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

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Route To: (1570 - 215)

Subject: 215 - ARO Letter - Main Boulder Fuels Reduction Project ROD - Gallatin NF - Appeal #05-01-00-0053 - Native Ecosystems Council

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson, on behalf of Native Ecosystems Council, protesting the Main Boulder Fuels Reduction Project Record of Decision (ROD) on the Gallatin National Forest.

The Forest Supervisor's decision authorizes the following activities in the Main Boulder Fuels Reduction project area:

- Proposed fuel reduction treatments would occur on approximately 2,500 acres in 51 separate units. Stand density reduction, utilizing ground-based harvest equipment, would occur on approximately 1,060 acres on slopes up to 35 percent. Approximately 1,040 acres on slopes greater than 35 percent and/or areas not operable by conventional ground-based equipment would be treated with other methods.
- A minimum of 15 to 20 percent of the planned acreage for each unit will be left untreated to provide diversity across the landscape and maintain undisturbed habitat.
- Conifers would be slashed and prescribed burning activities would occur on approximately 400 acres of meadow type habitats.
- In addition to reducing surface fuel loading by commercial thinning and salvaging large diameter trees, small-diameter fuel reduction will occur in each unit. Understory burning and/or pile burning would occur in conjunction with the thinning activities.
- Aspen clones would have conifers removed within a radius of 100 feet in order to encourage aspen regeneration.
- A maximum of 7.4 miles of temporary road may be constructed to access the areas proposed for mechanical fuels treatment using conventional ground-based logging systems. No new permanent road construction will occur.
- Implement all of the design criteria common to all action alternatives and project-specific mitigation actions detailed in the Final Environmental Impact Statement (FEIS) in Chapter 2-31 through Chapter 2-41. Implement Appendix C- Best Management Practices from the FEIS:
- Harvests, skidding, log hauling, and mechanical slash piling will generally occur from November 1 to April 30.
- Harvest and skidding activities must be completed on a given unit within one year, unless extreme weather conditions prohibit completion.

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 appellant's 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 appellant alleges violations of the National Forest Management Act (NFMA), the National Environmental Policy Act (NEPA) the Administrative Procedures Act (APA), the Endangered Species Act (ESA), and the Gallatin National Forest Plan. The appellant requests a reversal of the ROD. An informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Issue 1. The Forest Service has failed to follow the Gallatin National Forest Plan direction regarding the management of the Main Boulder River currently to be studied for inclusion into the Wild and Scenic River System; rather than follow Forest Plan direction for this study river, the agency arbitrarily substituted new management direction without first finalizing a study of the River System and amending the Gallatin Forest Plan.

Response: Design criteria and mitigations specific to the proposed action with regard to scenery and Wild and Scenic River System eligibility of the Boulder River were addressed in the FEIS (pp. 2-37 thru 2-39). The ROD also states that following this design criteria and mitigation measures will ensure that Wild and Scenic values will be protected as per Forest Plan Amendment No. 12, with the implementation of the Selected Alternative (ROD, p. 41).

Issue 2. The Forest Service will violate Forest Plan direction for the management of riparian areas, or Management Area 7.

Response: MA 7 consists of riparian zones across the Forest, which is to be managed to protect the soil, water, vegetation, fish and wildlife, which depend on riparian areas. Harvest of timber, commercial thinning, precommercial thinning and prescribed fire are not precluded in MA 7 but are to be designed to meet the needs of riparian-dependent species (ROD, p. 28; FEIS, p. 1-20). Design criteria and mitigation specific to the proposed action for riparian areas are listed in the FEIS (pp. 2-31 and 2-32). Mitigations included in the fuels treatment prescription were also developed to meet riparian area objectives (FEIS, p. 3-57). In addition, the Gallatin National Forest agreed in the Trout Unlimited Settlement Agreement (ROD, p. 21; PF, Vol. 3, Docs. 360, 363, and 552), "… that vegetation manipulation within riparian areas will occur only for the purpose of meeting riparian dependent resource objectives such as watershed, wildlife, or fisheries."

Issue 3. The Forest Service will violate Forest Plan direction for MA 5 if the Main Boulder Fuels Reduction Plan is implemented.

Response: The primary and secondary goals of the proposed action are listed in the ROD (pp. 3-4) and are consistent with the standards for MA 5. These areas have been classified as suitable for timber production, and both commercial and pre-commercial thinning is to be permitted if it enhances the recreational value of the area (FEIS, Appendix E, p. E-10, Comment 9-1). This project is in compliance with all Forest Plan direction (ROD, p. 25).

Issue 4. The Forest Service program for the Main Boulder River does not ensure local viability of a management indicator species for Douglas-fir old growth, the northern goshawk, or the multiple species "indicated" by the goshawk.

Response: Species viability is assessed at the planning area level (national forest). The *Viability Assessment for Species of Special Concern on the Gallatin National Forest* concluded that population viability does not appear to be a concern for any of theses species found on the Forest (FEIS, Appendix D-14). The revised analysis of effects on goshawks concluded that the project may impact individuals or habitat, but would not lead to a trend toward federal listing of northern goshawks or loss of viability (FSEIS, p. 6).

Issue 5. The Forest Service has failed to respond to a public concern that most of the prime nesting habitat for the goshawk in the Main Boulder drainage will be eliminated with the proposed fuels reduction project.

