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Date: March 6, 2002

Route To: (1570 - 215)

Subject: ARO Letter - Forestwide Fuels Reduction and Wildlife Habitat Enhancement DN -
Appeal #02-01-00-0023 - Kootenai NF

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sherman Bamford on behalf of The Ecology Center, Inc.; The Lands Council; Alliance for the Wild Rockies; and the Montana Chapter of the Sierra Club of the decision on the 2001 Forestwide Fuels Reduction and Wildlife Habitat Enhancement Project Decision Notice (DN) on the Kootenai National Forest.

The Forest Supervisor's decision adopts Alternative 2, which authorizes using slashing and/or prescribed burning to treat 60,000 acres of warm/dry habitats, and an associated implementation and monitoring plan with a monitoring report of the project will be compiled and released to the public every 2 years over the 10-year lifespan. Implementation may begin in 2002, with completion of prescribed burning by 2011.

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 Administrative Procedures Act (APA), and the Kootenai Forest Plan. The appellants request a supplemental EIS be developed that addresses the issues raised in the appeal. The appellants were not interested in attending an informal meeting.

ISSUE REVIEW

ISSUE 1: The Environmental Assessment's project area and cumulative effects analysis area are not defined.

Response: A review of the Environmental Assessment (EA) and project file reveals that the Forest Supervisor has adequately defined the project area and the cumulative effects analysis areas by individual resource (EA, p. 1-7, throughout Chapter 3, Appendix A; DN, p.3).

ISSUE 2: Analysis of cumulative effects of ongoing and foreseeable actions is inadequate.

Response: See Issue 1. The cumulative effects analysis areas are defined in the EA and considered ongoing and reasonably foreseeable activities. The effects of recent and foreseeable fires are well documented in numerous locations in the EA (Chapter 3).



ISSUE 3: Project effects, including cumulative effects on fish, wildlife and plant species are not adequately analyzed.

Response: Cumulative effects areas for wildlife, fish and plants are defined in the EA (pp. 3-72, 3-84, 3-87, 3-101, 3-35, 3-40 and 3-57). The cumulative effects analysis in the EA adequately considered activities on private land, reasonably foreseeable and ongoing activities on National Forests, and disclosed effects of those activities (EA, pp. 3-35, 3-55 to 3-61 and 3-73 to 3-148).

ISSUE 4: Project effects, including cumulative effects on old growth and old growth management indicator species are not adequately analyzed.

Response: The EA describes the condition of old growth, threats to old growth and pileated woodpeckers and the effects of the alternatives, including cumulative effects (EA, pp. 3-134 to 3-137). Folders (F) in the project file (PF) contain documents (D) with references to research about maintaining old growth through the use of prescribed fire (F4, D4; F9, D5, D6, D8, and D32; F11, D1, D9; F12, and D9). Monitoring at the Forest level is beyond the scope of this project.

ISSUE 5: Project effects, including cumulative effects on big game/management indicator species are not adequately analyzed.

Response: Research indicates that burning will improve forage (EA, p. 3-142). The need to restore and maintain big game wildlife habitat on drier vegetation types through slashing and/or prescribed burning is described throughout the EA and supported by many references in the project file. The benefits of prescribed burning on big game wildlife habitat are described in Chapter 3 effects analysis, supporting research is cited and found in the project file, successful implementation has occurred previously in the Libby Dam Mitigation Area, and support was given by the Montana Department of Fish, Wildlife, and Parks (MDFWP).

Monitoring of species to develop populations trends, as the appellants discuss, is a Forest-level issue and outside the scope of this project.

ISSUE 6: The decision to implement alternative 2 is in violation of sections 7 and 9 of the ESA.

Response: An analysis of the direct, indirect and cumulative effects on grizzly bear can be found in the EA (pp. 3-68 to 3-77) and resulted in a “may affect – not likely to adversely affect” call that was documented in a supplemental addendum to the original BA. The US Fish and Wildlife Service (USFWS) concurred with that determination (PF, F6, D111, D112, and D118).

ISSUE 7: The FWS concurrence with NLAA for the grizzly bear and lynx is outdated; consultation should be reinitiated in light of new information.

Response: The amended Biological Assessment (BA) did indeed re-consult with the Fish and Wildlife Service regarding changes to the project, and including a determination of effects on

lynx and grizzly bear (PF, F6, D111, and D112). The Fish and Wildlife Service concurred with the “may affect – not likely to adversely affect” determination in a letter dated April 10, 2001 (PF, F6, D118). In addition, the project does not affect Open Road Density or Total Road Density (EA, p. 81).

