



United States
Department of
Agriculture

Forest
Service

Southwestern
Region

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File Code: 1570-1 (2400)

Date: December 20, 2000

**CERTIFIED MAIL-RETURN RECEIPT
REQUESTED**

Brian Segee
Center for Biological Diversity
P.O. Box 710
Tucson, AZ 85702-0710

Re: Appeal #01-03-00-0007-A215, Fort Valley Ecosystem Restoration Project, Peaks Ranger District, Coconino National Forest

Dear Mr. Segee:

This is my review decision on the appeal you filed regarding the Decision Notice and Finding of No Significant Impact which provide for: thinning dense stands of ponderosa pine to reduce the risk of wildfire, which also will restore the balance of tree overstory and grass/shrub/forb understory; reducing wildlife disturbance by closing some roads and relocating/constructing trails; restoring the natural role of wildfire; and restoring meadow and riparian habitats.

BACKGROUND

On September 21, 2000, Forest Supervisor Jim Golden issued a Decision on the Fort Valley Ecosystem Restoration Project. The Forest Supervisor is identified as the Responsible Official whose decision is subject to administrative review under 36 CFR 215 appeal regulations.

Pursuant to 36 CFR 215.16, you were contacted to discuss informal disposition of the appeal. The record reflects that informal resolution of the appeal was not reached.

My review of this appeal has been conducted in accordance with 36 CFR 215.17. I have thoroughly reviewed the appeal record, including the recommendations of the Appeal Reviewing Officer. My review decision incorporates the appeal record.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer recommended that the Responsible Official's decision on the Fort Valley Ecosystem Restoration Project be affirmed.

APPEAL DECISION

After a detailed review of the record documented in the enclosed review and findings and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision on the Fort Valley Ecosystem Restoration Project.



My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ James T. Gladen

JAMES T. GLADEN
Appeal Deciding Officer
Deputy Regional Forester, Resources

cc:

Forest Supervisor (Coconino National Forest)
District Ranger (Peaks Ranger District)
Forestry Staff, R3
Appeals and Litigation Staff, R3

REVIEW AND FINDINGS

of

Center for Biological Diversity, Sierra Club Grand Canyon Chapter, and SW Forest Alliance

Appeal #01-03-00-0007-A215

on the

Fort Valley Ecosystem Restoration Project

ISSUE 1: The Decision violates the National Environmental Policy Act (NEPA) by failing to take a ‘hard look’ at the environmental consequences of the Fort Valley Decision.

Contention: Appellants reference Issues 2 through 4 in contending that the Forest Service failed to take a hard look at the environmental consequences of the decision.

Response: Based on the following responses to appellants’ Issues 2 through 4, the environmental assessment (EA) and supporting record adequately analyze and disclose the effects of the proposed action and alternatives.

Finding: The Responsible Official adequately analyzed and disclosed the effects of the proposed action and alternatives.

ISSUE 2: An Environmental Impact Statement (EIS) must be prepared.

Contention: Appellants assert that the Fort Valley Project, considered individually, will have a significant effect on the environment, and ,therefore, an EIS must be prepared. Appellants allege that the project is highly controversial in a scientific sense, involves highly uncertain effects and unique or unknown risks, and establishes a precedent for future actions.

Response: As it relates to the determination of significance, the term "controversial" refers to a substantial dispute existing as to the size and nature of effects of the federal action. The past and present research that has been and is being done on the benefits of thinning from below and the benefits from prescribed fire is considerable. Thinning from below, fuel bed treatment, canopy spacing treatments, and periodic low-intensity prescribed fire activities are supported by most scientists and researchers who work from within and study and research fire-adapted ecosystems. The Forest has done a thorough search of the literature (EA pp. 172-177) on the subject and has shown that there is no substantial dispute concerning the anticipated effects of the action or the uncertainty of the effects.

The project analysis included extensive coordination and agreement with the Arizona Game and Fish Department (AG&F) and the U.S. Fish and Wildlife Service. Both of these agencies supported the Forest Service's decision (PRD # 157, 188). Scientific references were used to substantiate the analysis of the effects. In addition, as a part of the project analysis, a comprehensive list -- Studies in the Southwestern Forest Health Restoration and Wildland-Urban Interface Fuels Management Research Programs -- was compiled by the Grand Canyon Forests Partnership to support predicted effects of the project proposal and alternatives.

The AG&F has provided a letter as an interested party to the appeal dated July 6, 1999, in which they state "We also disagree with the level of concern expressed in the appeal regarding the impacts on the viability of spotted owl and goshawk populations." It is clear that, in this instance, AG&F does not dispute Forest Service findings concerning these species.

