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

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Subject: 215 - ARO Letter - Smoked Fish Project DN - Kootenai NF - Appeal #06-01-00-0047 - WildWest Institute, et al.

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Jeff Juel, on behalf of WildWest Institute, Alliance for the Wild Rockies, and The Lands Council, protesting the Smoked Fish Project Decision Notice (DN) on the Kootenai National Forest.

The Forest Supervisor's decision authorized the following activities in the Smoked Fish project area, on the Canoe Gulch Ranger District of the Kootenai National Forest (DN, pp. 7-17):

- Timber management activities will take place on 714 acres. Logging systems used include tractor, skyline and helicopter. Silvicultural prescriptions include intermediate harvest treatments with stand improvement and pre-commercial thinning treatments; and regeneration harvest units including clearcut with reserves, seedtree with reserves, and shelterwood with reserves or a combination of shelterwood and improvement harvest prescriptions. Post harvest fuels treatments include 52 acres of grapple piling and burning, and 662 acres of prescribed burning in harvested units. Tree planting will occur on 371 acres.
- Approximately 662 acres of prescribed burning will occur in units with timber harvest treatments. Timber harvest units also have a hazardous fuel reduction objective in addition to silvicultural objectives. An additional 366 acres of prescribed burning without timber harvest is authorized.
- Non-commercial or precommercial thinning activities will occur on 292 acres.
- Approximately 1.00 miles of temporary road will be constructed to access timber harvest units.
- New road access restrictions will occur on 20.11 miles of road within the project area.
- A site-specific Forest Plan amendment for protection of cavity habitat in Management Area (MA) 10 will be granted due to logging operations authorized in MA 10, big game winter range.

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 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), and the Endangered Species Act (ESA). The appellants

request a reversal of the DN. An informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Contention 1. Logging to Fund Watershed Restoration is Illegitimate.

Response: The appellants question the funding for the selected watershed improvement work and the value of the vegetation management portion of the decision. The Forest identified several distinct objectives for this specific proposal (EA, pp. 1-3 to 1-6) and discusses the purpose and need in the Environmental Assessment (EA), consistent with 40 CFR 1508.9. These objectives are based on and supported by Forest Plan direction pertinent to the project area and a landscape level assessment of the Fisher River watershed (Ibid and EA, pp. 1-1 to 1-3 and 3-3 to 3-41). Based on the common timing and potential for interacting effects, it is reasonable that the Forest considered these actions in a single assessment. The Forest Supervisor commits to completing the road storage and decommissioning work within 5 years (DN, p. 1). This commitment assures the watershed improvement work will be completed prior to or concurrent with the other proposed activities (DN, Appendix B, p. 57). Based on my review, I find the Forest's proposal and decision to be reasonable and fully within the Agency's discretion.

Contention 2. Focus of Vegetation Management Activities is Inconsistent with the Best Scientific Information.

Response: The appellants generally reiterate contentions raised elsewhere in the appeal. Please see Contentions 3 and 5 for my review and responses.

Contention 3. Old Growth and Old Growth Management Indicator Species.

A. Species Monitoring.

Response: I have reviewed the decision documentation for the Smoked Fish project relative to the appellant's old growth and old growth management indicator species (MIS) issues, and believe the District provided sufficient information and analysis to support the Finding of No Significant Impact and compliance with the Forest Plan. The pileated woodpecker was identified as a management indicator species in the Kootenai Forest Plan of 1987 (EA, p. 3-125) as a species that is associated with snags and old growth. The EA appropriately acknowledges that a loss of nesting and foraging habitat or reduced habitat quality for pileated woodpeckers would occur within 87 acres of undesignated replacement old growth (ROG) and that harvest-induced edge effects would occur on 254 acres (EA, pp. 115, 139 to 140, Table 3.43). The analysis further concludes that the potential population index would not change from the existing condition (EA, p. 3-140, Table 3.50). The project is consistent with Forest Plan standards for old growth maintenance (EA, p. 3-118) and cavity habitat (EA, p. 140). The Smoked Fish project would not harvest vegetation in designated old growth or undesignated old growth, and no new roads or temporary roads would be constructed through designated old growth stands (EA, p. 3-115 and 3-117, Table 3.43). Based on both species monitoring and habitat conditions

in context with broader scale assessments, the assessment reasonably concludes that the species using old growth habitat should remain viable (EA, pp. 137 to 141).