ISSUE 8: The DN violates NEPA, NFMA, and ESA in regards to Canada lynx and will result in a taking of lynx, in violation of section 9 of the ESA.

Response: The lynx analysis done for this EA was updated to reflect the new listed status of the Canada lynx since the original BA was completed (PF, F6, D111, D112, and D118). The analysis followed the methodology found in the Canada Lynx Conservation Assessment Strategy (LCAS) and resulted in a “may affect – not likely to adversely affect” call that was documented in a supplemental addendum to the original BA. The USFWS concurred with that determination (PF, F6, D111, D112, and D118).

The EA addresses displacement and temporary effects on lynx habitat. (EA, pp. 3-94 and 3-96). The Forest used the most recent and best available science found in the LCAS (EA, p. 3-91 to 3-100) to analyze the effects at the project level. The analysis is in compliance with the Forest Plan, the Lynx Conservation Assessment and Strategy, NFMA, NEPA, and ESA.

The lynx analysis relies on database information to determine lynx habitat, including elevation, broad habitat type groups and species composition (PF, F6, D77). Elevation and habitat type components do not change over time. Species composition would not change unless a disturbance event such as fire or timber harvesting occurs; both would have been noted in database records.

ISSUE 9: The EA lacks site-specific information on forested stands to be burned.

Response: The EA presents information on the historical character and existing condition of vegetation in the project area. Chapter 1 thoroughly explains why the existing condition is not desirable and how it got that way (EA, pp. 1-3 to 1-6), while Chapter 2 of the EA clearly displays how the project meets the purpose and need (EA, p. 2-13). The decision to burn is not arbitrary.

ISSUE 10: An EA is not sufficient for the proposed actions. An EIS should have been prepared due to the significance of the proposed activities.

Response: The resources cited by the appellant as being “significantly impacted” by the selected alternative are Inventoried Roadless Areas and listed species. The EA discloses that effects on roadless areas would be short term (p. 3-160), there would be no changes in the inventoried roadless area acreages (EA, p. 3-161), the actions would not be considered “development,” and Alternative 2 would not alter the roadless area characteristics. Effects for lynx and grizzly bear are “may affect – not likely to adversely affect.”

ISSUE 11: The FFRWHE project violates NFMA and NEPA in failing to adequately consider the impacts of springtime burning.

Response: The EA discusses effects of burning, in particular spring burning for resources, including wildlife (EA, pp. 3-14, 3-76, 3-84 to 3-85, and 3-68 to 3-149). Effects of spring burning are known from previous treatments and available research (PF, F4, D13; F6, D14 and D60 to D62; F12, D10). The project is consistent with NFMA and NEPA.

ISSUE 12: The decision fails to consider emerging science on the topic of prescribed burning.

Response: The Forest Supervisor used current scientific literature and Forest Service policy when describing the historic conditions and developing the purpose and need. The EA analyzes the effect of prescribed fire on resources and compares them to effects of no action. In addition, the project follows Forest Plan, Regional, and national direction that supports the reintroduction of fire as described in the EA.

ISSUE 13: Lack of full and proper range of alternatives.

Response: The DN (Appendix 2, p. 15) explains why an alternative with a shorter time period was not considered. The appellants raised issues regarding grizzly bear, lynx and roadless areas that were addressed in Chapter 2 of the EA (pp. 2-3 to 2-4). These issues were addressed through Alternatives considered but eliminated from detailed study, the effects analysis, mitigation measures in the design criteria, and responses to comments as cited throughout this letter.

ISSUE 14: The FS has not demonstrated that mitigation measures will be effective.

Response: The project file contains documentation of past monitoring of similar projects and effectiveness of BMPs (F7, DA18). The Forest has demonstrated effectiveness of mitigation measures, and addressed the appellants' concerns in the Response to Comments (DN, Appendix 2). BMP and other design criteria effectiveness monitoring will be completed as the project is implemented (EA, pp. 2-8, 2-12, and Appendix B).

ISSUE 15: Detrimental soil conditions have not been analyzed.

Response: The soils were appropriately analyzed for risks from burning in the EA (pp.3-62 to 3-68), along with other associated activities.

40 CFR 1505.3 states that "Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases." The monitoring plan for soils is specifically designed to monitor the implementation of proposed activities that could damage soils and the implementation and effectiveness of BMPs (EA, Appendix B).

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/ Harlan Smid
HARLAN SMID
Reviewing Officer
Director of Financial Resources