

United States Forest R-1
Department of Service
Agriculture

Reply To: 1570 (215)

Date: January 13, 1997

Subject: Cool Bear Forest Stand and Road Management Projects,
Appeal #97-01-00-0008, Lolo National Forest

To: Appeal Deciding Officer

This is my recommendation on disposition of the Appeal filed by Kimberly Davitt on behalf of the American Wildlands and the Alliance for the Wild Rockies protesting the Lolo National Forest Supervisor's Decision Notice (DN) for the Cool Bear Forest Stand and Road Management Projects in the Upper Fishtrap Creek area.

The Forest Supervisor's decision adopts Alternative 6, of the Cool Bear Environmental Analysis (EA), treating an estimated 3,016 acres. Approximately 8,900 MBF of timber will be harvested using tractor, skyline and helicopter systems. The decision will also implement shelterwood regeneration harvest, commercial thinning, shelterwood preparation, eco-maintenance burning, and prescribed underburning. Approximately 12 miles of road will be reconditioned, 27 miles reconstructed, 1.9 miles constructed, 1.5 miles closed and rehabilitated, 19 roads (which include 15 currently gated spur roads) will be obliterated at the entrance. Also several mapping errors in the Lolo National Forest Land and Resource Management Plan (Forest Plan) will be corrected.

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.

APPEAL SUMMARY

The Appellants allege violations of the National Environmental Policy Act, the National Forest Management Act, the Clean Water Act, the Montana State Water Quality Standards, and the Forest Plan.

The Appellant requests the Cool Bear Forest Stand and Road Management projects DN be remanded.

An Informal Meeting was held by conference call with the Appellants on December 30, 1996; but agreement was not reached. No Interested Party comments were received.

FINDINGS

My recommendation is based upon the following evaluation:

Clarity of the Decision and Rationale

The decision is clear with the decision criteria identified as "Reasons" and "Factors" considered in making the decision.

The Responsible Official reviewed issues identified during scoping and analysis of the proposed action. All alternatives were evaluated against primary issues identified and disclosed in the DN.

I believe all aspects of the proposed action are disclosed in either the DN or the EA and are understandable if read in their entirety. I conclude the Forest

Supervisor made a reasoned and informed decision.

Comprehension of the Benefits and Purpose of the Proposal

The DN clearly identifies that the purpose and need statements were developed from the Forest Plan goals and objectives. Forest Plan direction is captured in the EA, and is referenced in the DN. However, I feel the DN could have been strengthened by:

- including the Forest Plan goals, objectives and management objectives for the area.

In my opinion, the purpose and need statements could have been improved by:

- providing a clear explanation of why the action is proposed through identifying the purpose and need first and then providing clear tracks demonstrating how the action is designed to bring the area to the desired condition.

When the DN and EA are read in their entirety, it is apparent that the no-action alternative clearly would not meet the purpose and need statements or correct deteriorating conditions. This would result in not moving the area toward the desired condition envisioned in the Forest Plan.

The no-action alternative is analyzed throughout the issue-review section where alternatives were compared against issues developed from public comments. Again, it is clear that the consequences of taking no action would not meet the purpose and need for this project.

The documentation when read in its entirety, displays a firm tie to existing laws, regulations, policies, and the Forest Plan and supports the need for the proposed action.

Consistency of the Decision with Policy, Direction, and Supporting Information

Ecosystem principles and concepts are incorporated into the project, and ecosystem processes are recognized in describing the effects of the no-action and action alternatives.

The project fits very well with Agency policy and direction and with "Forest Service Ethics and Course to the Future." The project will restore and protect the ecosystem and provide benefits to society and users.

Although the EA, page 6, does make the tie between the desired condition in the Forest Plan and the purpose and need, I believe it would have been easier to track if this information had been brought forward into the DN.

The DN does not clearly describe the desired condition for the area, Forest Plan goals, or why this project is needed. However, there are statements indicating that the project "moves toward" the desired condition. In addition, Forest Plan direction is provided in detail in the EA, and mentioned in the DN.

Although it is not a requirement that the DN be a stand-alone document, I believe the DN could have been improved by:

- restating the desired condition and providing a clear outline of compliance and consistency with Forest Plan direction.

The supportive rationale for the Management Area changes is clear when read with the EA, where the rationale is disclosed and additional background is provided. The DN could have been strengthened by:

- including the rationale for the Management Area changes in the DN.

The Finding of No Significant Impact (FONSI) covers, in a very cursory way, the mitigation measures and monitoring. However, the EA and project file provide full disclosure and detail. The FONSI could have been strengthened by adding references to the mitigation, monitoring, and evaluation found in the EA and project file.

I am convinced the proposal is consistent with all legal and regulatory requirements, as well as current Forest Service policy.

Effectiveness of Public Participation Activities and Use of Comments

A public involvement strategy was used, and issues identified at each stage of public participation were clearly identified. Public involvement methods were appropriate; and affected Tribes, State and Federal agencies were consulted.

Public comments were considered in identifying issues. The relationship between comments and issues is displayed in the project file notes, but the process used to identify the issues was not clearly disclosed. Public comments were evaluated and considered in the development of alternatives.

A clear explanation is provided of why alternatives 3 and 4 were dropped from analysis. An adequate range of alternatives was developed from comments.

The Responsible Official responded to each comment using a positive tone, and each comment was tracked to demonstrate how it was considered. The content analysis process was very thorough and is included in the appendix to the EA.

I conclude that public involvement was effective in providing opportunities to participate, and that the Responsible Official should be commended for the exemplary manner of responsiveness to comments.

Requested Changes and Objections of the Appellant

It is clear the Appellants understand the project proposal and were actively involved in the scoping process. Their Appeal is clearly written, includes site-specific information and clear rationale for their objections to the project. Although the Appellants' request an EIS be completed for this project, they fail to provide any factual, convincing basis of why this project requires an EIS.

My review concludes the Appellants' objections are unsubstantiated.

RECOMMENDATION

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

/s/ Thomas Pettigrew, Jr.

THOMAS PETTIGREW, JR.
Appeal Reviewing Officer
Director, Engineering