B. The Forest Service has not showed it has Maintained 10% Effective Old Growth on the KNF.

Response: Table 3.40 of the EA (EA, p. 3-113) clearly displays acres of designated old growth and undesignated old growth within the Riverview Planning subunit (PSU) and the Kootenai National Forest. Table 3.43 (EA, pp. 3-115 to 3-116) displays effects on old growth by alternative. Under the selected alternative no harvest would occur in designated or undesignated old growth, and no new roads or temporary roads would be constructed through designated old growth stands. The paper by Leavell (2003) entitled *How Much Old Growth* concluded "…there is no evidence to suggest that the true percent old growth is significantly different than 10% at 95% confidence" (PR, CD references, vol._F_wldlf, Leavell_2003.pdf). The total designated old growth on the Kootenai National Forest is 11.1 percent (EA, p. 3-113). Within the Riverview PSU where the Smoked Fish project is located there is 9.97 percent designated effective old growth and 14.3 percent of total designated old growth. Field verification of old growth stands in the Riverview PSU were completed using the Fisher River and Libby Ranger District old growth process papers (2003) (EA, pp. 3-112 to 3-113).

The EA states that designated old growth with the Riverview PSU occurs within approximately 42 blocks of 8 to 463 acres in size and 59 percent of these blocks are greater than 50 acres in size. When undesignated old growth and replacement old growth are considered, the block size ranges up to 915 acres with 57 percent of these blocks greater than 50 acres in size. The distribution of old growth is also displayed by vegetation response unit (VRU) within the Riverview PSU (EA, p. 3-114, Table 3.41). The EA also determined that because these stands are largely surrounded by multi-aged stands they provide corridor links to larger blocks of old growth, and as a result conditions appear adequate to meet the need of the pileated woodpecker (snag and old growth MIS) in relation to stand size and connectivity of habitat (EA, p. 3-114).

Data Sources, methods, assumptions and bounds of analysis are described in the EA for all MIS and TES species, old growth, snag habitat and downed woody debris found within the project area (EA, pp. 3-112 to 3-176). Additional information regarding model use is located in the Project Record (PR, Project Electronic References CD, vol_AA_wldlf; PR, Vol. 4, CD 2). The EA discloses that replacement old growth (ROG) has many old growth characteristics but not enough to be considered old growth at the present time. However, these stands have the potential to become old growth in time (EA, p. 3-113). Table 3.40 of the EA (p. 3-113) displays these acres within the Riverview PSU and the Kootenai National Forest.

Past, present, and reasonably foreseeable actions are described in detail (EA, pp. 3-1 to 3-6). The percentage of designated old growth in the Riverview PSU would remain the same under implementation of Alternative 4. It was appropriately disclosed in the EA that the amount and suitability of old growth habitat needed by species such as the pileated woodpecker, an old growth MIS species on the Kootenai National Forest, would be maintained (EA, p. 3-118).

The EA documents that the designated old growth meets Forest Plan requirements (EA, pp. 3-112 to 3-118). Furthermore, there is no timber harvest in designated old growth or replacement old growth, and there would be no new roads or temporary roads constructed through designated old growth. Further modeling and analysis work by Samson (2005) using FIA data has determined that for the flammulated owl, goshawk, and pileated woodpecker (old growth MIS) habitat for these species occurs in sufficient quality and quantity to meet the needs of viable populations on the Kootenai National Forest (PR, vol. 4, wldlf CD 2, creFINALDRAFTmar6.DOC).

