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File Code: 1570 (215) **Date:** February 26, 2001

Route To:

Subject: Salt Lick TS DN, Appeal #01-01-00-0026, Clearwater NF

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Kristin Ruether on behalf of Friends of the Clearwater, The Ecology Center, The Lands Council, American Wildlands, and Alliance for the Wild Rockies protesting the Salt Lick Timber Sale Decision Notice (DN) signed by the North Fork District Ranger, Clearwater National Forest.

The District Ranger's decision will harvest approximately 1,200 CCF (600 MBF) of timber that is experiencing mortality due to insects and diseases, or is declining due to overstocking. The proposed harvest methods are a combination of clear-cut with reserves, seed tree harvest, commercial thinning, and improvement cutting. Approximately 46 acres will be harvested. Of that, 7 acres will be a clear-cut with reserves leaving approximately 3 to 5 trees of all species per acre for structural diversity, 15 acres will be a seed tree harvest leaving 3 to 5 seral seed tree species per acre, 20 acres will be a commercial thinning, and 4 acres will be an improvement harvest. Logging systems will consist of conventional skyline and tractor.

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 Clean Water Act (CWA), the Endangered Species Act (ESA), and the Clearwater Forest Plan. The appellants request a remand of the DN. The appellants declined to have a meeting to discuss the appeal points.

ISSUE REVIEW

Issues 1. Wildlife: Failure to adequately consider cumulative effects and ensure scientific accuracy.

Response: The Environmental Assessment (EA) summarizes information from the wildlife specialist reports (Doc. 11) and the BA/BE (Doc. 12) to describe cumulative effects to wildlife species (EA, pages 33-43). The cumulative effects of past actions are reflected in the existing condition discussions in the

EA (pages 33-42) and Project File (Doc. 11; Doc. 34). The table presented in Document 11 (page 36) compares the acres planned for harvest and the total acres of available habitat by species in the Sourdough, Beaver, and Leuty Creek watersheds (Old Growth Analysis Unit 307). The habitat for these species is not expected to be degraded (EA, pages 34-41). The BA/BE reflects that there is no effect or no impact to threatened, endangered, and sensitive wildlife species in the Salt Lick Timber Sale analysis area. The Evergreen Kittentail is identified as may impact individuals or habitat, but will not likely result in a trend toward federal listing or reduced viability for the population or species.

Past and foreseeable projects considered in the vegetation analysis are described in the EA (pages 19-23) and in the vegetation reports (Doc. 9; Doc. 34). Activities considered in the aquatics analysis are described in the EA (pages 27-28) and Project File (Doc. 14; Doc. 34). The soils section of the environmental analysis describes that there will be no effect on the soils or wetlands (EA, pages 30-31; Doc. 16).

Issue 2. Predetermination.

Response: A series of in-house instructional memos regarding the Heartwood litigation were mailed to Forest Service field units from the Washington Office (Docs. 52-53). In one of these memos (Doc. 52), Deputy Chief of the National Forest System, James R. Furnish, clarified the Heartwood vs. USFS injunction. The memo clearly states, "that Forests should initiate preparation of Environmental Assessments for enjoined activities." The Heartwood decision did not cancel the timber sale contracts; it nullified the categorical exclusions utilized to satisfy the requirements of NEPA.

The Washington Office directed that timber sale contracts resulting from projects approved with CEs be suspended according to contract provision C6.01(b) which states, "Purchaser agrees to interrupt or delay operations under this contract, in full or in part, upon the written request of Contracting Officer… to comply with a court order, issued by a court of competent jurisdiction." The Forest suspended operations on the contract so that an EA could be prepared for the sale. If the contract were cancelled (due to selection of the no action alternative) the provisions of C8.2 – Termination and C9.5 – Settlement would apply and the Forest Service would be liable for damages to the contractor. Displaying this information in the EA, including the costs related to the no action alternative, provides full disclosure to both the public and the responsible official.

Issue 3. Lack of use of model.

Response: WATBAL data and actual field survey data that was collected in 1990, 1995, and 1998 was used in determining the existing condition (EA, pages 23-26, and 28, Doc. 14, pages 1-5). The WATBAL model was not run for this project due to design, the stable landtypes that occur in the project area (EA, page 28), and the absence of any new permanent road construction associated with the proposal. In addition, this project is smaller than what the model was designed to analyze (WATBAL User Guide). The WATBAL model will be run for future larger timber sales (EA, page 28).

