubfields; shrub cutting will be applied to a majority of the shrubfields (2,130 acres) having tree stocking of 100+ trees/acre; timber harvest will be used to convert about 640 acres of late and mid-successional stages to the early successional stage; control of noxious weeds, using an integrated pest management approach, will be implemented on approximately 2,300 acres along area roads, trails, administrative sites, and within disturbed areas; watershed restoration in the areas of Cold Springs, Coyote Creek, Deception Gulch, Game Creek, Rock Creek, and Spring Hill consists of 71 miles of roads planned for decommissioning either through obliteration or abandonment. In addition to the road decommissioning activities, new culverts able to handle a 100-year storm event will replace existing culverts at 14 stream crossings.

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 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 Administrative Procedures Act (APA) the National Forest Management Act (NFMA), the National Environmental Policy Act (NEPA), and the 1994 USFS policy, "Forest Service Ethics and Course for the Future." The appellant requests an amendment to the Clearwater Forest Plan that changes water quality standards to guidelines. An informal meeting was held; however, none of the appeal issues were resolved.

### ISSUE REVIEW

**Issue 1. The selected alternative fails to produce actions that meet the purpose and need established for the area of analysis. Treatments do not adequately break the successional stages, nor do they provide the resiliency necessary to protect soil productivity. Treatments fail to provide balance between wildlife species dependent on early seral**



**vegetative types and those dependent on old forest types. The selected alternative fails to treat a significant number of acreage to accomplish the objective of re-establishing white pine.**

**Response:** Using the comparisons of existing and historical conditions across the Middle-Black area as a basis, this analysis looked into ways to: (1) allow fire to resume more of its role within the ecosystem, (2) balance distributions of vegetative successional stages, (3) restore western white pine and other seral species, (4) control noxious weeds, and (5) restore watersheds and improve fish habitat (ROD, p. 1.) This is reflected in the purpose and need for the project (ROD, p. 2-6; FEIS, p. 10-14).

While elk concerns provided the impetus for the Middle-Black Project, elk are only part of a much larger ecosystem picture. The ROD (p. 21) specifically addresses why the selected alternative does not treat more acres. As stated, “It’s true that the underlying watershed assessment for the North Fork concluded that substantial disturbances were necessary to catch up on the backlog created by 60 years of fire suppression as well as to keep up with the normal disturbance rate provided historically by wildfire. While we try to understand the historical fire frequencies in crafting the project, we also realize that previous wildfires produced some serious effects. In designing a project like this we can’t disregard the effects on aquatic ecosystems, for example, that would have occurred in large-scale natural events. Nor can we hope to catch up on a 60-year backlog all at once without substantial and undesirable effects. Based on our watershed and soil stability analysis, we are treating as much area as possible without producing detrimental effects to streams, hydrological processes, and fish.”

A comparison of how the alternatives meet the purpose and need for the project can be found in the FEIS on pages 49-54. For the various action alternatives, the changes in successional stages due to the proposed activities are shown on page 199 of the FEIS. Effects on wildlife species dependent on early seral vegetative types and those dependent on old forest types are discussed in Chapter Four (FEIS, pp. 193-198).

**Issue 2. It is the CERT’s contention that the administrative decision directing the prescribed fire be used rather than timber harvest in roadless areas is arbitrary, capricious, fails to meet the CWNFP87 objectives and the purpose and need of this project. It will take an excessive number of years to burn all the units in roadless areas. There is no stated limit in either the CWNFP87 or the subsequent settlement agreement that prevents harvesting timber in those roadless areas. Furthermore, the ROD clearly and correctly states that harvest in roadless areas, within this particular assessment area may meet the exception for stewardship purposes. While some units within roadless areas are clearly too remote to economically employ helicopter logging, certain areas scheduled for timber harvest under Alternative 2 need to be reconsidered.**

**Response:** Harvest within roadless areas was an issue addressed through the EIS and in the ROD. The ROD (pp. 20-21) specifically addresses why timber harvest was not authorized in the roadless areas. As stated, Alternative 2, which would use timber harvest in roadless, has a

negative stumpage value (-\$4,150,000) due to the drop in timber values, plus the high cost of helicopter logging (20 percent of the treatment areas have excessively long flight distances of 2-4 miles). Another consideration was how each alternative addressed the roadless initiative put forth by President Clinton in 1999. Alternative 4 meets the direction of Interim Directive 1920-2001-1, which prohibits road construction and reconstruction activities (including temporary road construction) and timber harvest except for stewardship purposes on inventoried roadless areas. Although the timber harvest proposed in Alternative 2 may meet the exception for stewardship purposes, the Forest Supervisor selected the use of prescribed fire instead of timber harvest based on the analysis presented.