C. Old Growth Habitat Amounts and Distribution in the Project Area.

Response: Table 3.40 of the EA (p. 3-113) shows the designated effective old growth acres as 9.97 percent within the Riverview PSU. There is no harvest proposed in any of this old growth (EA, p. 3-115, Table 3.43). The 50 acre minimum old growth block size is a desired goal. The EA presents information that shows that there are 42 blocks of old growth ranging in size from 8 to 483 acres in the Riverview PSU with 59 percent of these blocks greater than 50 acres in size. The Riverview PSU has been extensively harvested in the past, and "The best stands available have been allocated to old growth MAs" (EA, p. 3-114). "Replacement old growth above the forest plan standard was identified to provide connectivity between effective old growth stands, or to conserve areas with a component of old growth micro-sites and evidence of ecological continuity" (EA, p. 3-114).

D. KNF Compliance with Forest Plan Old-Growth/Open Road Standards.

Response: Wildlife design criteria number 2 was incorporated into the selected alternative to reduce the risk of firewood cutting in old growth stands while specific roads (Roads 6732, 6732F, and 6732E) are open for timber harvest (DN, p. 17). The EA acknowledged that old stands, where these roads are located, would have an increased risk for indirect removal of large diameter snags due to firewood gathering. When the roads are open for management activities, and as mitigation, all old growth stands located on these roads would be signed to prevent firewood cutting (EA, p. 3-117). The Kootenai National Forest (Johnson 2004) developed a Forest-wide conservation plan that addresses species viability, and these concepts have been incorporated into the analysis and design of the Smoked Fish project. Further, context is provided by Samson (2005), who addressed species viability for the black-backed woodpecker, flammulated owl, goshawk, and pileated woodpecker (EA, p. 3-112; PR, vol. 4, wldlf CD 2, creFINALDRAFTmar6.DOC).

The Fisher Landscape Assessment of 2003 (PR, Vol. O) discusses the existing vegetative condition in relation to past reference conditions. It is apparent from this assessment that fire suppression has changed the structure and composition of many old growth stands at low- to mid-elevations and that old growth is less represented today than it was historically. No harvest will occur in any designated old growth stands. Prescribed fire would be used on a total of 54 acres of designated old growth. This treatment complies with Forest Plan direction and would maintain and enhance the old growth characteristics of the drier ponderosa pine stands (EA, p. 3-17).

Using the methodology developed by Johnson (2003) there is no change expected in the potential population index (PPI) for pileated woodpeckers (EA, p. 3-138). Samson (2005) analyzed species viability for pileated woodpecker and concluded that habitat for this species occurs in sufficient quality and quantity to meet the needs of viable populations on the Kootenai National Forest (PR, vol. 4, wldlf CD 2, creFINALDRAFTmar6.DOC).

E. Cumulative Effects on Old Growth and Old-Growth Species.

Response: The Kootenai National Forest is aware of new scientific information concerning snags (Bull, et al. 1997 and Harris 1997) that may apply to snag management on the Kootenai National Forest. Information contained in these documents is being considered during the Forest Plan revisions process. Current Forest Plan snag density standards provide a level and distribution similar to the concepts described by both Bull and Harris. During the interim, application of the Forest standards and guides at the compartment level assures that suitable habitat remains and future options are not lost.

The DN (p. 1) approves a project-specific Forest Plan amendment, which will suspend the requirements to retain all cavity habitats in MA 10, in big game winter range. Wildlife project design criteria numbers 1, 2, 3, 4, 5 and 7 (DN, pp. 16 to 17 - Wildlife) were developed to minimize the loss of snags and to provide future snag recruitment.

The DN and the EA discuss in sufficient detail the methodology for evaluating the effectiveness of old growth habitat and the results of this analysis (DN, Appendix B, p. 8, Comment 16; EA, Table 3.43, p. 115; EA, pp. 3-115 to 3-117). Also see Response to 3-16.

Contention 4. Soil and Land Productivity.

