



United States
Department of
Agriculture

Forest
Service

Coconino
National Forest,
Supervisor's Office

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File Code: 1570-1/2400

Date: February 5, 2004

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**CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**
NUMBER: 7003 1680 0004 1675 2251

RE: Appeal #04-03-04-0001-A215, Pack Rat Salvage Project, Mogollon Rim Ranger District,
Coconino National Forest

Dear Mr. Segee:

This is my review decision on the appeal filed regarding the Decision Notice (DN), Environmental Analysis (EA), and Finding of No Significant Impact (FONSI) on the above-referenced project, which provides salvage harvesting of 550 acres, as well as removing hazard trees less than 12 inches dbh along a 130-foot corridor adjacent to Forest Roads 300, 320, 141H, and 201 on the Mogollon Rim Ranger District, Coconino National Forest.

BACKGROUND

District Ranger Larry Sears made a decision on October 24, 2003, for the Pack Rat Salvage Project. The District Ranger is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR § 215 appeal regulations.

Pursuant to 36 CFR §215.17, an attempt was made to seek informal resolution of the appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR §215.18. I have 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 found that: a) the decision logic and rationale were generally clearly disclosed; b) the benefits of the proposal were identified; c) public participation and response to comments were adequate; d) the proposal and decision are consistent with agency policy, direction, and supporting information; however, consistency with the Forest Plan needs clarification. In order to ensure consistency with Forest Plan direction, trees greater than 24 inches (dbh) in restricted MSO habitat should not be salvaged.



APPEAL DECISION

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision on the Pack Rat Salvage Project, with the following instructions:

During implementation of the project, limit salvage harvest trees to less than 24 inches (dbh), in accordance with Forest Plan direction.

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

Sincerely,

/s/ Nora B. Rasure
NORA B. RASURE
Appeal Deciding Officer
Forest Supervisor

Enclosure

cc: Christina Gonzalez, Daniel Crittenden, Leonard Lucero, Larry Sears

REVIEW AND FINDINGS
of
Center for Biological Diversity's
Appeal #04-03-04-0001-A215
Pack Rat Salvage Project

ISSUE 1: The Pack Rat Salvage Project violates National Environmental Policy Act (NEPA).

Contention A: District Ranger Sears failed to prepare an Environmental Impact Statement (EIS), as required by 40 CFR §1508.27(a)(b).

Response: The ten contexts and intensity criteria for significance (40 CFR §1508.27) are evaluated and reviewed in the Finding of No Significant Impact included in the Decision Notice, Project Record (PR) #42. For each item, a statement is made with respect to this project and referenced to relevant pages in the Environmental Assessment (EA) and record. The appeal raises no new issues about significance that were not already addressed and disclosed in the record.

Finding: An EIS is not required to analyze and disclose the effects of this project.

Contention B: The project does not meet the stated purpose and need of minimizing soil erosion and promoting recovery of soil productivity. The appellant suggests the following items were not properly addressed: 1) The analysis improperly relies on fire intensity rather than fire severity to determine soils effect; 2) The EA does not properly disclose the current levels of coarse woody debris; 3) The EA does not support the assertion that salvage logging of large trees minimizes erosion and promotes recovery of soils.

Response: 1) Although the terms fire severity and fire intensity technically have different meanings, they are commonly interchanged. In the case of the Pack Rat Salvage Project, the soil analysis clearly defined what was meant by the use of the term 'fire intensity' (PR #19, p. 10); and it is apparent the term was used to describe the effects of the fire on soil health. 2) The current levels of coarse woody debris are discussed in the Fire, Fuels and Air Quality Specialist's Report (PR #28) and in the Soil and Water Specialist's Report (PR #19). 3) The record contains ample evidence to describe the negative effect of the Pack Rat Fire on the soil resource and to support the need for soil productivity improvements and erosion minimization. The Soil and Water Specialist's Report (PR #19) contains site-specific information, corroborating evidence from other nearby fire recovery areas and scientific literature on fire effects and post-fire recovery. The EA (PR #41, pp. 83-85) contains 3 pages of required mitigation measures, most of which are aimed at controlling or minimizing erosion. The slash generation and distribution portions of the project will provide the needed addition of organic material, which currently does not exist (PR #43), and afford better conditions for herbaceous growth, which will improve soil stability and decrease post-fire accelerated erosion (PR #19).

