



File 1570 (215) Date: June 9, 1999
Code:
Route
To:
Subject: Musselshell Ecosystem Management Project ROD, Appeal #99-01-00-0121,
Clearwater National Forest
To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Bill Mulligan and Daniel G. Johnson on behalf of Resource Organization on Timber Supply (R.O.O.T.S.) protesting the Musselshell Ecosystem Management Project Record of Decision signed by the Clearwater National Forest Supervisor.

The Forest Supervisor's decision adopts Alternative E which allows for timber harvest, reforestation, underburning, road construction and reconstruction, road obliteration, and Off Highway Vehicle (ORV) trail construction and reconstruction in the Musselshell Creek watershed.

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) and the National Forest Management Act (NFMA). The Appellants request the decision be remanded. An informal meeting was held but no resolution was reached.

ISSUE REVIEW

Objection 1: The Clearwater National Forest violated NEPA by failing to prepare, circulate, and file a supplement to the Draft Environmental Impact Statement (EIS).

The Appellants contend that there were significant changes made between the Draft EIS and Final EIS, and therefore, a supplement should have been prepared.

Response: The regulations at 40 CFR 1502.9(a) state that, "If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion." In this case, Alternative B (proposed action) was modified between the Draft and Final EIS in "response to new information which has become available [Interior Columbia Basin Ecosystem Management Project (ICBEMP) findings]..., the need to consult with NMFS [National Marine Fisheries Service] for listed steelhead, and to better manage old forest resources in the project area over the long term" (Final EIS, S-2). The modified Alternative B is Alternative E in the Final EIS. The primary difference between the two alternatives is that harvest methods in Units 40 through 51 change from regeneration harvest to salvage or improvement harvest in order to maintain the old forest character of the stands. Concerns regarding old forest resources were considered throughout the analysis and discussed in the Draft EIS (Draft EIS, pp. S-1 through S-4, I-2, II-2, IV-17 and 18) before the ICBEMP findings were released. The Final EIS appropriately documents consideration of the ICBEMP findings



regarding old forest resources. The Forest Supervisor determined the public had the opportunity to comment on the old forest issue with the release of the Draft EIS and that a supplement was not necessary. I find that the changes made between the Draft and Final EIS are not "significant" changes and that the analysis is adequate. Therefore, no supplement to the EIS was required.

Objection 2: The Clearwater National Forest violated the Forest Plan with its new old forest strategy.

The Appellants contend that the old forest strategy is not consistent with the Forest Plan in violation of NFMA.

Response: The Final EIS describes in detail the difference between "old growth" and "old forest" and states that the terms are not interchangeable (Final EIS, S-1, III-1). The Final EIS describes the existing old growth habitat and states that, "Results of the June 1998 old growth review indicate that approximately 775 acres, or 5 percent of the Musselshell analysis area, meets the Forest Plan and North Idaho Guidelines definitions for old growth" (Final EIS, III-31). The Final EIS also discloses the effects of the project on old forest vegetation (Final EIS, IV-19 and 20) and old growth habitat (Final EIS, IV-23 and 24). The ROD at page 9 states:

Meeting Forest Plan standards for old growth was a mitigated issue for this project. There are sufficient existing old growth stands to meet Forest Plan standards. No old growth habitat is proposed for harvest under Alternative E.

I find that application of the old forest strategy does not result in violation of the Forest Plan standards.

RECOMMENDATION

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

/s/ Katherine Q. Solberg (For)

KATHERINE Q. SOLBERG
Reviewing Officer
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