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

File Code: 1570-1 **Date:** August 29, 2007
Route To: (1570 (215))

Subject: 1570 (215) - ARO Letter - Birch Creek Fuels Management Project DM - Beaverhead-Deerlodge NF - Native Ecosystems Council, et al. - #07-01-00-0157

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson, on behalf of Native Ecosystems Council and Alliance for the Wild Rockies, protesting the Birch Creek Fuels Management Project Decision Memo (DM) on the Beaverhead-Deerlodge National Forest (Dillon Ranger District). The District Ranger's decision authorizes specific hazardous fuels reduction activities on 930 acres in the Birch Creek drainage on the Dillon Ranger District (DM, pp. 1-2).

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision is 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.

This project decision was made using a category of action that can be excluded from documentation in an Environmental Assessment (EA) or Environmental Impact Statement (EIS) as listed in Forest Service Handbook 1909.15, Chapter 30, Section 31.2. As a result, my appeal review will be focused on the use of the category, the review of extraordinary circumstances, and the project's consistency with the Forest Plan and applicable laws and regulations. I have reviewed the appeal and make the following findings:

1. The proposed action complies with Chapter 30 of the NEPA Handbook and is excluded from further analysis and documentation in an EIS or EA. The project makes appropriate use of Section 31.2, Category 10, which permits the "Hazardous fuels reduction activities using prescribed fire, not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000 acres." This project is within a priority area identified in the Beaverhead County Community Wildfire Protection Plan and furthers this community protection effort. It is clear from the description of the project found in the Decision Memo (pp. 1-2) and supporting record that the action is consistent with the use of this category.

2. The resource specialists on the interdisciplinary team reviewed the proposed action for potential effects on resource conditions and the presence of extraordinary circumstances. The mere presence of one or more resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. After a rigorous review, the District Ranger did not find any extraordinary circumstances (DM, pp. 4-7). I agree that

there were no extraordinary circumstances that warranted further analysis and documentation as per FSH 1909.15, 30.3.

3. The project record supports that the project is consistent with the Forest Plan and applicable laws and regulations (DM, pp. 5-10):

- The decision is consistent with the Beaverhead National Forest Plan, including the management area-specific standards (DM, pp. 8 and 9; PF, Docs. C-1, C-2, C-20, and C-22).
- The decision appropriately documented, and the record supports, that the project will be consistent with other applicable laws (DM, pp. 9 and 10; PF, Section C). The decision and analysis appropriately considered the best available science in reaching these determinations.
- The Biological Assessments and Biological Evaluations (Docs. C-1, C-2, C-18, and C-22) appropriately document potential effects to federally-listed threatened and endangered species, and sensitive species. Potential effects to management indicator species and their habitat were appropriately considered (Docs. C-1, C-2, and C-22). The analysis indicates that the project is consistent with the Forest Plan and that there are no extraordinary circumstances related to threatened, endangered, or sensitive species as a result of the proposed action.
- By definition, categorical exclusions do not individually or cumulatively have significant effects on the human environment (40 CFR 1508.4). The project file (Section C and Doc. C-38) provides documentation that the specialists appropriately considered cumulative effects in evaluating potential for extraordinary circumstances and consistency with the Forest Plan (DM, p. 5).

RECOMMENDATION

I have reviewed the record and have found that the decision and analyses are adequately and appropriately documented in the DM and project file. I recommend the District Ranger's decision be affirmed and the appellants' requested relief be denied.

/s/ Paul Bradford
PAUL BRADFORD
Appeal Reviewing Officer

cc:
Forest Coordinator
Responsible Official