Appellants cite references to the "Flagstaff Model", claiming that this project sets precedent across millions of acres. The Forest Service considers the "Flagstaff Model" a model of collaboration. Collaborative behavior does not establish a precedent for future actions with significant effects (40 CFR 1508.27(6)). The 2000 fire season generated considerable rhetoric concerning the need to reduce wildfire risk to urban interface areas. The Fort Valley Project consists of a series of treatments designed to evaluate their effectiveness for ecosystem restoration over time. One objective of the project is to develop and test five to ten different approaches to restore forest health, within parameters set in the Forest Plan; and collect information to be used on future projects. The Fort Valley Project does not set precedent for future projects.

Finding: The Responsible Official appropriately determined that no significant impacts would result from implementing the selected action. The responsible official appropriately documented the analysis in an environmental assessment. An environmental impact statement is not necessary.

ISSUE 3: Significant Cumulative Effects

Contention: The cumulative effects of Flagstaff Urban Interface Projects proposed by the Forest Service and Grand Canyon Forest Partnership will have a significant effect on the environment.

Response: The analysis must consider whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or breaking it down into small parts (40 CFR 1508.27 (b) (7)).

The project record includes an analysis of the cumulative effects of the proposed action with other past, present and reasonably foreseeable actions (PRD# 255, 255a, 301). The EA discusses other actions considered on pages 56-58. The analysis points out that another analysis is

underway for the Flagstaff/Lake Mary Ecosystem, which might result in new management direction for the Flagstaff urban interface. The analysis concluded that while there is intent to investigate other parts of the Flagstaff urban interface, specific future activities are not known (EA, p. 57). The EA cumulative effects discussions support the finding of no significant impact.

Finding: The Responsible Official appropriately found, "The effects of this project, when viewed incrementally with effects of past, present, and reasonably foreseeable actions, are not cumulatively significant."

ISSUE 4: The cumulative effects analysis in the Fort Valley EA is inadequate.

Contention: Appellants allege that the Fort Valley EA fails to provide quantified or detailed cumulative effects analysis and does not include an analysis of cumulative effects from other proposed Grand Canyon Forest Partnership projects.

Response: The EA discloses cumulative effects on the following resources: landscape character, p. 66; vegetation, pp. 75-80, 84; wildlife, pp. 90-93, 97, 101-103, 105-106, 108-111, 119-120; soil and water, pp. 127-130; air, p. 133; recreation opportunities, 136, 138, 140, 144; fire behavior, pp. 148, 151-152, 154-157; transportation system, p. 161; heritage resources, p. 163; and economics, p. 167. The EA discusses other actions considered on pages 56-58. The analysis points out that another analysis is underway for the Flagstaff/Lake Mary Ecosystem, which might result in new management direction for the Flagstaff urban interface. The analysis concluded that while there is intent to investigate other parts of the Flagstaff urban interface, specific future activities are not known (EA p. 57).

Finding: The record includes consideration of past, present, and reasonably foreseeable actions and their cumulative effects on the components of the human environment. The cumulative effects analysis is adequate for an informed decision and for the purpose of determining significance and whether an EIS is needed.

ISSUE 5. The Fort Valley decision violates the National Forest Management Act (NFMA) by failing to meet Northern goshawk standards and guidelines.

Contention 5a: The appellants contend the Northern goshawk standards and guidelines require the Forest to designate three nest areas and three replacement nest areas for each of the three post fledging family areas (PFA) in the Fort Valley area. Each nest or replacement nest area should be approximately 30 acres in size with all six per PFA totaling at least 180 acres. They contend establishing one large nest area does not meet these standards and guidelines.

Response: The Northern goshawk standards and guidelines do not specify a minimum distance between nest sites and/or replacement nest sites. Thus clustering the required 180 acres into one area managed for nest and replacement nest habitat conditions meets the Forest Plan standards and guidelines.

The Forest established a total of 6 nest/replacement nest sites totaling just over 180 acres in the 713-acre Orion PFA; 6 sites totaling over 200 acres in the 1,206-acre Pearson PFA; and 6 sites totaling 238 acres in the 930-acre Ft. Valley PFA (PRD# 348). The map identifying these sites is located in the Peaks Ranger District office files.

Finding: Contrary to the appellants' contention, the Forest has met the Northern goshawk standards and guidelines for establishing nest and replacement nest habitat in each PFA.

Contention 5b: The appellants contend the Forest did not directly address the required PFA and goshawk foraging habitat canopy cover levels in the EA.

Response: In the EA, the Forest identified the current vegetative condition as being 6,456 acres of Ponderosa pine, 11 acres of aspen, 470 acres of mixed conifer, and 50 acres of mountain grasslands and meadows. Sixty-seven percent is classed as young forest (VSS 2 and 3), 24 percent middle-aged forest (VSS 4) and 9 percent other (VS 5, 6, and 1). On average, only 20 of the more than 400 trees per acre in the Fort Valley area are 16 inches diameter at breast height (DBH) or larger and fewer than 60 trees are 12 inches DBH or larger (PRD# 326).