Response: Based on my review of the project file, I find that the EA provides sufficient evidence and analysis to support the Finding of No Significant Impact relative to potential effects on soils. Direct, indirect, and cumulative effects of this decision are predicted to stay well within the Regional soil quality guidelines during and immediately after activity for all activity areas except unit S5 (EA, pp. 3-73 to 3-74). Activities within unit S5 are predicted to cumulatively reach 16 percent detrimental disturbance during activities, but post harvest amelioration is appropriately prescribed and required to restore the soil conditions to less than 15 percent detrimental disturbance (EA, p. 74). This approach is also consistent with the Regional soil quality guidelines.

These predictions are based on extensive monitoring of, and experience with, similar actions (EA, pp. 3-69 and 3-71). This monitoring has occurred near the project area, as well as across the Forest under the same and similar conditions, and is directly applicable to this project (Ibid; PF, Vol. 2, Docs. 101 and 102; FP Monitoring and Evaluation Report, FY 2002). Coarse woody debris is provided for at levels consistent with the Forest Plan and best available science (EA, pp. 3-27 and 3-21; PF, Volume AA, Graham_et_al_1994).

In order to meet NFMA direction and manage National Forest System lands without permanent impairment, the policy of the Northern Region is to "…not create detrimental soil conditions on more than 15 percent of an activity area" (FSM 2554.03). Detrimental soil disturbance is not

equal to permanent damage. At no point has the Forest Service determined that projects may permanently damage 15 percent of the soil in an activity area. Rather, the Regional soil quality manual direction serves to help design projects in a manner that minimizes soil impacts.

Regional guidance for maintaining soil productivity by limiting detrimental soil disturbance to less than 15 percent (FSM 2554, R1 Supplement 2500-99-1, Document J-39) was based on best professional judgment and was intended as early warnings, not as absolute limits (Powers, et al., 1998).

Impacts on soil productivity are appropriately considered at the site/activity area scale both individually and cumulatively. Impacts of soil disturbance on values other than soil productivity appropriately consider other methods and indicators, and account for these effects at other temporal and geographic scales as needed. For example, potential of individual and cumulative effects of soil disturbance on fish and water quality follow likely cause-effect relationships with appropriate consideration of disturbance from the watershed perspective (EA, pp. 3-75 and 3-42 to 3-64).

Unit S5 may temporarily exceed the Regional soil guideline of 15 percent detrimental soil disturbance during project activities, and amelioration treatments to meet the standard will depend on post-activity conditions. I recommend instructing the Forest Supervisor to verify, prior to implementation, that adequate amelioration opportunities are scheduled to occur within unit S5.

Contention 5. Population Viability and Habitat Management of Management Indicator and Sensitive Species.

Response: The direct and indirect effects and the cumulative effects discussions in the EA (pp. 3-152 to 3-155) contain quantitative data on the goshawk. The cumulative effects discussion incorporates habitat acreage at the project level, geographic level, and Forest level relative to population viability. The selected alternative would impact less than 1 percent of the Forest-wide nesting and foraging habitat with all territories expected to remain post-activity. The determination of effects is that selected alternative may impact individuals or habitat but will not likely contribute to a trend towards federal listing for the northern goshawk (DN, Appendix B, pp. 19 to 20). Furthermore, Samson's (2005) analysis concluded that habitat for this species occurs in sufficient quality and quantity to meet the needs of viable populations on the Kootenai National Forest (PR, vol. 4, wldf CD 2, creFINALDRAFTmar6.DOC).

The Riverview PSU (sub-drainage) is determined to be a low quality fisher habitat area. The EA analyzed the direct, indirect and cumulative effects on the fisher (EA, pp. 145 to 147). The change in habitat from implementation of the selected alternative was determined to be less than 1 percent of the Forest-wide habitat acres (EA, p. 146, Table 3.53). Based upon the analysis conducted, it was determined that the selected alternative "…may impact individuals or habitat but would not contribute to a trend toward federal listing or loss of species viability" (EA, p. 147).

