



File 1570 (215)  
Code:  
Route  
To:  
Subject: 5201 Salvage Timber Sale DM, Appeal #99-01-00-0102,  
Clearwater National Forest  
To: Appeal Deciding Officer

Date: April 5, 1999

This is my recommendation on disposition of the appeal filed by Kristin Gustafson and Jonathan Crowell on behalf of Friends of the Clearwater, Alliance for the Wild Rockies, American Wildlands, The Ecology Center, Idaho Conservation League, and The Lands Council protesting the 5201 Salvage Timber Sale Decision Memo signed by the North Fork District Ranger (Clearwater National Forest).

The District Ranger's decision implements a timber salvage sale in Sylvan Creek that would harvest approximately 1,800 CCF of dead, dying blowdown and high risk trees; which are infected with root rot and being killed by white pine blister rust, Douglas-fir bark beetles, and fir engraver beetles. The project area is approximately 126 acres in size and located in areas adjacent to existing roads.

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.

## FINDINGS

### Appeal Review Findings

The Appellants allege violations of NEPA, NFMA, the Clean Water Act (CWA), the Endangered Species Act (ESA) and the Clearwater National Forest Plan. The North Fork District Ranger attempted to contact the appellants to schedule an informal meeting, but the appellants chose not to have a meeting. Interested party comments were received from Daniel G. Johnson of R.O.O.T.S.

**Objection 1: The project has been changed since scoping. The Forest Service is required to redo the scoping process since 5201 and Buck were combined, total acreage of the sale has significantly changed, three new units were added, and four units were dropped.**

Response: Public comments received suggested that the 5201 Salvage and Buck Salvage projects should be analyzed under one project proposal. As a result, the ID Team reviewed the two project proposals and incorporated both projects into one proposal which is referred to as 5201 Salvage (Doc. 1, p. 4). On August 17, 1998, a letter was sent to all individuals that received the initial scoping letter (Doc. 60, pp. 1-4) informing them of the change in the project and that three units were added (Doc. 27, p. 1; Doc 26, p. 3, Item H-2). There were no units added to the project after the August 17, 1998, letter. The public was notified of the change in the project and it is not a significant change to the initially proposed sale.

**Objection 2: There are extraordinary circumstances within the 5201 Salvage project and therefore it cannot qualify as a categorical exclusion.**



Response: The Categorical Exclusion Checklist documents the Responsible Official's determination that this proposed action is eligible to be categorically excluded from further NEPA documentation (Doc. 4). The Categorical Exclusion Checklist also documents that no extraordinary circumstances were identified with this project proposal (Doc. 4, p. 3).

**2a. Openings that exceed forty acres constitute an extraordinary circumstance.**

A request to exceed the 40-acre opening size was submitted to the Regional Office for approval for three proposed harvest units (Doc. 23). The request was approved by the Regional Office (Doc. 22, p. 1). Exceeding the 40-acre opening size is not one of the extraordinary circumstances list in Section 30.3, F.S.H. 1909.15, nor is it similar to any (Doc. 4, p. 3, Item 3). The Responsible Official noted in the Decision Memo that this decision does not involve any extraordinary circumstances (Doc. 1, p. 4).

**2b. Timber harvest exceeds green volume requirements in FSH 1909.15, Chapter 30, Section 31.2.4.**

The criteria in FSH 1909.15.[31.2(4a)] for use of a Decision Memo are a salvage harvest of less than 1 million board feet with less than 1 mile of temporary road. The stands in this project were found to be declining rapidly due to Douglas-fir beetle, root rots, and fir engraver beetle. The green component of the harvest is dead and dying trees and, therefore, meets the criteria for salvage harvest.

**2c. Presence of cumulative effects constitutes an extraordinary circumstance.**

A discussion of cumulative effects is addressed in the Decision Memo for each resource area and are in the project file. The Decision Memo states "The project would have no direct, indirect or measurable cumulative effect on water quality, fish or wildlife" (Doc. 1, page 2 and 6). Discussion of cumulative effects are also included in Doc. 4, p. 2, Item 7 and p. 3, Item 2; Doc. 15, p. 3, Item B and p. 4; and Doc. 16, pp. 1-3.

As discussed in the Transmittal Letter, the Lost Hat Timber Sale is not within the Orogrande drainage and there would be no cumulative effects on water quality from this project. The other four sales that the appellant mentions (Fuzzy Fir, Tama, French Mountain and Sylvan Creek/Orogrande Face Salvage Timber Sales) were considered, and it was determined there would be no effect from this timber sale activity.

