



**File Code:** 1570-1

**Date:** October 31, 2001

**Route To:** (1570 - 215)

**Subject:** ARO Letter, Spruce Moose Vegetation Management and Moose Lake Right-of-Way ROD, Appeal #02-01-00-0001, Clearwater NF

**To:** Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Gary Macfarlane on behalf of Friends of the Clearwater, Alliance for the Wild Rockies, The Ecology Center, The Lands Council, American Wildlands, and Idaho Conservation League protesting the Spruce Moose Vegetation Management and Moose Lake Right-of-Way Record of Decision (ROD) on the Clearwater National Forest.

The Forest Supervisor's decision selected Alternative 4 Modified, which authorizes the following activities in the Spruce Moose project area, on the Lochsa Ranger District:

- Implement regeneration timber harvests on four cutting units totaling 184 acres with an estimated harvest volume of about 1,283 thousand board feet (MBF). A helicopter-logging system would be required.
- Implement commercial thinning harvest on one 10-acre cutting unit with an estimated harvest volume of about 55 MBF. A horse or small tractor-logging system would be required.
- Construct 1.7 miles of new road and reconstruct 1.0 miles of existing road in cooperation with Plum Creek Timber Company (PCTC) as part of a network of cost share roads on the Lochsa Ranger District. Easements would be exchanged with PCTC.
- Implement watershed improvement activities in the Spruce Creek Watershed to improve water quality and fish habitat over the long term. These activities include the following specific actions:
  - Repair existing sediment-producing sites on existing cost share roads as part of a joint sediment reduction plan.
  - Increase the frequency of large wood in Spruce Creek by placing approximately 100 pieces of large wood per mile for one- and one-half miles.
  - Inventory riparian areas impacted by past harvest and implement opportunities to encourage conifer growth such as thinning, release, and/or tree planting.
- Other required features of the selected alternative were detailed on pages 10 to 12 of the ROD.
- Specific monitoring requirements were also included in the Record of Decision (ROD, pp. 13 to 14).



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 Endangered Species Act (ESA), and the Clean Water Act (CWA). The appellants request that the Regional Forester rescind the decision and if the project does go forward, a new EIS be prepared.

An informal meeting was held on October 15, 2001. As a result of the informal disposition meeting, both parties signed an agreement that a wildlife biologist would visit Unit 19 to determine whether or not it was old growth. Dennis Talbert, Lochsa District Wildlife Biologist, visited Unit 19 on November 1, 2001. He thoroughly reviewed the stand and has concluded that the unit is old growth. Therefore, in compliance with the agreement, and in accordance with the disclosure in the Spruce Moose Vegetation Management and Moose Lake Right-of-Way FEIS and Record of Decision that no old growth stands would be harvested, Unit 19 will not be implemented with the Spruce Moose Timber Sale.

Plum Creek Timber Company requested and received Interested Party status to the appeal. Lech Szumera of Plum Creek attended the informal disposition meeting.

## **ISSUE REVIEW**

### **Issue 1: Purpose and Need / Range of Alternatives**

The Agency Deciding Official has the discretion to determine the purpose and need for a project proposal. The NEPA implementing regulations state the NEPA document shall "briefly specify the underlying purpose and need to which the agency is responding..." The Forest has provided information on the project to support the stated purpose and need (FEIS, Chapter I, p. 1-3). In addition, the purpose and need is consistent with the Forest-wide management direction and regulations (FEIS, Chapter I, p. 9-18).

The Alaska National Interest Conservation Act (ANILCA) and implementing regulations give little discretion to the Forest Service in acting on applications for access, except that granting of access is subject to reasonable terms and conditions (FEIS, Chapter I, p. 1). As a result, ANILCA narrows the purpose and need for action.

Chapter II of the EIS describes how comments received in public scoping were used to identify issues and develop alternatives (pp. 3-11). Issues were appropriately used to develop the range of alternatives. Preliminary issues evaluated by the ID team, and the rationale for dropping them from further evaluation, were also provided. Seven alternatives were considered but not given detailed study (pp. 12-13). Non-cost share, ANILCA only, and restoration only alternatives were considered and dismissed for reasons explained in the FEIS. Detailed information is provided about four alternatives considered in detail.

## **Issue 2: Cumulative Impacts / Wildlife**

**Response:** The FEIS and Project Record show that cumulative effects of PCTC actions were considered in the effects analysis for wildlife. Cumulative effects on wildlife habitat, including private land, are presented for discussions on old growth-dependent species, elk habitat and security, MIS and TES species (FEIS, pp. 18-29). This analysis is based on information provided by PCTC that identified their out year plans for road construction and harvest in the Spruce Creek drainage (Project File, Vol. IV, Doc. A-12).

