



File 1570 (215) Date: March 10, 1999
Code:
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To:
Subject: Wepah-Pup Timber Sale DN, Appeal #99-01-00-0087, Clearwater National Forest
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, American Wildlands, The Ecology Center, and The Lands Council protesting the Wepah-Pup Timber Sale Decision Notice signed by the Clearwater National Forest Supervisor.

The Forest Supervisor's decision adopts Alternative B of the Wepah-Pup Timber Sale Environmental Assessment (EA). Under this alternative, forest vegetation health would be addressed by applying intermediate and regeneration cuts to improve the species composition and stocking levels, to reestablish western white pine and to restore ponderosa pine. Harvest activities would fund active watershed restoration work that would correct existing sediment sources and reduce future risks to watershed values.

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.

FINDINGS

The Appellants allege violations of NEPA, CEQ, NFMA and the Clean Water Act for reasons listed below. The Appellants request the decision be remanded. The Palouse District Ranger, Carmine Lockwood, contacted Gary Macfarlane, Friends of the Clearwater via e-mail and a telephone message; however, Mr. Macfarlane did not reply to either attempt to contact him about an informal disposition meeting. No informal meeting was held, and no interested party comments were received.

Appeal Review Findings

Objection 1: The EA and the DN violate the premise of NEPA in that the sale was marked prior to the effective date of the decision.

Response: Marking and field designations of proposed activities during the planning phase of a project is not in violation of NEPA (40 CFR 1506.1 - Limitations on actions during the NEPA process). Identification in the field allows for accurate field measurements and also allows the interdisciplinary team members, interest groups and the general public to better visualize and understand the proposed project before any action actually occurs. The pre-decisional marking and cruising on the Wepah-Pup project did not have any adverse environmental impact, did not limit the choice of reasonable alternatives, is not a major federal action which may significantly affect the quality of the human environments, and did not prejudice the ultimate decision on the project. These activities do not constitute any irreversible or irretrievable resource commitment, nor can they be considered irreparable harm.



Objection 2: The Forest Service has violated NEPA by narrowly defining the purpose and need so only logging alternatives have a chance of being adopted.

Response: The purpose and need is in line with the programmatic management direction provided in the Forest Plan. This direction was supported in the ecosystem management-oriented review in the White Pine Creek FEIS. The purpose and need statement responds to this direction and provides for the consideration of a range of alternatives.

Objection 3: The decision does not meet NEPA requirement to provide an adequate array of alternatives.

Response: The EA did provide an adequate range of alternatives. It is important to realize that two alternatives, uneven-age management and the use and obliteration of temporary roads, were considered but eliminated from further analysis. In response to issues brought forward by the public, two additional alternatives were considered in detail which addressed road construction.

Objection 4: Specifically regarding fire, the EA violates NEPA by failing to consider fire as the tool to manage this portion of the Palouse District.

Response: The Forest did incorporate fire in their analysis and considered fire as a management tool. Fire and fuels management helped to develop the proposed action in that prescribed burning actions were developed in conjunction with timber harvest.

Objection 5: Appellants allege that the Forest violated NEPA and CEQ regulations by failing to prepare an EIS.

Response: The regulations at 40 CFR 1501.4(c) provide for the preparation of an EA to determine whether or not to prepare an EIS. As documented in the DN and FONSI, the District Ranger determined that this project is not a major federal action with significant effects on the quality of the human environment (DN, p. 25). I concur with the conclusion that an EIS is not necessary. There is no violation of NEPA and CEQ.

Objection 6: Appellants allege the Forest violated NEPA by failing to acknowledge the significance of, and scientific controversy of, the project's effects related to fire frequency, forest health, and economics.

Response: The project's effects related to fire frequency, forest health, and economics are addressed throughout the EA. Additional analysis and comprehensive scientific information is also provided in the White Pine Creek FEIS and the Palouse Sub-basin Ecosystem Analysis at the Watershed Scale (EAWS). These documents provide sound, up to date, science and were appropriately utilized in the EA. The Timber Sale Planning and Analysis System (TSPAS) economic analysis process was utilized in the analysis and the EA provides relevant project-level discussion about the economics of the proposal.

Objection 7: The EA and DN violate NEPA by failing to consider the cumulative impacts of past logging, current and proposed logging in the area.

Response: The EA (pages III-1 to III-27) addresses the cumulative impacts of the proposal and specifically, pages III-13 and 14 describe the existing condition of the watershed and past activities in the area. There are currently no future timber sales proposed in the project area on the Clearwater Forest 5-Year Timber Sale Action Plan.

Objection 8: Water Quality. Appellants allege the selected alternative fails to meet the Clean Water Act and the stipulated agreement in the Clearwater National Forest Plan lawsuit settlement.

Response: Based on the analysis, the EA concluded that there would be no measurable increase in sediment delivery due to proposed actions. Sediment delivery was avoided by limiting the amount of activity, application of INFISH default buffers, avoidance of stream crossings and activities on high-risk landtypes, and stringent application of BMPs. There would be reductions in sediment production and delivery over the long term.

Objection 9: The appellants allege the Forest Service violated NEPA by identifying an incorrect purpose and need statement; that is, by inaccurately stating there is a forest health problem.

Response: The EA and analysis thoroughly documented that there is extensive documentation to support the position that there is a forest health problem. The purpose and need statement is appropriate and in line with current programmatic management direction.

Objection 10: The appellants allege the Forest Service has violated NFMA by not meeting the Forest Plan Standard for old growth.

Response: The EA (page II-8) clearly states that timber harvesting would not take place in stands of field-verified old growth. The EA and DN meet the requirements of the Forest Plan and the stipulated agreement on old growth.

RECOMMENDATION

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

/s/ Katherine Q. Solberg

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