



United States  
Department of  
Agriculture

Forest  
Service

Region 1

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**File** 1570 (215)  
**Code:**  
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**To:**

**Date:** February 12, 2001

**Subject:** Austin Salvage TS DN, Appeal #01-01-00-0024, Clearwater NF

**To:** Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Jeff Juel on behalf of The Ecology Center, Friends of the Clearwater, The Lands Council, and Alliance for the Wild Rockies protesting the Austin Salvage Timber Sale Decision Notice (DN) signed by the Lochsa District Ranger, Clearwater National Forest.

The District Ranger's decision will harvest approximately 750 CCF (375 MBF) of timber that is experiencing mortality due to insects and diseases. The proposed harvest methods are a combination of clearcut with reserves and final removal harvest treatments. Approximately 53 acres will be harvested. Of that, 8 acres will be a clearcut with reserves treatment leaving approximately 3 to 5 trees per acre for structural diversity, and the remaining 45 acres will be a final removal harvest with reserves, leaving 1 to 3 of the overstory trees for structural diversity. Logging systems are a mixture 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) 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**

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

**Response:** The Environmental Assessment (EA) discusses the existing condition of each MIS and threatened, endangered and sensitive species, followed by cumulative effects discussions (pp. 13-23). The EA summarizes the information from specialists' reports and the BA/BE. The BA/BE (EA, Appendix O) reflects that where habitat for threatened, endangered, and sensitive species exists, there is no effect or no impact to species in the Austin Salvage Timber Sale analysis area. The estimated



available habitat for selected sensitive wildlife species possibly affected by the planned action is shown in the Wildlife and TES Plant Resources Status Report (Doc. 37), including a table display of estimated available habitat and direct, indirect, and cumulative effects. This table compares the acres planned for harvest to the acres of available habitat by species in the Lolo Creek watershed. The habitat for these species is not expected to be degraded for any of these species (DN, pp. 3-5; EA, pp. 22-23; and Appendix O, Doc. 37).

Cumulative effects for vegetation is discussed in the EA on pages 21-22. This project is designed to move the area to the desired future condition and no detrimental effects to vegetation are expected as a result of implementing this project (EA, p. 10). There would be no effects on the soils or wetlands resource from implementing this project (EA, p. 21), resulting in no cumulative effects.

## **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. 47-48). In one of these memos (Doc. 47), 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.

## **Issues 3: Lack of use of model.**

**Response:** WATBAL data was used in determining the existing condition (EA, Appendix K, Doc. 33). The WATBAL model was not run for this project to determine the effects due to the stable landtypes that occur in the project area (EA, pp. 10, 11 and 21), the absence of any new permanent road construction associated with the proposal, and because actual field survey data collected in 1992, 1993, 1994, 1997 and 1998 was used in the analysis to represent actual field conditions (EA, pp. 12, 13, 21 and 22; Appendix K, pp. 1-10; Doc. 33 and 35). In addition, WATBAL was not run because this project is smaller than what the model was designed to analyze (WATBAL User Guide). The WATBAL model will be run for larger timber sales, including Knoll Creek Bugs (EA, Appendix K, p. 9).

## **Issue 4. Inadequate range of alternatives.**

**Response:** Chapter II of the EA describes how comments received in public scoping were used to identify issues and develop alternatives. The EA describes two alternatives considered in detail. No

additional alternatives were identified during scoping or by the interdisciplinary team (EA, pp. 6-9), although the original proposal was revised based on public comment by dropping unit 2. The alternatives depicted in the EA respond to the purpose and need statement, are within the management direction identified in the EA (pp. 2-3), 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.

The courts have established that the direction to “rigorously explore and objectively evaluate all reasonable alternatives” [40 CFR 1502.14(a)] does not mean that every conceivable alternative must be considered, but that selection and discussion of alternatives must permit a reasoned choice. The alternatives in the EA respond to the purpose and need for the project, are within the Forest Plan management area direction, respond to public comment, and are reasonable for this project.

#### **Issue 5. Violations of Forest Plan/Stipulation Agreement & the Clean Water Act.**

**Response:** Lolo Creek exceeds the Desired Future Condition for cobble embeddedness and therefore does not meet Forest Plan sediment standard (Doc. 33, p. 3). The EA (pp. 12, 13, 21, and 22; Appendix K, pp. 2, 3, 5, 9, and 10) and the Watershed and Fisheries Report (Doc. 33, p. 10) provide full disclosure regarding the status of Lolo Creek and the fact that no measurable sediment will be added to the creek as a result of the proposal.

The terms and conditions of the Forest Plan lawsuit settlement agreement are met because no measurable sediment will be added to this stream (DN, p. 6). The use of default PACFISH buffers, implementation of Best Management Practices, and implementation of all mitigation measures will insure this project will have no measurable increase in sediment (DN, p. 3; Response to Comments, p. 3; EA, pp. 2-3, 12, 22-23, and Appendices F - K, M, O, P, and R; and Doc. 33)

Sediment and landslide analysis is presented in the EA (pp. 5-6, 10-12, 21; Appendix B, p. 3; and Appendix M, pp. 1-4), the Soils and Landtype Association Map (EA, Appendix M), and the Soils Report (Doc. 35). Full disclosure is provided for both the past impact of landslides and the potential for future landslides within the project area watersheds. There were no landslides in the project analysis area in the 1995-1996 floods (Doc. 33 and 35).

The documentation for the Austin Salvage 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, pp. 10-12 and 21, Appendix M; Doc. 33 and 35).

Clearwater Bio-studies Incorporated conducted pre-decisional monitoring via contract in 1993, 1994, 1997, and 1998. The information in these reports is summarized and applied to the Austin Salvage Timber Sale project in the EA (pp. 12-13; Appendix K) and in the Watershed and Fisheries Report (Doc. 33).

**Issue 6. The Forest Service violated NEPA, the ESA and NFMA by failing to conduct adequate analysis of the Canada lynx.**

**Response:** The EA (p. 17) describes the type of survey that was done for the lynx. A Level A survey was done to estimate the probability of listed species inhabiting the proposed analysis area. According to records of the Idaho Department Fish & Game sightings of lynx have been sporadic and inconclusive (EA, p. 17). Idaho Conservation Data Center (ICDC) records indicate there have been no reported sightings of lynx in the Lolo lynx analysis unit (Doc. 37, p. 21). The analysis was done on the amount of habitat that is available in the Lolo lynx analysis unit.

Since the issuing of the DN, the lynx analysis units have been redefined in accordance to the Canada Lynx Conservation Assessment and Strategy. There is no habitat within the project analysis area (Doc. 49).

#### **Issue 7. Violation 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. 42). The revised Austin Salvage Timber Sale BA/BE (Doc. 30) and the Wildlife and TES Plant Resources Status Report (Doc. 37) indicate that the project will maintain adequate habitat within the analysis area to provide for population viability (EA, pp. 10-20). No old growth will be harvested with this project (EA, pp. 7, 20 and 23; Appendix O, Doc. 33).

The Austin Salvage Timber Sale EA (pp. 18-20) and BA/BE (Appendix O and Doc. 30) provide site-specific information regarding Threatened, Endangered, and Sensitive, and MIS species. This document describes 32 sensitive species and 3 threatened species of plants. 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