United States Department of Agriculture
Forest Service
Region 1
Federal Building
P.O. Box 7669
Missoula, MT 59807

File Code: 1570 (215)
#97-01-00-0096

Date: September 26, 1997

Sara Jane Johnson
Native Ecosystems Council
P.O. Box 125
Willow Creek, MT 59760

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dear Ms. Johnson:

This is my decision on disposition of the appeal you filed on behalf of Native Ecosystems Council protesting the Jefferson District Ranger's Decision Notice (DN) for the Bald Mountain Ecosystem Restoration Proposal on the Beaverhead-Deerlodge National Forests.

The District Ranger's decision implements Alternative II which will harvest approximately .81 MMBF of timber, prescribe burn approximately 1,500 acres, and plant about 40 acres of bitterbush.

DECISION

After careful consideration of the Appeal Reviewing Officer's recommendation, I affirm the District Ranger's decision to implement Alternative II. Your requested relief is denied.

My review of your appeal was conducted pursuant to, and in accordance with, 36 CFR 215.17 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. I have thoroughly reviewed the appeal record, including the recommendation of the Appeal Reviewing Officer (copy enclosed) regarding the formal disposition of your appeal. My decision hereby incorporates by reference the entire appeal record.

APPEAL SUMMARY

You allege violations of Forest Plan direction, the National Forest Management Act, and the National Environmental Policy Act (NEPA).

Central objections identified in your appeal concern sawlog harvest, wildlife and wildlife habitat, burning program, old growth habitat, project description, cumulative impacts, and range of alternatives.

You request the decision be remanded. If the project is pursued, you request the appropriate Forest Plan amendments be provided and any NEPA violations occurring with this project be corrected.

An informal meeting was held on August 22, but no resolution was reached. No interested party comments were received.

APPEAL REVIEWING OFFICER RECOMMENDATION

The Appeal Reviewing Officer recommends the District Ranger's decision be affirmed and your requested relief be denied.

FINDINGS

Following is my evaluation of the objections raised in your appeal and your requested changes.

Scope of Decision

Decisions made in Forest Plans are subject to administrative review under 36 CFR 217 and are not subject to review in project or activity decisions [36 CFR 215.8(a)(1)]. These decisions are considered to be beyond the scope of the project-level decision, and the opportunity to challenge these decisions has been exhausted.

Similarly, Appellants may not request review of activities that are not "connected" to the project decision being challenged or ask that additional decisions be made that are not "ripe" for decision. Under NEPA, the Responsible Official has the discretion to propose actions and determine which actions warrant a decision and those that do not.

I have determined your objections are within the scope of the decision.

Scope of Decision Documentation

Appeal Regulations at 36 CFR 215 allow for expanded opportunities for public involvement in Forest Service decisionmaking. The public is best served by mutual efforts to resolve differences during the decisionmaking process rather than after a decision is made.

Your objections correspond closely to comments you raised in scoping and during the comment period. Because of your early participation in the pre-decisional process, the District Ranger was able to analyze these concerns by incorporating them into the environmental analysis and consider them in making the decision.

Procedural Determination

I have thoroughly reviewed your arguments and the information referenced in the District Ranger's August 25, 1997, Transmittal Letter (copy enclosed). The Transmittal Letter provides specific page references to discussions in the Environmental Assessment (EA), the DN, and project file which bear upon your objections. The objections you raise in your appeal are similar to the comments you made on the EA. The project file indicates your objections were either addressed as environmental issues in the EA or are discussed in the DN. I specifically incorporate in this decision the references and citations contained in the Transmittal Letter. Based upon a review of the references and citations provided by the District Ranger, I find the objections you raised were adequately considered in the EA/DN and the District Ranger made a reasoned decision concerning those issues. I find the District Ranger has complied with all laws, regulations and policy.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Kathleen A. McAllister

KATHLEEN A. MCALLISTER
Appeal Deciding Officer
Deputy Regional Forester

Enclosures (2)