The EA discloses that no high quality black-backed woodpecker habitat would be reduced and that although some snags would be lost due to timber harvest other snags would be created by prescribed burning (EA, p. 145). On a Forest-wide level, the reduction in general foraging habitat would amount to less than a 0.5 percent change. In addition, Samson's (2005) analysis concluded that habitat for this species occurs in sufficient quality and quantity to meet the needs of viable populations on the Kootenai National Forest (PR, vol. 4, wldf CD 2, creFINALDRAFTmar6.DOC). Based upon the analysis conducted, it was determined that the selected alternative "…may impact individuals or habitat but would not contribute to a trend toward federal listing or loss of species viability" (EA, p. 145).

Direct, indirect and cumulative effects to wolverine are disclosed in the EA (pp. 162 to 164). The analysis concluded that the Riverview PSU is a minimal quality wolverine habitat (EA, p. 164). Based upon the analysis conducted it was determined that the selected alternative "…may impact individuals or habitat but would not contribute to a trend toward federal listing or loss of species viability" (EA, p. 164).

The Conservation Assessment by Samson (2005) concluded that habitat for the flammulated owl occurs in sufficient quality and quantity to meet the needs of viable populations on the Kootenai National Forest (PR, vol. 4, wldf CD 2, creFINALDRAFTmar6.DOC). The Smoked Fish project analysis determined that habit for the flammulated owl would decline Forest-wide by 1 percent (EA, p. 149, Table 3.54), that prescribed burning and improvement harvest may improve potential habitat, and that old growth Forest Plan standards are met. Based upon the analysis conducted it was determined that the selected alternative "…may impact individuals or habitat but would not contribute to a trend toward federal listing or loss of species viability" (EA, pp. 147 to 151).

Direct, indirect and cumulative effects to western toads, including effects from timber harvest, road building, and fire are disclosed in the EA (p. 3-160 to 3-161). Additional discussion of effects, including cumulative effects is found in the DN (Appendix B, p. 32, Response to Comment #54). Based upon the analysis in the EA, the Smoked Fish project "…may impact individuals or habitat but would not contribute to a trend toward federal listing or loss of species viability" (EA, p. 162).

Contention 6. Inadequate Assessment of Water Quality and Fisheries Habitat.

Response: Based on my review of the watershed and water quality analysis and discussions in the decision, EA, and supporting record, I believe the EA provides sufficient evidence to support the Finding of no Significant Impact and supports the Deciding Officer's conclusions that the decision is consistent with the Clean Water Act (DN, pp. 23 to 25 and 28).

Protection of water quality was identified early through scoping as an issue of concern (EA, p. 2-2). The selected alternative was specifically designed to address this concern by avoiding activities in the high risk watersheds (EA, p. 13). The decision provides further emphasis for maintaining and improving water quality by committing to complete the proposed road decommissioning and storage work within 5 years, 5 miles of which will be completed the first

year (DN, p. 1). This commitment assures the watershed improvement work will be completed prior to or concurrent with the other proposed activities (DN, Appendix B, p. 57).

The Forest identified and evaluated appropriate indicators to measure, interpret, and disclose potential effects of the proposal on the water and fisheries resources, including peak flows (including rain-on-snow events), sediment, nutrients, contaminants, riparian management objectives, road densities, and in-stream channel conditions (EA, pp. 3-44 to 3-62, and 3-77 to 3-100; PF, Vol. 2, Docs. 60 to 94). These measures were interpreted in context with the extensive monitoring and experience in this and similar watersheds on the Forest (DN, pp. 6 and 28, Appendix B, p. 33, Comment 60; EA, pp. 3-46, 3-47, 3-63, 3-78, 3-79, and 3-92; PF, Vol. 3, Docs. 3 to 17, Vol. M, Wegner, S. J., 1999). Use of extensive information collected from reference streams outside the project area and other streams within the area provide additional important context to the local project data, conditions, and effects predictions (EA, pp. 3-45, 3-51, 3-53, 3-58, and 3-100; PF, Vol. 2, Doc. 59).

