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Subject: 215 - ARO Letter - Trap Salvage DN - Clearwater NF - Appeal #06-01-00-0062 - Friends of the Clearwater, et al.

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Gary Macfarlane on behalf of Friends of the Clearwater, Alliance for the Wild Rockies, WildWest Institute, The Lands Council, and Idaho Sporting Congress protesting the Trap Salvage Decision Notice (DN) on the Clearwater National Forest.

The Forest Supervisor's decision adopts Alternative 2, which includes regeneration timber harvest of fire damaged trees on 103 acres primarily using skyline yarding, with about 4 acres of tractor skidding; reconditioning approximately 6 miles of existing road, consisting primarily of road blading and brushing; burning slash piles; and reforestation of the harvest area with larch and white pine trees.

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), the National Forest Management Act (NFMA), the Forest Service Manual (FSM), and the Clearwater National Forest Land and Resource Management Plan (Forest Plan). The appellants request the decision be rescinded, and an Environmental Impact Statement (EIS) that complies with the Forest Plan be completed. If, however, the decision is not rescinded, they request that no logging occur outside of the road corridor as displayed in Attachment 2 of the appeal. An informal meeting was held and Issue 2 concerning management indicator species (MIS) and habitat loss was resolved.

ISSUE REVIEW

Issue 1. The analysis in the environmental assessment (EA) is faulty and conflicts with Congressional direction, Forest Service Policy, and the law (NEPA and NFMA) regarding roadless areas.

Issue 1, Contention A. The EA, DN, and supporting documents inaccurately describe and draw the boundary of the roadless area.



Response: The appellants misinterpreted the Forest's reply to comment E-1 in the Response to Comments (DN, Appendix C, p. 3). The project is not redrawing the roadless area boundaries 590 feet back from the existing roads. The Trap Salvage project does not propose any changes to the area's roadless designation or boundaries, and acknowledges (EA, p. 39; DN, pp. 8 and 11) that the project is located within the Meadow Creek-Upper North Fork Inventoried Roadless Area #1302, as identified in the Forest Plan (Forest Plan EIS, Appendix C, p. C-54). The maps that the project analysis used show the same boundary for the Meadow Creek-Upper North Fork Inventoried Roadless Area as the Forest Plan EIS does (EA, p. 12; PF, Docs. 15001, 15004, 15007, and 15008). The project is in compliance with NEPA and the Clearwater Forest Plan.

Issue 1, Contention B. The interim directive would not allow logging in this portion of the roadless area as the EA and DN claim. As such, this project falls under the jurisdiction of the Chief of the Forest Service, not the Forest Supervisor, in accordance with the Forest Service Manual (FSM) direction. Thus, the Supervisor cannot make the decision to log this area.

Response: Interim directive 1920-2006-1 concerns the management of inventoried roadless areas (see FSM 1900, Chapter 1920). At FSM 1925.04a, the Chief of the Forest Service reserves to himself “[t]he authority to approve or disapprove proposed timber harvest in inventoried roadless areas, except for the following: ... d. The harvest is in a portion of an inventoried roadless area where construction of a classified road and subsequent timber harvest have previously taken place, and the roadless area characteristics have been substantially altered by those activities.”

The EA (pp. 39 to 41), project file (Doc. 15009), and DN (pp. 8 and 11) consider the existing condition of the roadless area and discuss the substantially altered characteristics due to past roads and harvest in the project area portion of the roadless area. “As a whole the analysis area and areas immediately adjacent to the analysis area appear to be dominated by man-made disturbance. The visual impacts of timber management and road building are readily apparent and pervasive” (EA, p. 40). “The natural *integrity, apparent naturalness, feeling of remoteness, and opportunity for solitude* are all currently compromised by the level of timber management activity that is very apparent in the area immediately adjacent to the analysis area. Given the lack of roadless character and attributes, further timber harvest activities in the area would have no measurable effect compared to the current conditions. Overall impacts from the harvest operations would not have an effect on the wilderness potential for the rest of the Meadow Creek-Upper North Fork Roadless Area...because they are separated by terrain, access, and visual features” (emphasis in original) (EA, p. 41). Since the roadless area characteristics have been substantially altered by the past activities (EA, Appendix A), it is clear from the FSM the authority to approve or disapprove the proposed timber harvest does not rest with the Chief of the Forest Service.

Reviewing FSM 1925.04b, it is also clear the responsibility to decide this project does not fall to the Regional Forester. The Regional Forester's responsibility concerns specific road construction and reconstruction projects in inventoried roadless areas (FSM 1925.04b, paragraphs 1, 2, and 3) and to review timber harvest projects that are *within* the Chief's decision authority (FSM 1925.04b, paragraph 4). None of which are the case in this project as presently formulated (EA, p. 2; DN, p. 4; and PF, Docs. 15010 and 15011). Therefore, the authority to make the decision on this project falls on the Forest Supervisor of the Clearwater National Forest, who, in fact has made the decision (DN, p. 14). The decision is in compliance with the Forest Service Manual.

Issue 1, Contention C. This decision to incrementally develop more of the roadless area is a major federal action, which requires the preparation of an EIS.