The Lynx Conservation Assessment and Strategy was used for the lynx analysis (Vol. V, Doc. A-15). Chapter IV of the FEIS (pp. 25-27) discusses the effects of the project on lynx and includes private lands in the cumulative effects analysis. The Biological Assessment also addresses effects on lynx (ROD, Appendix A) and provides additional information regarding private land activities. The US Fish and Wildlife Service concurred with the effects call of “not likely to adversely affect lynx or lynx habitat” on June 22, 2001 (Vol. III, Doc. H-13). The selected alternative would not add any groomed or designated over-the-snow routes or play areas, which is consistent with the Lynx Conservation Assessment and Strategy (LCAS, p. 83).

The Clearwater National Forest, along with the other Forests in the Northern Region, is in the process of amending their Forest Plans for lynx. This issue is beyond the scope of the Spruce Moose project.

## **Issue 3: Water Quality / Fisheries**

**Response:** Effects on water quality and aquatic habitat are adequately described in Chapter IV of the FEIS (pp. 1-17), including the effects of the no action alternative.

The water quality stipulations included in the Stipulation of Dismissal (Settlement Agreement) apply to the Spruce Moose project (ROD, p. 30). Consistency with the Stipulation of Dismissal is described in the FEIS (Chapter IV, pp. 42-43). The project design, mitigation, and monitoring measures specified for the action alternatives (FEIS, Chapter II, pp. 27-32) achieve the no measurable sediment standard required in the Agreement (FEIS, Chapter IV, p. 15).

The Sediment Reduction Plan is not being used to achieve the no measurable sediment standard. Instead, the Sediment Reduction Plan is being implemented to cause a reduction in sediment in Spruce Creek, which will set the drainage on an improving trend (FEIS, Chapter IV, pp. 13-15). Alternative 4 Modified, on its own, results in no measurable increase in sediment.

The description of the No Action Alternative (FEIS, Ch. II, p. 14) explains that the existing sediment sites identified for repair would be completed under the normal road maintenance program. Plum Creek Timber Company and the Forest Service have implemented some of the repair work in the course of their cost share maintenance work to improve recovery of watershed conditions in Spruce Creek. The sediment reduction plan is not being used to offset measurable amounts of sediment from the project and is not being counted as a “savings” of sediment reduction effects.

The FEIS (Chapter IV, p. 2) clearly states that PACFISH only applies to National Forest System land and the Idaho State Forest Practices Act applies to private land. The effects analysis was consistent in this respect. Supporting information is provided regarding the effectiveness of BMPs and PACFISH standards and guidelines in reducing sediment resulting from logging activities (Chapter IV, p. 8). State of the art sediment modeling tools (WATBAL, Washington State Methodology and Watershed Erosion Prediction Project) were used to estimate effects of logging, road design, and mitigation (Chapter IV, pp. 13-15; Project File, Vol. IV, Doc. B-29 and 32).

#### **Issue 4: Old Growth / Vegetation**

**Response:** Review of the references cited by the appellants provides conflicting information concerning the old growth status of unit 19. As a result of the informal disposition meeting, both parties signed an agreement that a wildlife biologist would visit Unit 19 to determine whether or not it was old growth. Dennis Talbert, Lochsa District Wildlife Biologist, visited Unit 19 on November 1, 2001. He thoroughly reviewed the stand and has concluded that the unit is old growth. Therefore, in compliance with the agreement, and in accordance with the disclosure in the Spruce Moose Vegetation Management and Moose Lake Right-of-Way FEIS and Record of Decision that no old growth stands would be harvested, Unit 19 will not be implemented with the Spruce Moose Timber Sale.

Unit 17 was identified as potential old growth based on stand data records and early inventories (1990 to 1992). Field verification (1995 to 1996) confirmed that unit 17 was not old growth (FEIS, App. A; Project Record, Vol. IV, Docs. B14, B18.1, B18.2 and B18.3).

The data presented in Chapters III and IV identify that the small amount of late successional habitat being affected by any of the action alternatives will result in a very small change to the forest vegetation structure (pp. 17-20). There would be little to no effect on recruitment of future old growth from the late successional class.

The size of opening limitations required by NFMA apply only to National Forest System lands, not private land (Project Record, Vol. V, Doc. A-16). The TSMRS database shows that harvest units adjacent to units 6, 7, 17 and 19 are fully stocked and no longer considered openings (Project Record, Vol. V, Doc. A-18 and 19). Unit 1 is a commercial thinning harvest unit that will not create an opening. Doc. A-18 identifies that unsuitable land is not included within the harvest units.

#### **RECOMMENDATION**

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

/s/ Paul E. Nesselroad

PAUL E. NESSELROAD  
Appeal Reviewing Officer  
Director of Public and Governmental Relations