The cumulative effects analysis was appropriately bounded to the activity area and downstream waters where the direct and indirect effects of this proposal might occur (EA, pp. 3-42, 3-43, 3-46, and 3-77; PF, Vol. 2, Doc. 62 and Vol. 3, Do. 2). Additionally, the analysis considered potential cumulative actions within other tributary and upstream watersheds whose indirect effects might interact with those of the proposal in downstream waters and appropriately disclosed the cumulative effects of those actions and the proposal (EA, pp. 3-1 to 3-6, 3-55 to 3-62, and 3-101 to 3-111).

Modeling was limited to water yield calculations, as is necessary to determine consistency with Forest Plan water yield guidelines (FP, p. II-23, and Appendix 18). Use and limitations of the model were explained in the EA and in the Response to Comments (EA, p. 3-44; Appendix 8, pp. 32 to 33; DN, Appendix B, pp. 32 to 33). Modeling results were appropriately considered and discussed in the EA in context with all the other parameters, measures, and monitoring data noted above (EA, pp. 3-44, 3-45, 3-49 to 3-51, and 3-55 to 3-64; DN, Appendix B, pp. 34 to 35).

Based on the above, I believe the EA provides sufficient evidence and analysis to support the Finding of No Significant Impacts. I also agree with the Forest Supervisor's conclusion that the decision is consistent with the Forest Plan and implements sufficient land, soil, and water conservation practices to assure that the impaired beneficial uses are not further degraded and is consistent with the State's development of TMDLs and a water quality restoration plan, thereby complying with the Clean Water Act and State Water Quality Standards.

Contention 7. Inadequate Compliance with National Environmental Policy Act (NEPA).

Response: The appellants contend that the Forest provided inadequate cumulative effects analysis to support the project-specific Forest Plan amendment to the MA 10 snag standard included in this decision. I have reviewed the decision, rationale, EA, and supporting documentation and find that the decision to amend the Plan specifically for this project was well reasoned and supported by an adequate assessment of the cumulative effects of that decision. Both the Decision and EA appropriately consider the direct, indirect, and cumulative effects of approving this amendment at the local, watershed, and Forest-wide scales (DN, Appendix C; EA

pp. 3-118 to 3-124). Forest-wide snag retention objectives continue to be met Forest-wide (EA, p. 3-123; PF, Vol. O, usda_fs_knf_2003.pdf; FP Monitoring and Evaluation Report, FY 2002, pp. 21 to 23).

Contention 8. Cumulative Effects.

Response: My review of the Smoked Fish EA and project file for considerations of cumulative effects (including consideration of Plum Creek Timber Company (PCTC) activities and effects) and NEPA sufficiency is largely covered elsewhere in my review of the other appeal contentions (particularly see appeal Contentions 3 through 7 above). It is clear from the record that the influence and consequences of Plum Creek activities are well considered in this project and decision. The project proposal itself is founded on and responsive to conclusions reached in a broad landscape assessment (EA, pp. 1-1 to 3; PF, Volume O, usda_fs_knf_fisherLA_2003.PDF). This broad scale assessment clearly influenced the selection, location, and careful design of the specific activities proposed in this project (EA, pp. 1-1 to 1-6 and 2-1 to 2-19). This same awareness, including consideration of past, present, and reasonably foreseeable actions on private lands carries through the analysis from the explicit identification of these potentially cumulative activities (EA, pp. 3-1 to 3-6, and maps) to the individual resource discussions and disclosures throughout the EA and project file as previously discussed. Additionally, the Forest and PCTC have been cooperating on stream monitoring and watershed restoration activities (EA, pp. 3-6, 3-43, and 3-46).

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.

Unit S5 may temporarily exceed the Regional soil guideline of 15 percent detrimental soil disturbance during project activities, and amelioration treatments to meet the standard will depend on post-activity conditions. I recommend instructing the Forest Supervisor to verify, prior to implementation, that adequate amelioration opportunities are scheduled to occur within unit S5.

/s/ Susan Skalski
SUSAN SKALSKI
Appeal Reviewing Officer