United States Department of Agriculture | **Forest Service** | **Region 1** | **200 East Broadway P. O. Box 7669 Missoula, MT 59807**

File Code: 1570 (215) **Date:** December 11, 2000
Route To:

Subject: Cabin Fever Ponderosa Pine Improvement TS DN, Appeal #01-01-00-0003, Palouse RD, 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 Cabin Fever Ponderosa Pine Improvement Timber Sale Decision Notice (DN) signed by the Acting Clearwater National Forest Supervisor.

The Forest Supervisor's decision selects Alternative B, with a few attributes of Alternative C for implementation. Approximately 258 acres will be treated with timber harvest and/or underburning.

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 Administrative Procedures Act (APA), the Clearwater National Forest Plan and the Forest Plan Lawsuit Settlement Agreement. The appellants request a remand of the DN and preparation of an Environmental Impact Statement (EIS) if the project is pursued. The Palouse Ranger District offered to have an informal meeting, but the appellants declined to meet.

ISSUE REVIEW

Issue 1. Violations of Forest Plan/Stipulated Agreement and the Clean Water Act.

Contention 1-A: The Forest Service proposal violates the lawsuit settlement agreement.

Response: The DN responded to a similar contention raised by the appellants (Response to Comments, p. A-7). All State and Federal laws and regulations applicable to water quality have been applied. A discussion of the regulatory framework is contained in the EA (pp. III-27 through III-31). The DN (pp. 17-19 and 21-25) also discusses the consistency of the project with the Clean Water Act, State water quality standards, Forest Plan water quality standards, and the lawsuit settlement agreement.

The Clearwater National Forest interprets the settlement agreement to apply only when the sediment standard is out of compliance (Doc. 60j, p. 3). Currently, streams within the project area meet Forest

Plan standards for sediment (EA, p. III-35); therefore, the settlement agreement does not apply (DN, p. 22).
Water temperatures within the Potlatch River have been identified to exceed both PACFISH objectives and State water quality standards (EA, p. III-38). The Selected Alternative will implement default PACFISH no-harvest buffers of 100 feet on intermittent streams, 150 feet on perennial non-fish bearing streams, and 300 feet on fish bearing streams (DN, p. 6). The conclusion of the analysis is that with the implementation of this project, including the PACFISH buffers, no change in water temperature is expected (EA, p. III-39). This concern was also addressed in Response to Comments (pp. A7-8).

Contention 1-B: The proposed alternative will create 17.4 tons of sediment, a 20 percent increase. This violates the Clean Water Act, State of Idaho water quality standards, and Clearwater Forest Plan standards.

Response: The WATBAL watershed model predicts an additional 17 tons of sediment in the Cabin Face drainage (20 tons x 0.87 square miles), and 9 tons (1 ton x 9.27 square miles) in the Hog Meadow Creek drainage will be generated from proposed harvest activities associated with EA Alternative B over a 10-year period (EA, p. III-38). WATBAL predicts a similar amount of sediment for the Selected Alternative because of comparable amounts of timber harvest. This is a WATBAL estimate only and with existing technology is not a measurable difference (MacDonald, 1991) when compared to the existing condition of 87 tons and 287 tons total for the Cabin Face and Hog Meadow drainages, respectively, over the same time period (EA, pp. III-35 to III-38). Actual sediment production is expected to be much less because of the implementation of BMPs and PACFISH buffers.

The Clearwater National Forest has an overall BMP implementation and effectiveness rate of about 99 percent (Doc. 56, p. 4). BMP implementation and effectiveness rates have been developed from BMP field audits and PACFISH/INFISH field reviews conducted on the Forest. Specific BMPs have been included in this project and will be implemented to minimize the potential for sediment entering streams from the selected actions. Project BMPs are listed and their effectiveness is discussed in Appendix A of the EA (pp. A-1 to A-21).

In addition, the Selected Alternative will provide for watershed restoration by obliterating approximately 1.3 miles of Road 4749 (DN, p. 18). The expected reduction in sediment, over the existing condition, from implementation of the road obliteration is calculated to be approximately 40 tons over 10 years (DN, p. 18). Therefore, the overall predicted sediment production (existing condition + selected actions) will be about 360 tons over 10 years [400 tons (287 + 87 + 17 + 9) – 40 tons] and is a <u>reduction</u> of 14 tons over 10 years from the existing condition of 374 tons (287 + 87) (EA, pp. III-35 to III-38).