**2d. Presence of Bull Trout constitutes an extraordinary circumstance.**

The mere presence of a Threatened or Endangered species does not constitute an extraordinary circumstance. A categorical exclusion may be the appropriate form of NEPA document if the proposed action does not significantly impact the listed extraordinary circumstances (Doc. 77, p. 2; Doc. 78 and Doc. 79). Additionally, as stated in the "Threatened, Endangered and Proposed Species Biological Assessment Summary and Conclusion of Effects" (Document 16, pp.1-3), this project qualifies as a categorical exclusion because it will have no effect on bull trout.

**Objection 3: The Decision violates NEPA because the Purpose and Need is too narrow in scope.**

Response: The Agency Deciding Official has the discretion to determine the Purpose and Need for a project proposal. The NEPA implementing regulations state the NEPA document shall "briefly specify the underlying purpose and need to which the agency is responding..." The Forest has provided

information on the project to support the stated Purpose and Need. In addition, the Purpose and Need relates to the Forest-wide management direction.

**Objection 4: The 5201 Salvage Decision fails to adequately protect Bull Trout and Westslope Cutthroat Trout.**

Response: Westslope Cutthroat Trout are addressed in the Biological Evaluation/Biological Assessment (Doc. 16, p. 3) which states that there will be no impact on the Westslope Cutthroat Trout. As stated in the Watershed and Fisheries Report (Doc. 15, p. 1), "Populations of these fish are considered to be very healthy. Densities of Westslope Cutthroat Trout is rated as high with good numbers of fish in the various age classes." Data concerning stream channel, habitat, riparian and fish population information was collected during the summer of 1997 and used in the Watershed and Fisheries Report (Doc. 15, p. 1).

See Response 2(d) above for discussion on bull trout.

**Objection 5: The 5201 Salvage decision fails to consider the risk of landslides as a result of proposed timber harvest.**

Response: The proposed units were evaluated in terms of the five factors identified in the Northern Region Publication, Assessment of the 1995 and 1996 Flood and Landslides on the Clearwater National Forest. As stated in the Soils report, the risk of landslide is low to moderate for the treatment units within the project area (Doc. 18, pp. 1-2).

**Objection 6: The decision fails to demonstrate the Forest's ability to regenerate the proposed harvest units.**

Response: The Forest has experienced a 94 percent success rate in reforestation of clear-cut units and 100 percent success rate for seed tree prescriptions (Doc. 76, p. 7). Soil compaction on regeneration harvest units has not been a problem as indicated in the Clearwater National Forest Monitoring and Evaluation Report FY 97 (Doc. 76, pp. 4-5).

**Objection 7: The Forest Service plans to harvest additional old growth despite already being in violation of Forest Plan standards for old growth.**

Response: The 5201 Salvage Decision Memo states that the project does not enter old growth or replacement old growth stands (Doc. 1, p. 2). Compartment 18 is the old growth analysis unit for the project area; the percentage of old growth identified is currently at 7.3 percent (Doc. 14, pp. 2-3; Doc. 49, pp.1-2; Doc. 45, p. 2; and Doc. 46, p. 2) which exceeds the Forest Plan standard of 5 percent old growth habitat in each old growth analysis unit.

A summary of old growth conditions across the Clearwater National Forest has been done every year through the annual Monitoring and Evaluation Report. The Monitoring and Evaluation Report for Fiscal Year 1997 (Document 76, pp. 2-3) and Forest Old Growth Status Report (Doc. 80) documents that the Forest is continuing to meet the Forest-wide Standard of 10 percent old growth.

**Objection 8: The Forest Service has failed to document a bark beetle infestation or forest health crisis in the 5201 Salvage analysis area.**

Response: Field review and the project document support the position that there is a forest health problem. Field review has indicated that the current condition of the stands are declining rapidly due to Douglas-fir beetle, root rots, and fir engraver beetle. Productivity appears to be negative or very low

due to the age of the trees and the disease agents (Doc. 5 through Doc 12). The purpose of this project is to utilize these trees before the value is degraded and to regenerate these sites which is consistent with Forest Plan direction for management area E1.

**Objection 9: The Purpose and Need for the 5201 Salvage is inappropriately focused on the economic benefits of timber harvest.**

Response: The economic analysis is consistent with the Forest Plan management direction for Management Area E1 as described in the Clearwater Forest Plan (Chapter III, p. III- 57, section B). The stated Purpose and Need is appropriate for this project which is located in management area E1, and allocated to timber management.

**RECOMMENDATION**

I recommend the District Ranger's decision be affirmed and the Appellants' requested relief be denied.

/s/ J. Doug Glevanik

J. DOUG GLEVANIK  
Reviewing Officer  
Director, Ecosystem Assessment and Planning