



United States
Department of
Agriculture

Forest
Service

Region 1

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File Code: 1570 (215)

Date: July 6, 2000

Route To:

Subject: Mountain Gulch Bugs TS DN, Appeal #00-01-00-0095, Clearwater NF

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Larry McLaud on behalf of Idaho Conservation League, Friends of the Clearwater, The Ecology Center, The Lands Council, American Wildlands, and Alliance for the Wild Rockies protesting the Mountain Gulch Bugs Timber Sale Decision Notice (DN) signed by the Clearwater National Forest Supervisor (Palouse Ranger District).

The Forest Supervisor's decision adopts Alternative C, modified, to include the restoration features of Alternative D. Activities to be implemented include 2.75 million board feet of timber harvest on 262 acres, prescribed fire on 266 acres, reforestation on 266 acres, and various watershed restoration activities.

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. 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 Clearwater Forest Plan Settlement Agreement, and the Clean Water Act (CWA). The appellants request a remand of the DN. An informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Issue 1. The pre-existence of the existing contract seriously prejudices the outcome of this project.

Response: This issue was raised in comments on the EA and addressed in the response to comments (DN, p. A-2). The EA (p. I-1) and DN (p. 2) explain the interdisciplinary process used to determine whether there was a need to correct, supplement, or revise the original Mountain Gulch/Strychnine EA as required by NEPA handbook direction at section 18.1. Based on that review, the IDT determined that a new EA should be prepared to address changed conditions in the area. The Mountain Gulch Bugs EA acknowledged the existence of the ongoing timber sale and considered a full range of alternatives (EA, pp. II-12 through II-20). The Forest Supervisor provides his rationale for selecting Alternative C, modified, as well as his rationale for not selecting the other alternatives (DN, pp. 8-23). I find his rationale to be reasonable and unbiased.



Issue 2. The EA violates the Forest Plan standards, the Settlement Agreement, and the CWA.

Contention A: The Mountain Gulch Bugs project does not comply with water quality standards, or anti-degradation clauses of the Idaho State Code and Clean Water Act. The project has not proven that it will have no measurable increase in sediment, rather it proposes to delay recovery and it re-enters below standard water bodies.

Response: The Forest has acknowledged that the North Fork Palouse River is not meeting Forest Plan standards (EA, p. IV-58). The Settlement Agreement allows the Forest to “proceed only with those projects that would result in no measurable increase in sediment production in drainages currently not meeting Forest Plan Standards.” The EA thoroughly discusses the effects of the alternatives on sedimentation on pages IV-48 through IV-54 and concludes that there will be no measurable increase in sediment as a result of implementing the selected alternative. In fact, the analysis supports the conclusion that there will be a reduction of sediment. Implementation of the selected alternative would accelerate recovery, not delay it as claimed by the appellants. Based on the analysis documented in the EA and project file (Vol. V, Doc. 103), the Forest Supervisor concluded that the project is consistent with the Clean Water Act and Idaho State Water Quality laws. I concur with that conclusion.

Contention B: INFISH buffers were almost entirely relied on to support the claim that logging will not result in increased sedimentation to area streams. The buffers will not prevent increased sedimentation. The Forest did not take a hard look at the consequences of harvesting in steep, fragile watersheds.

Response: The EA describes the mitigation measures to be implemented to protect water quality including Best Management Practices (BMPs), default INFISH stream buffers, and recommendations from the Forest’s Soil Scientist and District Hydrologist (EA, p. II-21). Appendix A of the EA describes the site-specific BMPs to be implemented. Audits of the BMPs and INFISH stream buffers have found that the Forest has an effectiveness rate of around 99 percent (Project File, Vol. 5, Docs. 77 and 79). As discussed and referenced in the transmittal letter, current literature supports the conclusion that INFISH buffers are effective in controlling sediment that is not channelized.

The EA discloses the effects to aquatic ecosystems, including in-depth discussions of landslide hazard, streamflow, sediment, channel morphology and stability, and fisheries (EA, pp. IV-43 through IV-56). Recommendations to minimize landslide risk have been incorporated into the mitigation measures (Project File, Vol. V, Doc. 133; DN, p. 7).

Contention C: WATBAL derived sediment estimates are inaccurate because of WATBAL’s failure to predict or analyze the likelihood of sediment entering streams from landslides and debris flow. The WATBAL model was recently subject to a study in a peer reviewed scientific journal and found to consistently underestimate the amount of sediment actually reaching stream courses.

Response: These concerns were addressed in the response to comments on the EA (DN, p. A-7 and 8). The response describes the use of the WATBAL model including assumptions, limitations, how it was used in the analysis and how it does not account for certain factors. The project file contains further documentation regarding model limitations and uses (Project File, Vol. IV, Doc. 74). The EA describes other tools used to assess watershed conditions including stream and headwater surveys, Riffle Stability Index (RSI) pebble counts, and on-the-ground knowledge (EA, pp. III-43 through 47). Rick Patten, a

developer of the WATBAL model, has refuted the assertions made in Robert Hickey's article, "Evaluating the WATBAL Sediment Loading Model, Clearwater National Forest, Idaho" (Project File, Vol. IV, Doc. 74).

Issue 3: Impacts to wildlife are not adequately addressed.

Contention A: The "no effect" determination for wildlife species considered in the analysis is clearly wrong because the Forest Service has no knowledge on which to base a decision that destroying habitat will not affect the species.

Response: The EA thoroughly describes the existing conditions for affected wildlife species within the Mountain Gulch Bugs analysis area (EA, pp. III-11 through III-34) and documents the effects to those species in Chapter IV (pp. IV-11 through IV-43), as well as in the Biological Assessment and Biological Evaluation (BA/BE) (DN, Appendix B). These documents acknowledge effects to habitat but conclude that no threatened, endangered, sensitive, or management indicator species are considered at risk. I find that the analysis is scientifically based and relies on the latest available literature for each species of concern (EA, List of References Cited for Wildlife, pp. IV-67 through IV-69).

Contention B: The Mountain Gulch Bug project will violate both NFMA requirements through the Forest's failure to conduct population trend monitoring of old growth-dependent wildlife species as required by the Forest Plan and the failure to maintain adequate old growth habitat.

Response: These concerns were addressed in the response to comments on the EA (DN, pp. A-4 and A-11). Monitoring of species to develop population trends is a Forest-level issue and beyond the scope of this project. Monitoring of threatened, endangered, sensitive, and management indicator species is reported in the Annual Monitoring and Evaluation Report as required by the Forest Plan. The wildlife analysis documented in the EA is a habitat-based analysis supported by scientific literature and professional judgment of the District Wildlife Biologist. The EA specifically addresses wildlife species associated with old growth habitat, including flammulated owl, black-backed woodpecker, pileated woodpecker, and goshawk (EA, pp. III-17, 21, and 24) and the DN summarizes the effects to these species (DN, pp. 14-15).

With respect to maintaining adequate old growth habitat, the Mountain Gulch project does not harvest any old growth. The Forest Plan requirement of 5 percent old growth in compartment 2-5 is being met because designated old growth and replacement old growth stands in the compartment is currently at 6.3 percent. The selected alternative results in setting aside an additional 1,444 acres in the compartment to be managed for old growth. This designation is about 12.5 percent of the old growth unit, well above the 5 percent requirement. The EA discloses the effects of the project on old growth/old growth replacement and late successional forest in Chapter IV (pp. IV-36 through IV-41).

RECOMMENDATION

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

/s/ J. Doug Glevanik

J. DOUG GLEVANIK

Reviewing Officer

Interregional NEPA, Appeals and Litigation Leader

Ecosystem, Assessment and Planning