In summary, there will be no measurable increase in sediment; in fact, there will be a reduction of 14 tons over 10 years and no change in water temperature as a result of implementing the Selected Alternative. Therefore, the Selected Alternative meets Forest Plan standards for water quality and does not violate State water quality standards.

Contention 1-C: The addition of sediment will likely reduce fish habitat productivity and delay recovery.

Response: The DN responded to a similar contention raised by the appellants (Response to Comments,

p. A-8). Currently, the reaches of the Potlatch River adjacent to the project area meet Forest Plan standards for fish (EA, p. 19). Implementation of the Selected Alternative is not expected to have an effect on fisheries because there will be a reduction in sediment (see Contention 1-B); only small changes in water yield are expected, the existing shade over tributary streams will be maintained, and no changes in channel morphology will occur (DN, p. 19). Following project implementation, the Potlatch River will continue to meet Forest Plan standards for fisheries (EA, p. III-39). No reduction in fish habitat productivity is expected; therefore, recovery will not be delayed. In addition, the Biological Assessment for the project concluded that there would be "no effect" to fall Chinook salmon, steelhead trout, and bull trout as a result of project implementation (DN, pp. B-4 and B-5).

Contention 1-D: Reliance on BMPs to mitigate landslide risk is troublesome, given <u>TWS v. Bosworth</u>.

Response: The DN responded to a similar contention raised in the appellants' comments on the EA (Response to Comments, p. A-9). BMPs are used to control surface erosion and are not designed or intended to control mass wasting such as landslides. Other techniques such as avoidance and retention of additional trees in troublesome areas are used to address landslide hazard and were examined in the Cabin Fever EA for the project area as a whole (pp. III-31 and III-32). Furthermore, the Cabin Fever analysis also assessed each of the proposed harvest units for landslide hazard risk factors (EA, Table III-4, p. III-32) before determining that implementation of the Selected Alternative will not result in any units with high landslide risk.

Contention 1-E: PACFISH 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.

Response: PACFISH buffers were not used as a final solution for preventing effects to water quality from logging activities. BMPs, default PACFISH buffers, recommendations of the District hydrologist, and mitigation measures (EA, pp. I-14, I-15, and II-21) have all been incorporated into project design to reduce the potential for sediment to reach streams. Sediment concerns especially center around roads and road construction. There will be no new temporary or permanent roads constructed with this project (DN, Table 2, p. 3). In addition, in many units the cut-to-length harvesting system will be used to reduce the amount of ground disturbance and potential erosion (DN, Selected Alternative Map, p. 5). Appendix A of the EA (pp. A-1 to A-19) contains the site-specific BMPs that will be implemented with the project. On the Clearwater National Forest, BMP audits have found that the Forest has an overall BMP implementation and effectiveness rate of about 99 percent (Doc. 56, p. 4). The Forest hydrologist considers it a rare event when sediment is delivered from timber harvest activities to a stream (Doc. 56, p. 6).

Contention 1-F: The Clearwater National Forest failed to analyze other risks inherent in creating narrow buffer strips, such as loss during wind throw events or during prescribed fire.

Response: One of the appellants raised a concern regarding buffer strips in riparian areas which were responded to in Response to Comments (p. A-7 through A-9). No harvest, burning or ignition is planned in the stream buffers. While timber harvest adjacent to stream buffers can lead to blowdown within the buffer, the likelihood is highly variable and dependent on many factors. Blowdown regularly occurs in

undisturbed forests. Trees within the stream buffer that blow over would not be salvaged and would provide for woody debris recruitment to the stream.

Contention 1-G: WATBAL derived sediment estimates are inaccurate.

Response: The DN responded to a similar contention raised in the appellants' comments on the EA (Response to Comments, Appendix A-8). The WATBAL model was never intended to model episodic events such as landslides and storms. Landslide risk is addressed separately within the EA (pp. III-31 through III-33). However, although WATBAL cannot predict individual storm events and landslides, sediment derived from landslides and debris flows is accurately modeled in WATBAL. The program's source information is based on long-term measured averages, and its outputs are in terms of long-term averages. The program was calibrated and validated on 3-year running annual mean sediment information, and long-term discharge annual averages (see WATBAL User's Guide). WATBAL was calibrated with extensive data derived on the Clearwater National Forest and adjoining Forests. As with any model, WATBAL has its limitations. It is one of several tools used by the professional hydrologist to understand the watershed condition. Other tools used include stream and headwater surveys, RSI pebble counts and on-the-ground knowledge, as described on pages III-34 through III-38 of the EA.

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" (Doc. 59c).