The proposed action retains all trees 16 inches DBH or larger. In this alternative, prescriptions to select trees for retention are designed to favor selecting larger trees (PRD# 348). Based on these facts and on the number of trees to be retained in the full restoration areas, there should be few trees greater than 12 inches DBH that would be removed through the full restoration prescription. Because the modified and minimal restoration areas would retain more trees per acre, it is likely there would be even fewer, and maybe none, of the 60 or so trees 12 inches DBH or larger that would be removed through these two prescriptions.

Retention of most or all trees 12 inches DBH or larger through implementation of the proposed action means there will be little change in the overstory canopy. The majority of trees to be removed by the proposed action are less than twelve inches DBH and most will be less than four inches DBH.

Simulation models run by the Rocky Mountain Research Station provide comparisons of the current, and expected changes in post-treatment, 20-year post-treatment, and 40-year post treatment VSS classes and canopy closure of the stands in the Forest Valley area (PRD# 133a, 348). These runs indicate the Northern goshawk canopy closure standards and guides will be met.

Finding: Contrary to the appellants' contention, the proposed action will meet Forest Plan standards and guidelines for Northern goshawk canopy closure.

ISSUE 6: The Fort Valley decision violates the NFMA because the Forest Service has not properly designated old growth.

Contention 6a: The appellants contend the Forest designation of only 17.7 percent of the Ponderosa pine habitat in the Fort Valley area as old growth, instead of the required 20 percent,

is a violation of the Forest Plan. They also contend the Fort Valley decision also violates the old growth guidelines by only addressing diameter and the number of large trees.

Response: The Forest designated 319 acres of existing old growth, stands that meet or essentially meet all of the old growth criteria identified in the Forest Plan standards and guides. In addition, they designated 1,298 acres of recruitment old growth. Thus, 23.7 percent of the Fort Valley area is in designated old growth. Just under 1,150 acres are in Ponderosa pine habitat types. The remaining 467 old growth acres are in mixed conifer. This amounts to 17.7 and 99.4 percent respectively of the existing vegetation of these two forest types in the Forest Valley area being in old growth (PRD# 326, 348).

Forest Plan standards for old growth identify that “Until the forest plan is revised, allocate no less than 20 percent of each forested ecosystem management area to old growth...(using the criteria) depicted in the table on page 96.” Here it is clear the 20 percent is mandatory, and the 23.7 percent of the Fort Valley area designated as old growth meets this standard. The Guidelines identify the Forest should “*seek* to develop or retain old growth function on at least 20 percent of the naturally forested area by forest type.” Here, the 20 percent is a desired, not required, level, thus the 17.7 and 99.4 percents meet this guideline.

The primary objectives of managing recruitment Ponderosa pine old growth at the VSS 4 level are to develop an adequate number of large trees greater than 24 inches dbh as quickly as is practical. Other old growth attributes, such as decadence, large dead and down logs, large snags, etc. begin developing at the mature forest to old growth stages (VSS 5 and 6) and continue to develop throughout the life of an old growth stand.

Finding: The appellants’ contention that the Forest did not designate 20 percent of each forest vegetation type is true, but the standards and guidelines do not require 20 percent of each vegetation type, only of each forest ecosystem management area. Thus the Forest did not violate the Forest Plan standards and guides.

Contention 6b: The appellants contend “underlying reason to designate this old growth - to allow ecological processes to unfold in a natural manner - is completely undermined by the Coconino’s intention to log in several designated stands.”

Response: Growth simulation model runs indicate the treatments proposed in the selected alternative will greatly reduce the time it will take for the residual trees in recruitment old growth stands to attain “old growth” size and character (PRD# 313, 326, 348). Treatments, even mechanical ones, are not prohibited by the Forest Plan old growth standards and guides or management area prescriptions, especially treatments designed to either reduce the time it takes to attain an “old growth” condition or to extend the life of an old growth stand. Examples of proposed treatments in old growth include thinning from below to release the growth in the residual young to middle-aged trees in recruitment old growth stands and pre-commercial thinning around large trees in existing old growth to reduce stress and increase their longevity.

Finding: Contrary to the appellants’ contention, the Forest did not violate any of the Forest Plan old growth standards and guidelines.

ISSUE 7. The Fort Valley Project violates the Administrative Procedures Act (APA).

Contention: Appellants allege that due to all the previously cited appeal points, the decision is arbitrary and capricious.

Response and Finding: The Responsible Official has conducted and documented a reasoned analysis of the Fort Valley Ecosystem Restoration Project and disclosed the effects in the public arena. The Fort Valley decision is in compliance with the APA.