Finding: 1) The effects of the fire on soil were properly analyzed. 2) Current levels of coarse woody debris are adequately discussed and addressed in the record. 3) The project will result in improvement of soil productivity and improved soil stability. Overall the record supports that the project will meet the intended purpose and need for recovery of soil productivity and minimization of erosion.

Contention C: The Pack Rat Salvage does not meet the purpose and need of reducing intensity of future surface fires. The appellant alleges the opposite is true: 1) No scientific evidence suggests that logging of large trees helps reduce future fire risk; 2) Greatly elevated short and medium term fire risks are not adequately disclosed; 3) Estimates of long-term fuel loadings are skewed.

Response: Prestermon, Pye, et al., 2001, suggests that fire risk is related to many of the same factors that affect fire behavior. Some of these factors include activities of humans, land and vegetation characteristics, and weather patterns or climate. Fuel loading is one component of the vegetation characteristics which can be influenced by fuel treatments.

The Pack Rat Salvage Project's proposed action was intended to address fuel loading, not overall fire risk. The Pack Rat EA identifies fuels reduction as a purpose and need for reducing fire intensity, due primarily to the inevitability of fire-killed standing trees falling to the forest floor and contributing to a significant increase in surface fuel loading. Post-burn surface fuel loading will likely exceed pre-burn levels due to the amount of mortality caused directly and indirectly by the fire (Harrington and Sackett, 1990) (PR #41, p. 35). Of the factors of fire risk, the one identified and considered in the Pack Rat Analysis related to vegetation is fuels reduction. Fuels reduction provides the most prudent opportunity to mitigate the future potential of fire intensity and resistance to control. The EA states that "the fire intensity on the top of the rim (Mogollon Rim) was moderated by material that was removed off-site from the Dude Fire Salvage" (PR #41, p. 19). The proposed alternative, which removes trees greater than 12 inches in diameter and treats existing and activity slash, will reduce the fuel loading by 3.5 tons per acre in low burn intensity areas and by 8.1 tons per acres in high burn intensity areas, as compared to the No action alternative (PR #41, pp. 35, 37).

The EA addresses the elevated short- and medium-term fuel loading. The EA states that "salvage activities will produce slash in the first year after the fire. Therefore the Proposed Action will result in higher fuel loading over the short-term than the No Action Alternative." (PR #41, p. 36) However, in areas where 15 tons per acre are exceeded, the residual material of all sizes (activity and existing slash) will be mechanically piled and burned (PR #28, p. 2). This will reduce the short- and medium-term fuel loading.

Fuel loading estimates were developed using the Southwestern Variant of the Forest Vegetation Simulator model, Fire and Fuel Extension (PR #28, p. 4). This program is used extensively throughout the Forest Service and is based on documented scientific research.

Finding: The Pack Rat Salvage Project adequately addressed fuel loading and intensity of surface fires. Fuel loading is one component of overall fire risk. This project did not attempt to address all components related to fire risk. The models that were used to develop the fuel loading estimates are scientifically based and accepted by the Forest Service.

Contention D: The EA lacks a reasonable range of alternatives.

Response: The alternatives are listed in the EA (PR #41, p. 10). No new issues were brought up in the comment period for the EA (PR #38) that would develop a new alternative. Initial concerns of the public were addressed in the proposed action (PR #32, cover letter on EA). Finally, scoping letters received from the public had positive comments on the proposed action or questions about implementation of the project (PR #12).

Finding: The formulation of alternatives is driven by significant issues identified in scoping (40 CFR §1501.2(c)), and there is no need to develop more alternatives for this project proposal.

Contention E: The EA lacks an adequate cumulative effects analysis, especially for the Mexican spotted owl.

Response: Activities that might have a cumulative effect on Mexican spotted owls (MSO) are spelled out in several places in the EA (PR #41). A compiled list of all past, present, and reasonably foreseeable projects is found on pages 16-17 of the EA. A series of tables showing types of activities that had ground-disturbing effects by watersheds is found on pages 19-21, 24, and 26 of the EA. The history of MSO in the area is found on page 43, and a list of past activities that would impact wildlife is found on page 44 of the EA. Effects to MSO are summarized on page 47. Several projects that have had a cumulative effect on MSO by habitat component are disclosed on pages 47-48. Effects on MSO habitat are also discussed under the Management Indicator Species heading and found on page 52.