Issue 4. Inadequate range of alternatives.

Response: Alternatives must be responsive to the project purpose and need as guided by programmatic direction. The responsible official established a focused purpose and need and set conservative design

features and mitigation standards specifically to narrow the scope of the analysis so that larger issues covered by broader scale assessments would not have to be revisited. The EA (pages 15-19) identifies two alternatives analyzed in detail and two alternatives considered but eliminated from further analysis (pages 13-14). The alternatives presented in the EA respond to the purpose and need statement, are within the management direction identified in the EA, respond to the public scoping comments, and are reasonable for this project. An action alternative for the project that does not involve logging would not meet the purpose and need.

FSH 1909.15, Chapter 14, requires "based on the results of scoping and the determination of issues to be analyzed in detail, develop and consider all reasonable alternatives to the proposed action." As established in case law interpreting the National Environmental Policy Act, the phrase "all reasonable alternatives" has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed.

Issue 5. Water Quality: Violations of NEPA, Forest Plan/stipulated Agreement and the Clean Water Act.

Response: Water quality analysis is presented in the EA (pages 23-24 and 28-31; Soils and Landtype Association Map, Appendix H) and project file (Doc. 14 and 16). This provided disclosure of the past impact of and potential for future landslides in the project area watersheds.

The documentation for the Salt Lick Timber Sale project does not claim that buffers prevent channelized landslides or debris flows. Anthropogenic channelized landslides or debris flows are prevented within the project area by careful avoidance of landtypes where risks of these events are high (EA, pages 12-13, 28-31; Doc. 16).

Although the Forest Plan Settlement Agreement applies because Sourdough Creek does not meet the sediment standard, the terms and conditions of the agreement are met because no measurable sediment will be added to these streams. The EA provides full disclosure regarding the status of Sourdough Creek and the fact that no measurable sediment will be added to this creek as a result of the proposal (DN, page 11; EA, pages 23-28). The project will have no measurable increase in sediment in Sourdough Creek, Beaver Creek, and Leuty Creek. The use of default INFISH buffers, implementation of Best Management Practices, and implementation of all mitigation measures will insure this project will have no measurable increase in sediment.

Clearwater Bio-studies Incorporated and Isabella Wildlife Works conducted pre-decisional monitoring via contract in 1990, 1995, and 1998 and additional information was used from the 1995 and 1996 Floods and Landslides Report (Transmital Letter, page 6). The information in these reports is summarized and applied to the Salt Lick Timber Sale project in the EA (pages 23-28,) and in the Watershed and Fisheries Report (Doc. 14 and Doc. 43).

Issue 6. Canada Lynx.

Response: Since issuing of the DN, the lynx analysis units have been redefined in accordance to the Canada Lynx Conservation Assessment and Strategy. There is no lynx habitat within the project analysis area (EA, pages 37-38; Doc. 11 and Doc. 54).

Issue 7. Violation of Monitoring and Viability Requirements (NFMA).

Response: Monitoring of Threatened, Endangered, Sensitive, and MIS species to develop population trends, as the appellants discuss in their appeal, is a Forest-level issue outside the scope of this project. The Forest issues an Annual Monitoring and Evaluation Report, as required by the Forest Plan. This report addresses the monitoring that was done for old growth-dependent wildlife species (Doc. 43). The Salt Lick Timber Sale BA/BE (Doc. 12) and the Wildlife and TES Plant Resources Status Report (Doc. 11) and Chapter III of the EA indicate that the project will maintain adequate habitat within the analysis area to provide for population viability. No old growth will be harvested with this project (EA, page 11).

The Salt Lick Timber Sale BA/BE (Doc. 11) and EA (pages 41-43) provide site-specific information regarding Threatened, Endangered, and Sensitive, and MIS species. Monitoring of species on a Forest-wide basis is outside the scope of site-specific analysis of this project.

RECOMMENDATION

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

/s/ Harlan Smid

HARLAN SMID
Reviewing Officer
Director, Financial Resources