The ROD (p. 8) identifies that the decision will be implemented over a 10-year period. This is necessary to minimize the risk of water quality impacts, prescribed fire and/or timber harvest activities. In addition, during this time period, the Forest will conduct heritage resource surveys, prescribe mitigation measures to avoid effects, or cancel individual treatment areas in the case of effects that cannot be mitigated, and complete consultation with the Idaho State Historic Preservation Office (SHPO) and Nez Perce Tribe prior to approval of implementation of individual projects covered under the ROD (p. 34).

**Issue 3. Units 13, 17 and 18 (located in roaded areas) should be rescheduled for harvest. There was no reason provided why those units were not included in Alternative 4 of the ROD.**

**Response:** The FEIS (pp. 24-25) addresses the culmination of mean annual increment issue and explains why units 13, 17 and 18 were dropped. For comparison purposes, non-culminated stands proposed for timber harvest have been dropped out of the Alternative 4. This is also addressed in Response to Comments (FEIS, p. 294, #171).

**Issue 4. To meaningfully accomplish project objectives, the USFS must reconsider the construction of permanent access (to be gated later) at Pot Mountain and add to the project sufficient treatment areas to be treated by timber harvest and burn.**

**Response:** Road access across Pot Mountain was evaluated as an alternative, and four actual field locations have been reviewed. With access being confined to the ridge top due to sensitive soil, much of the area would still require helicopter logging, with a slightly reduced overall yarding distance (Response to Comments, FEIS, p. 311, #246). Response to Issue #2 addresses why an alternative to harvest timber in the roadless areas was not selected.

**Issue 5. Limiting detrimental cumulative effects, as outlined in the ROD, is an unrealistic limit to activities that are necessary to accomplish long term protection of the soil resource.**

**Response:** Regional Soil Quality Standards and Forest Soil Standards (Forest Plan, p. II-33) must be addressed in the soil resource analysis for a project. As identified in the analysis for this project, activity areas will be evaluated to assess the effects of compaction, displacement, rutting, server burning, surface erosion, loss of surface organic matter, and soil mass movement. At least

85 percent of an activity area must have soil that is in satisfactory condition. In areas where less than 15 percent detrimental soil conditions exist from prior activities, the cumulative detrimental effect of the current activity following project implementation and restoration must not exceed 15 percent. In areas where more than 15 percent detrimental soil conditions exist from prior activities, the cumulative detrimental effects from project implementation and restoration should not exceed the conditions prior to the planned activity and should move toward a net improvement in soil quality (ROD, p. 16).

**Issue 6. The diameter limit is arbitrary, capricious and an unrealistic and seemingly deliberate obstacle meant to limit an otherwise economically viable silvicultural treatment.**

**Response:** Mitigation measures 11 and 14 are identified in the ROD (pp. 13-14) and FEIS (pp. 46-47). In Chapter Two of the FEIS, the issue of snag habitat explains some of the rationale for having these mitigation measures (pp. 27-28). This is also addressed on page 29 under alternative formulation and treatment tools, which states that the first objective in designing the timber harvest is to maintain or improve habitat for wildlife species. In so doing, all large trees (generally 20+ inches dbh or older than 150 years) and approximately half of the trees in other age classes would be retained fairly uniformly across the landscape based on historic fire patterns. Many of these leave trees would be expected to die from site preparation activities (prescribed fire) after harvest and will provide snag habitat.