Response: The Forest Supervisor made a Finding of No Significant Impact (FONSI) (DN, pp. 11 to 13). Based in part on the fact that "the project is in an intensively managed roaded portion of this IRA" he determined "this proposal will not have a significant effect on the human environment [and] an environmental impact statement is not required for implementing Alternative 2" (DN, p. 11). This determination is supported by the EA's Roadless, Visual Quality, and Recreation analyses (pp. 39 to 45), and the project file (sections 14 and 15). The DN, EA, and FONSI are in compliance with NEPA.

Issue 1, Contention D. The project violates NEPA by ignoring cumulative impacts to the roadless area and connected actions.

Response: The analysis considered past actions (some of which could be considered connected actions), present actions, and reasonably foreseeable future actions, and their impacts on the Meadow Creek-Upper North Fork Inventoried Roadless Area. Appendix A (EA, pp. A-1 to A-3) lists road construction and maintenance, sheep grazing, trail construction, timber harvests, wild fires, and land slides that have occurred in the Long Creek, Rawhide Creek, and Trap Creek drainages going back as far as 1910 and projected out to the culvert replacements in 2008. There are no other reasonably foreseeable management actions being considered in the roadless area other than culvert replacements on Forest Road 250.

Appendix B (EA, pp. B-1 to B-7) then describes these actions by resource area. Appendix B describes the activity, the immediate effect of the activity, the result of that activity, and whether or not the activity contributes a cumulative effect when combined with the proposed action. Each specialist then considers those activities on the list that would have a cumulative effect on their resource (EA, pp. 14, 16, 17, 20, 28 to 29, 34 to 35, 38, and 40 to 45). The cumulative effects specifically related to the roadless area itself are analyzed in the EA (pp. 40 to 41; Appendix B, p. B-4) and in the project file (Doc. 6007, p. 4; Doc. 15008; and Doc. 15009, p. 4). The analysis is in compliance with NEPA.

Issue 1, Contention E. The EA and DN fail to comply with a roadless analysis as required in the Forest Plan (pp. II-20 and II-21).

Response: The Forest Plan (pp. II-20 to II-21) requires that a roadless area analysis be conducted prior to entry for development (PF, Doc. 15001). The harvested areas surrounding the Trap Salvage project, although National Forest now, were logged when they were private land. Therefore, a roadless area analysis was not conducted prior to those entries. Now that the land is part of the National Forest System administered by the Clearwater National Forest, a roadless area analysis was completed as part of the NEPA analysis for the Trap Salvage project. The *Roadless* section of the EA (p. 39) states, "This section presents a summary of the roadless area analysis completed for the Trap Salvage proposal. The complete analysis can be review (sic) in the project file at documents 15008 and 15009."

The roadless area analysis (PF, Doc. 15008) covers the six points listed in the Forest Plan: 1) transportation planning; 2) site-specific resource management direction and coordination; 3) an assessment of cumulative effects; 4) feedback on Forest Plan direction, standards, assumptions, and projections; 5) an implementation schedule; and 6) a decision point on development or non-development. The roadless area analysis and the roadless specialist report (PF, Doc. 15009) were conducted and written as outlined in the Region 1 *Our Approach to Effects Analysis*. The analysis also follows the direction outlined in the Forest Plan on evaluating roadless areas and the Forest Service Manual at 1925.04a, paragraph 2, part d (PF, Doc. 15006). The Trap Salvage project also complies with the Forest Plan lawsuit's Stipulation of Dismissal (PF, Doc. 15003).

Issue 2. There is a lack of monitoring of the MIS in the project area and the Clearwater National Forest as a whole, as required in the Forest Plan and NFMA. According to the EA there will be a loss of MIS habitat.

Response: This appeal point was dropped by the appellants following the informal resolution meeting discussions with the District Ranger and Project Leader (Transmittal letter, p. 2; and letter from Gary Macfarlane to Appeal Reviewing Officer, dated September 5, 2006). I will, therefore, not review this issue.

Additional information bearing on the project: On September 19, 2006, after the Trap Salvage project was decided and the appeal was filed with the Regional Forester, the United States District Court for the Northern District of California issued a Court Order in the matter of the *People of the State of California v United States Department of Agriculture*. In that Order the Court set aside the 2005 State Petition Rule, and reinstated the 2001 Roadless Area Conservation Rule (2001 Roadless Rule), including the Tongass Amendment to the 2001 Roadless Rule. The Court also included a provision that the parties may stipulate to inclusion of additional language in the Court's injunction. On September 22, 2006, the Chief of the Forest Service issued a directive, instructing Forest Service units to "not approve any further management activities in inventoried roadless areas that would be prohibited by the 2001 Roadless Rule." After the language of the Court's injunction is finalized, the Forest Supervisor should review this project in light of the Court's Order and the 2001 Roadless Rule.

RECOMMENDATION

I have reviewed the record for each of the contentions addressed above and have found that the analysis and decision adequately address the issues raised by the appellants. I recommend the Forest Supervisor's decision be affirmed and the appellants' requested relief be denied.

/s/ Lesley W. Thompson
LESLEY W. THOMPSON
Appeal Reviewing Officer