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

File Code: 1570 (215)
#97-01-00-0101

Date: September 3, 1997

Erik Ryberg
The Ecology Center, Inc.
801 Sherwood Street, Suite B
Missoula, MT 59802

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dear Mr. Ryberg:

This is my decision on disposition of the appeal you filed on behalf of The Ecology Center, Inc. protesting the Superior District Ranger's Decision Notice (DN) for the Twomile Visual Rehabilitation project on the Lolo National Forest.

The District Ranger's decision implements Alternative C which will harvest an estimated .5 MMBF of timber products from about 50 acres, using helicopter logging, and followed by burning, About 28 acres will be planted. No roads will be built. Mitigation measures and management requirements from the Two Joe Timber Sales Environmental Impact Statement, Appendix C, are incorporated into this decision.

DECISION

After careful consideration of the Appeal Reviewing Officer's recommendation, I affirm the District Ranger's decision to implement Alternative C. 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 violation of the Appeal Reform Act and appeal regulations.

Central objections identified in your appeal concern whether the Twomile area is in compliance with visual standards of the Forest Plan, whether more logging will visually improve the area, whether further logging is effective, and inadequate response to comments.

You request the decision be withdrawn until the appeal points are addressed and resolved.

No informal meeting was held, and 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 21, 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.

I am disappointed in the tone you took in many of your appeal points. I realize we often find ourselves on different sides of the issues surrounding National Forest Management. However, we do take every appeal very seriously. Many of the comments made in your appeal do nothing but strain our ability to work together on issues of interest to both The Ecology Center and the Forest Service. I trust The Ecology Center will return to the more professional appeal you normally provide us.

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)