Response: Proposed treatments with the Main Boulder project area will remove and/or alter some mature and old growth forest that is suitable goshawk nesting habitat (FSEIS, p. 4-5). However, cumulative effects to goshawk nesting are not expected because there is abundant nesting habitat adjacent to project treatment areas (FSEIS, p. 4-5). Much of this habitat is located in wilderness and the project, when completed, would reduce the risk of a large stand-replacing fire in the river corridor, which would help provide for the continued availability of suitable nesting habitat (FSEIS, p. 4-5). In addition, mitigation measures would be implemented which would minimize disturbance to nesting goshawks (FEIS, p. 2-36). See also Response to Issue 4.

Issue 6. The Forest Service failed to address the provision of biological corridors across the 24-mile long Main Boulder project for vulnerable wildlife species that occupy landscapes in the adjacent wilderness area; the fragmentation impact of this project on vulnerable wildlife species will not be mitigated; this impact was never evaluated by the agency.

Response: Effects to hiding cover for grizzly bears and hiding and thermal cover for elk are analyzed in the FEIS (pp. 3-67, 3-90, and 3-91). In addition, design criteria for big game hiding, thermal and security cover and design criteria for grizzly bears, goshawks, and other raptors and snags would also contribute to facilitating animal movement within and through the MBFRP area (FEIS, pp. 2-35 and 2-36).

Issue 7. The agency is failing to ensure conservation of the threatened grizzly bear and Canada lynx by failing to implement various conservation measures that are identified in the Gallatin Forest Plan.

Response: Effects to grizzly bears and Canada lynx are fully analyzed in the FEIS (p. 3-66 thru 3-74). Hiding cover for bears would be retained at between 30-50 percent, which is equal to or greater than the guidance for providing 30 percent of moist forest types as hiding cover for grizzly bears (FEIS, p. 3-67). As described in the BA, open route density and total route density would meet or exceed Forest Plan standards for grizzly bears (PF, Vol. 3, Doc. 293B, pp. 12-13). All applicable standards in the Lynx Conservation Assessment and Strategy (LCAS) would be met under the proposed action (FEIS, p. 3-74). The conclusion in the Biological Assessment

(BA) was that the proposed action is not likely to adversely affect the grizzly bear or Canada lynx (ROD, p. 37; PF, Vol. 3, Doc. 293B, pp. 14 and 22). The U. S. Fish and Wildlife Service concurred with the findings in the BA (ROD, p. 37; PF, Vol. 3, Doc. 292).

Issue 8. The Gallatin Forest Plan direction for MA 15 will be violated for the grizzly bear.

Response: The Forest Supervisor found that the proposed action is consistent with all of the pertinent goals, objectives and standards of the Forest Plan (ROD, p. 25). Only one unit (Unit 30) is located in MA 15. No road construction is proposed in this management area and the majority of the area would likely have hand treatments. The areas to be treated by mechanical equipment would be accessed by the current road that goes to Independence (FEIS, Map 2-4; FEIS, Appendix E, p. E-12).

Issue 9. The Gallatin Forest Plan requirement that grizzly bear security habitat will be maintained in MA 7 will be violated.

Response: See Response to Issue 7.

Issue 10. The agency will not follow Forest Plan Amendment 19.

Response: Amendment 19 of the Gallatin National Forest Plan does not allow for increased motorized access in grizzly bear recovery zones "…unless allowed through consultation with the USFWS" (FEIS, Appendix E, p. E-55). The conclusion in the BA was that the proposed action is not likely to adversely affect the grizzly bear (ROD, p. 37; PF, Vol. 3, Doc. 293B, p. 14). The U. S. Fish and Wildlife Service concurred with the findings in the BA (ROD, p. 37; PF, Vol. 3, Doc. 292).

Issue 11. The Forest Service and the U.S. Fish and Wildlife Service are jointly violating the ESA and NFMA by a failure to promote conservation of the grizzly bear and Canada lynx in the landscape encompassing the Main Boulder Fuels Reduction Project (MBFRP).

Response: Effects to grizzly bears and Canada lynx are fully analyzed in the FEIS (pp. 3-66 thru 3-74). Hiding cover for bears would be retained at between 30-50 percent, which is equal to or greater than the guidance for providing 30 percent of moist forest types as hiding cover for grizzly bears (FEIS, p. 3-67). As described in the BA, open route density and total route density would meet or exceed Forest Plan standards for grizzly bears (PF, Vol. 3, Doc. 293B, pp. 12-13). The habitat effectiveness index within all timber compartments would be met with the exception of compartment 118. According to the analysis in the BA this is not an accurate representation because this compartment is the smallest unit in the project area by acreage (3,456 acres), and the majority of the current total road density in the compartment (3.7 miles) is made up of county and private roads that are outside the control of the Forest Service (PF, Vol. 3, Doc. 293B, pp. 12-13). All applicable standards in the Lynx Conservation Assessment and Strategy (LCAS) would be met under the proposed action (FEIS, p. 3-74). The conclusion in the BA was that the proposed action is not likely to adversely affect the grizzly bear or Canada lynx (ROD, p. 37; PF, Vol. 3, Doc. 293B, pp. 14 and 22). The U. S. Fish and Wildlife Service concurred with the

findings in the BA (ROD, p. 37; PF, Vol. 3, Doc. 292). The MBFRP is in compliance with Section 7 of the Endangered Species Act (ROD, p. 37).

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

/s/ Thomas K. Reilly
THOMAS K. REILLY
Appeal Reviewing Officer