



United States  
Department of  
Agriculture

Forest  
Service

Region 1

200 East Broadway  
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Missoula, MT 59807

File 1570 (215)

Date: June 10, 1998

Code:

Route

To:

Subject: Forestwide Blowdown Timber Sales, Appeal #98-01-00-0051, Kootenai NF

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Jeff Juel on behalf of The Ecology Center, Inc.; American Wildlands; Alliance for the Wild Rockies; and The Lands Council protesting the Forestwide Blowdown Salvage Decision Notice signed by the Acting Forest Supervisor (Kootenai National Forest).

The Forest Supervisor's decision adopts Alternative 2 modified, to salvage down trees resulting from recurring weather events, beginning in 1998 and continuing in future years as need arises.

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

My recommendation is based upon the following evaluation:

#### Clarity of the Decision and Rationale

The format of the Decision Notice (DN) could be clearer. The nature of the decision without a limitation on time makes it difficult to evaluate the decision in light of cumulative effects. Maps that showed areas excluded from this decision for the entire Forest would be helpful to the public and the analysis.

#### Purpose of the Proposal and Comprehension of Benefits

The purpose and need is complicated by the inclusion of effects statements and general justifying objectives; e.g. keep roads open, reduce fire risk. The implied purpose and need is legitimate, but not clearly stated (i.e. to move storm related salvage to the mills in an effective and environmentally sound manner).

The benefits of the selected alternative are only described in terms of the purpose and need in the EA, and then indirectly. If the purpose and need were stated accurately, the benefits from the selected alternative would be evident and easily demonstrated.

#### Consistency with Policy, Direction, and Supporting Information



The Forest should be commended for their efforts to efficiently and economically deal with the blowdown salvage program. However, a document of this nature should be carefully developed, with a range of alternatives and clear limits on the scope of the action. Language such as "usually", "most of the time" and "may occur" leaves doubt about the final decision. Limits and maximum volumes, maximum green volume, maximum acreage and maximum temporary road construction would clarify to the public what the decision actually covers.

The EA was concise and in this case could have been more thorough, even if longer. Increasing length would have been beneficial to explain why there were no issues with this project.

### Effectiveness of Public Participation Activities and Use of Comments

The Forest Supervisor did an adequate job of involving the public on this project. Over 300 individuals and organizations were contacted. Because of the programmatic nature of the project, an open house might have been helpful. Public comments were addressed in the EA and DN as "concerns"; however, no issues or alternatives were developed from public comment.

### Appeal Review Findings

The appellants allege violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Endangered Species Act (ESA) and fails to adequately address cumulative effects.

#### **Objection 1. There is no valid Purpose and Need for this project.**

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 Kootenai NF has provided information on timber blowdown occurrences and the potential risks to support the stated Purpose and Need. In addition, the Purpose and Need relates to the Forestwide Management Direction to minimize losses from mountain pine beetle, protect resources, users and property from wildfire, and to provide a sustained yield of timber volume.

#### **Objection 2. The Environmental Assessment (EA) and Decision Notice (DN) are not site specific, programmatic in nature, precludes public comment, and lack discussions of temporal and spatial distribution of activities and cumulative impacts, therefore in violation of NEPA.**

Response: The Council on Environmental Quality (CEQ) guidelines allow for the use of programmatic NEPA documents to assess the environmental effects of a number of individual actions on a given geographical area, or environmental impacts that are generic or common to a series of agency actions, or the overall impact of a large-scale program or chain of contemplated projects [40 CFR 1502.4(c)]. Subsequent NEPA decisions are required only when actions have significant environmental impacts not adequately evaluated in the broad environmental analysis. In the Forestwide Blowdown EA, the impacts will not be significant and were analyzed.

The public has had opportunity to comment on the proposal through this NEPA process. If the public is aware of new information at any point in the future, there is always opportunity to raise the issues with the Forest for them to consider during implementation.

The temporal distribution of activities will occur over a 5-year period with a commitment from the Forest to review the decision at 5 years. The spatial distribution of activities was described in the EA as those areas on the Forest that meet the criteria on pp. 2-3 of the EA. Representative maps are located in Appendix A.

The cumulative effects analysis relies heavily on a conclusion of no cumulative effects based on no measurable effects from this proposal. Cumulative effects of other actions on the Forest must be considered. It is not apparent that cumulative effects were adequately considered in this document. This can be remedied by assuring that each time a blowdown occurs, potential cumulative effects be considered and documented along with the other considerations given before implementing this decision.

**Objection 3. The Forestwide Blowdown Decision fails to assess impacts to grizzly bears and to protect grizzly bears, in violation of the Endangered Species Act and the National Forest Management Act (NFMA).**

Response: The Kootenai NF prepared a Biological Assessment and determined the proposed action is not likely to adversely affect the threatened grizzly bear (EA, Appendix C). The U.S. Fish and Wildlife Service concurred with the determination in a letter dated July 23, 1997. The Fish and Wildlife Service states in their letter "It is the Service's understanding that blowdown sales designed to fully meet the criteria outlined in Appendix 3 [of the biological assessment] will not require additional Service review for concurrence/nonconcurrence." The Forest has complied with the Endangered Species Act and the Fish and Wildlife Service has concurred the project proposal will adequately protect grizzly bears.

**Objection 4. The proposed action fails to protect native fish.**

Response: In examining the proposed criteria, design factors, and the analysis on fish, the Forest has adequately examined the potential effects on fish and fish habitat and not threatening their long-term viability with this project. The BE for sensitive fish states there will have minimal sediment effects, no effects on stream temperatures, and undetectable changes in streamflow. The determination of effects on sensitive fish is "no effect".

**RECOMMENDATION**

I recommend the Forest Supervisor's decision be affirmed with instructions to create design criteria and checklist for cumulative effects analysis for each blowdown occurrence. Prior to implementing this decision, the checklist should be reviewed by the Regional Forester. The Forest is instructed to review the project in 2 years for changed conditions and report monitoring results and findings to the Regional Forester.

/s/ Elizabeth L. Horn

ELIZABETH L. HORN  
Reviewing Officer