Finding: Cumulative effects details are sufficient for NEPA disclosure and analysis of effects to the Mexican spotted owl.

ISSUE 2: The Pack Rat Salvage Project violates National Forest Management Act (NFMA).

Contention A: The 1996 amendment to the Region's Land and Resource Management Plans (LRMP) does not permit the harvesting of trees larger than 24 diameter breast height in mixed conifer habitat.

Response: The 1996 Amendment to the Coconino National Forest's Land and Resource Management Plan incorporated the Recovery Plan for the Mexican Spotted Owl (December 1995). Volume I/Part III, page 94 of the Recovery Plan states that within restricted owl habitat (primarily mixed conifer and pine/oak) "retain all tree >61 cm [24 in.] diameter at breast height (dbh)." The Recovery Plan does not distinguish between dead or living trees.

Information provided in the environmental assessment (PR #41, pp. 54-55), including Figure 7 and Table 21, indicates that 75% of the conifer trees in the project area are dead. According to Table 21, there is approximately one tree per acre larger than 24" dbh that is dead. The majority of the dead trees within the commercial size class (12" dbh and greater- Proposed Action, p. 6) fall within the 12-20" size class.

The Coconino National Forest Plan (USDA 1987) has established a minimum of two snags per acre over 50% of the forested land base (PR #41, p. 46). The analysis team has determined that an overabundance of snags exists within the 1,047 acres of the Pack Rat Fire on the Mogollon Rim Ranger District (PR #41, p. 46). Current mitigation measures (PR #41, p. 87) call for the retention of 2-4 snags/acre greater than 20" dbh on acreage salvage harvested.

The analysis did not determine definitively that acreage proposed for salvage harvesting is no longer classified as restricted spotted owl habitat as a result of the stand-replacement fire. Reference is made to an adjacent Protected Activity Center and the possibility of restricting activities during the MSO breeding season.

Finding: Inventory data from the project area indicate that the number of potential dead trees greater than 24" dbh that might be salvaged is less than one tree per acre. Mitigation measures

indicate that 2-4 dead trees per acre greater than 20” dbh are to be retained for wildlife. Based upon the Project Record, it cannot be definitively concluded that all dead trees 24” and larger within the salvage area will be retained. The proposed treatment area is in restricted MSO habitat, and the 23.9” diameter limit on tree removal applies to harvest of areas within restricted MSO habitat.

Contention B: The Coconino National Forest has failed to designate old-growth as required by the 1996 regional amendment.

Response: The Proposed Action (PR #41, p. 6) limits commercial tree removal to trees that are completely dead. Mitigation measures call for the retention of 2-4 snags greater than 20” per acre for wildlife habitat (PR #41, p. 87). It is unlikely that forested lands that have recently experienced a stand-replacement fire would be considered for old growth management. Later seral stands would be more likely managed to achieve old-growth strategies.

Finding: Nothing in the Proposed Actions for this project precludes the management of old growth habitat on the Coconino National Forest. The Purpose and Need for the proposed actions are aimed at reducing dead tree hazards to the public, stabilizing soils from post-burn erosion, reducing heavy fuel loading above levels determined to be in excess, and to minimize the spread of bark beetles.

Contention C: The Pack Rat Salvage does not properly address management indicator species (MIS).

Response: A thorough analysis of the possible effects of the proposed action on MIS is included in the EA (PR #41). Data from which MIS trends were determined is found within the Forest-level MIS Analysis, which is included by reference in the Wildlife Specialist's Report (PR #31) and summarized in the EA (PR #41, pp. 41-42).

In keeping with the Corner Mountain decision (*Center for Biological Diversity v. US Forest Service*, No. CV 01-1106 WJ/RLP ACE), “The Forest has the discretion regarding the identification of the geographic area within which the effects of the environmental impacts are measured.”

Finding: The Forest completed an analysis of MIS that was sufficient to ensure that minimum viable populations will be maintained.

ISSUE 3: The Pack Rat Salvage Timber Sale violates the Administrative Procedures Act (APA).

Contention B: The Pack Rat Salvage is arbitrary and capricious.

Response: The Responsible Official conducted an adequate environmental analysis; disclosed the environmental effects in a public arena; and determined that an EIS is not needed. The EA, Decision Notice, and the project record adequately document the analysis process and decision.

Finding: The Pack Rat Salvage Project complies with the Administrative Procedures Act and is not arbitrary or capricious.