Issue 2: Impacts to wildlife.

The appellants contend that the Cabin Fever project will violate both NFMA requirements through the Clearwater National Forest's failure to conduct population trend monitoring of old growth dependent wildlife species as required by the Clearwater Forest Plan and the failure to maintain adequate old growth habitat.

Response: Monitoring of species to develop population trends, as the appellants discuss, is a Forest-level issue and 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 done for threatened and endangered, management indicator, and sensitive species. NFMA imposes duties on the Forest Service that include providing for a diversity of plant and animal communities (36 CFR 219.26). Specifically the Forest Service is obligated to maintain sufficient habitat (36 CFR 219.19) and to monitor the population trends of management indicator species (MIS) [36 CFR 219.19(a)(b)]. In Inland Empire Public Lands v. United States Forest Service, the U.S. Court of Appeals for the 9th Circuit deferred to the Forest Service interpretation of these regulations to find that the Forest Service can fulfill its population monitoring requirements by maintaining sufficient habitat.

Wildlife species analyzed for this project that are associated with late successional forest structure included flammulated owl, black-backed woodpecker, pileated woodpecker, and goshawk. These species were analyzed in detail with this analysis because suitable habitat was determined to be present within the project area (EA, pp. III-9 through III-15). Sighting information used in the analysis is well documented within the wildlife sections of the analysis (Doc. 3; Doc. 5, pp. III-8 through III-20; and Doc. 49). Other MIS species, associated with old growth, were not evaluated in the analysis due to lack

of suitable habitat or a lack of potential negative effects (Doc. 5, pp. II-5 and III-15).

The contention that the Clearwater National Forest has failed to maintain adequate amounts of old growth habitat is a Forest-level issue and also beyond the scope of the site-specific Cabin Fever analysis. However, the Cabin Fever project does not harvest any old growth. The District biologist, after conducting field surveys of the project area, recommended that an additional 126 acres be managed for old growth within this old growth compartment (Doc. 9, Appendix D). With the Selected Alternative, this recommendation will be implemented and will result in 1,118 acres set aside for long-term old growth management (DN, Table 2, p. 3). This amount is about 8.6 percent of the old growth unit and well over the minimum requirement of 5 percent.

Issue 3: Inadequate range of alternatives.

The appellants contend that there is no real range of alternatives analyzed in the EA and that there is no action alternative that does not involve logging, despite comments asking for one.

Response: Through the environmental analysis five alternatives were considered. Three alternatives were analyzed in detail and were designed to address the purpose and need, as well as respond to the issues of the Cabin Fever project (DN, p. 1; EA, pp. I-12 through I-13; and Doc. 13). Two alternatives were eliminated from detailed study because they did not meet the purpose and need of the project and were not consistent with the Forest Plan. The salvage harvest alternative did not restore ponderosa pine and western larch growing sites, and the vegetative restoration without timber harvest alternative considered the use of fire in lieu of timber harvest. These alternatives are not consistent with the Forest Plan in that they do not manage for a healthy timber stand optimizing sustained production of wood products (Clearwater Forest Plan, p. III-57; DN, pp. 19 and 20; and EA, pp. II-14 and II-15).

Issue 4: Social and Economic Issues.

The appellants contend that the Cabin Fever project creates more social and economic harm than good, fails to consider the importance of natural forests, fails to quantify the negative social and economic impacts of the project, and exaggerates the economic benefits of logging.

Response: The Cabin Fever project does assess human needs and desires within ecosystems of today and focuses on amenities that can be quantified (EA, p. II-15). This is to provide the decision-maker and public with a relative scale for comparing other amenities with resource values (EA, p. II-14). The EA provides relevant project-level discussions about the socioeconomic and cultural issues in local communities, and the economics of this proposal and each alternative (pp. III-40 through III-41; Doc. 54). Providing multiple benefits to people was a purpose and need for the project as well as a criterion in the decision rationale (Response to Comments, p. A-17).

The 1998 Clearwater National Forest TSPIRS report was used in estimating the number of jobs maintained from the sale of National Forest timber. TSPIRS reports that 26.8 jobs were generated for every one million board feet of timber harvested from the Forest (EA, p. III-40; Doc. 54).

Predicted bid values for the Cabin Fever project were derived from the Timber Sale Planning and Analysis System program. The program utilizes the transaction evidence regression equation to predict

the bid price of timber through the use of several independent variables developed from historical lumber sales and economic data (EA, p. III-40; Doc. 54).

RECOMMENDATION

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

/s/ Maureen McBrien

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