The final EIS displays and recommends a preferred silvicultural treatment for the selected alternative. Large diameter, > 20 inch western larch, ponderosa pine, or healthy western white pine where present, would be left in regeneration harvest units, numbering up to 15 trees per acre. Most of the treatment acres have a limited number of the preferred species of this diameter class, so there would be a range in the number of trees left on any given acre. A lower level of overstory residual tree density would also improve the production of quality forage during the time the site is open and receiving full sun. Documentation of review of the proposed tree retention guidelines by the Interdisciplinary Team can be found in the project file (Vol. 6, Doc. 6045).

**Issue 7. In drainages where old growth can and should be harvested, harvest should not be prevented by a purely administrative decision.**

**Response:** The rationale for not harvesting in old growth is identified in the ROD (pp. 20 and 31-32) and FEIS (pp. 26 and 290). All treatment areas were purposely delineated outside of any old growth, including recruitment old growth, within the project area. This action was in response to wildlife and old growth habitat concerns, issues raised by the public, and existing Forest Plan old growth and snag habitat management guidelines.

**Issue 8. The arbitrary limitations concerning live tree canopy retention are astonishing and will result in implementing actions that fail to meet silvicultural plan requirements.**

**The stated levels of canopy retention fail to provide adequate land for elk forage and they do not create younger forest openings sufficient to provide for realistic levels of wildlife diversity.**

**Response:** Mitigation measures 11 and 14 are identified in the ROD (pp. 13-14) and FEIS (pp. 46-47). This is also addressed in the FEIS on page 29, which states, that the first objective in designing the timber harvest is to maintain or improve habitat for wildlife species. Live tree canopy retention would be required to meet an objective to prevent the mass movement of soil and underlying geologic substrate. The amount of live tree canopy needed to survive site preparation activities after harvest would vary and are identify by LTA (FEIS, p. 29). To meet live tree canopy retention requirements, greater concentrations or clumps of trees would be left near riparian areas and side slopes, wet areas, concave dissections, hollows, and other areas with the greatest potential for landslides and other mass movements. Fewer live trees would be retained on secondary ridges and well-drained areas where erosional hazards are lower. Many of the leave trees would be in addition to those retained for wildlife habitat, especially on the steeper LTAs. Documentation of review of the proposed tree retention guidelines by the Interdisciplinary Team can be found in the project file (Vol. 6, Doc. 6045).

**Issue 9. The selected alternative fails to meet the requirements of the 1994 USFS policy “Forest Service Ethics and Course for the Future”.**

**Response:** The documentation in the FEIS and project file shows how the project meets the purpose and need for the project and is in compliance with the 1994 USFS policy “Forest Service Ethic and Course for the Future.” Response to Issue #1 states why more acres were not treated.

**Issue 10. The selected alternative fails to meet the vision and objectives of the CERT that met regularly over a period of several years to review information and provide input.**

**Response:** As stated previously, the Middle-Black FEIS documents the analysis of management proposals aimed at ecosystem restoration within the Middle North Fork and Upper North Fork (Black Canyon) watersheds of the North Fork Clearwater River sub-basin. While elk concerns such as those meeting the vision and objectives of the CERT provided the impetus for the Middle-Black Project, elk are only part of a much larger ecosystem picture (FEIS, p. 1). The Clearwater Elk Initiative is a collaborative group of federal and state agencies, timber industry representatives, conservation organizations, private landowners, and interested citizens concerned about elk habitat and populations in the Clearwater River basin. Their involvement no doubt helped focus the analysis and provide input from all sides on the project. However, they do not make decisions on the Clearwater National Forest. That is the responsibility of the Forest Service after conducting public involvement and NEPA analysis, which is what has occurred.

**Issue 11. Water quality standards are unrealistic and need to be updated with current information that includes road obliteration and road management work that has been accomplished, as well as the employment of current low disturbance, timber harvest**

**equipment and methods. To remedy this, the CERT recommends an amendment to the Clearwater National Forest Plan that changes water quality standards to guidelines.**

**Response:** Water quality standards for this project follow those identified in the Forest Plan. Changing the existing standards would require an amendment to the Forest Plan and is beyond the scope of the 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/ Thomas Pettigrew, Jr.  
THOMAS PETTIGREW, JR.  
Appeal Reviewing Officer  
Director of Engineering