



File 1570 (215)

Date: September 14, 1998

Code:

Route

To:

Subject: Wood Rat Timber Sale Decision Notice, Kootenai National Forest, Three Rivers
Ranger District, Appeal # 98-01-00-0081

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by J.L. Hurst on behalf of Owens & Hurst Lumber Co., Inc. and Wayne Finch protesting the Wood Rat Timber Sale Decision Notice signed by the Kootenai National Forest Supervisor (Three Rivers Ranger District).

The Forest Supervisor's decision implements modified Alternative E and a temporary Forest Plan Amendment.

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.

Appeal Review Findings

The Appellants allege violations of the National Environmental Policy Act (NEPA), the National Forest Management Act, and RPA. A meeting was held on August 14, 1998, including District and Supervisor's Office personnel and interested appellants. Appeal points were discussed but no resolution was reached. Interested party comments were received from Rick Bass.

Objection 1: Helicopter logging used to harvest small timber in thin from below units is a theoretical untested concept. It violates CFR 219.276. Specifically: "Be practical in terms of transportation and harvesting requirements and total costs of preparation, logging and administration."

Response: The units were broken into four timber sales by like system of harvest, location, etc. The helicopter portion would be sold as a separate sale (Gater Copter Timber Sale). An economic analysis has been completed on the Wood Rat project that indicates that the sale would sell if offered.

Objection 2: Skyline Logging in thin from below units is generally unprofitable. There is no economic analysis to support this procedure.

Response: An economic analysis has been completed on the Wood Rat project that indicates that the sale would sell if offered. This is supported by past timber sales offered across the Forest and on the District that included skyline harvest with small material.

Objection 3: Excluding timber harvest in riparian zones removes the most productive lands of the forest and does not constitute management in a complex area deserving of professional attention.



Response: A primary tool to achieve the Riparian Goals is the implementation of Riparian Habitat Conservation Areas (RHCAs). In the absence of a watershed analysis, interim RHCA widths apply for the entire project area.

The Kootenai Forest Plan was amended to include INFISH. As a result the district is required to follow those standards and guidelines unless a watershed analysis is completed which indicates a deviation from INFISH is appropriate. There are no plans to complete such an analysis in the Wood Rat project area. There is no indication from field review of the RHCAs that there is a potential for "unnatural" fuel conditions.

Objection 4: Excluding Units 15, 15a and 17 from timber harvest only postpones the inevitable removal of the timber by wildfire.

Response: The lodgepole pine in these units is generally alive, and widespread mortality does not appear imminent. There are also many other species in these units. The forest in these units is currently effective at reducing water yield and will probably continue to remain so for many years (PF, Doc. 65, pgs. 2-3).

Objection 5: There appears to be no intent to harvest the small merchantable material in the burn units.

Response: There are approximately 360 acres of ecosystem maintenance burning proposed within designated Old Growth-Forest Plan Management Area 13 (MA 13) for each action alternative. Planned ignitions are acceptable within MA 13 for the purpose of maintaining old growth characteristics. This MA is not suitable for timber production.

Objection 6: The planned sale violates the Small Business and Regulatory Enforcement Fairness Act (SBREFA) by discriminating against small business.

Response: Appellants provide no specific reference to the section of the SBREFA which they feel the action violates. The purposes of the SBREFA are to consider effects of policy and enforcement of Federal Regulations on small business. The Wood Rat Timber Sale is neither a federal policy nor an enforcement activity. Therefore, the Act does not apply.

I recognize your concern that the activity may include increased costs. It is expected that those costs will be reflected in the bids received for the timber. I find no indication that the costs of logging are disproportionately applied to any potential operator or that the risks are different from one operator to another.

RECOMMENDATION

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

/s/ J. Doug Glevanik

J.DOUG GLEVANIK
Reviewing Officer