

**United States
Department of
Agriculture**

**Forest
Service**

**Southwestern
Region**

**517 Gold Avenue, SW
Albuquerque, NM 87102-0084
FAX (505) 842-3800
V/TTY (505) 842-3292**

File Code: 1570-1 (2400)

Date: February 7, 2000

Lally McMahan
Forest Guardians
1411 Second Street
Santa Fe, NM 87505

Certified Mail-Return Receipt Requested
P 556 954 728

Re: Appeal 00-03-00-0014-A215, Dry Park Vegetative Management Project, North Kaibab Ranger District, Kaibab National Forest

Dear Ms. McMahan:

This is my review decision on the appeal you filed regarding the Decision Notice, Finding of No Significant Impact and Environmental Assessment, which provide for various silvicultural treatments covering 6,200 acres within the Dry Park project area of approximately 9,792 acres.

BACKGROUND

On November 2, 1999, Forest Supervisor Conny Frisch issued a Decision on the Dry Park Vegetative Management 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 an attempt was made to seek informal resolution of the appeal. The record reflects that informal resolution 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 Dry Park Vegetative Management Project be affirmed.

APPEAL DECISION

After a detailed review of the records and the Appeal Reviewing Officer's recommendations, I affirm the Responsible Official's decision on the Dry Park Vegetative Management 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:
North Kaibab RD
Kaibab NF
FFH, R3
Appeals & Litigation Staff, R3

REVIEW AND FINDINGS

of the

Forest Guardians

Appeal #00-03-00-0014-A215

on the

Dry Park Vegetation Management Project

ISSUE 1. The decision violates the National Forest Management Act (NFMA). The Dry Park Vegetative Management Project (DPVMP) Environmental Assessment (EA) does not insure that viable populations of all vertebrate wildlife will be maintained on the Kaibab Plateau.

Contention 1a: Goshawk

Response: Implementation of the Management Requirements for the Northern Goshawk in the Southwestern United States (MRNG) through the Standards and Guidelines in the Land and Resource Management Plan (LRMP) is the underlying foundation for the vegetative treatments in the proposed action. Analysis of the effects of implementing the proposed action on the goshawk support the finding in the Biological Assessment/Evaluation (BA/E) that the proposed action has a beneficial impact on the Northern goshawk and thus will not reduce its viability, which appears stable (AR 88, 92, 120 and 147).

Contention 1b: Kaibab Squirrel.

Response: Implementation of the MRNG through the Standards and Guidelines in the LRMP is the underlying foundation for the vegetative treatments in the proposed action. Analysis of the effects of implementing the proposed action on the Kaibab squirrel, one of 14 foods sources of the goshawk being managed for by the MRNG, support the finding in the BA/E that the proposed action has no impact on the Kaibab squirrel and thus will not reduce its viability, which appears stable. Arizona Game and Fish conducts annual surveys to determine general trend of the squirrel on the Plateau, and they have voiced no concern for their viability (AR 88, 92, 120 and 147).

Contention 1c: Management Indicator Species (MIS).

Response: Implementation of the MRNG through the Standards and Guidelines in the LRMP is the underlying foundation for the vegetative treatments in the proposed action. Analysis of the effects of implementing the proposed action on the MIS found within the Dry Park area support the finding that the proposed action has a beneficial impact on these species and their habitat and thus will not reduce their viability (AR 147, 88, 92 and 120). The species with habitat within the project area include Northern goshawk, pygmy nuthatch, turkey, red squirrel, Mexican spotted

owl, tassel-eared squirrel (Kaibab subspecies), hairy woodpecker, yellow-bellied sapsucker and mule deer (AR 147).

Finding. The Dry Park EA adequately assessed the effects of implementing the Proposed Action on the viability of the Management Indicator Species found within the Dry Park area, including the Northern goshawk, Kaibab squirrel and other management indicator species. This assessment indicates that population viability of the management indicator species will be maintained. Based on the project record, this is a reasonable determination.

ISSUE 2. The decision creates more social and economic harm than good, and has not been planned in a manner that maximizes net public benefits.

Contention: Appellant alleges the Forest Service has failed entirely to conduct and include in the EA an adequate financial efficiency analysis as required by law [FSH 2409.18.12 and FSM 2432.22(c)] or an adequate economic efficiency analysis [FSM 2403.3]. Thus, the DPVMP EA fails to adequately consider a wide range of social and economic contributions of unlogged forests, as well as a wide range of externalized social and economic costs that will be passed on to public agencies, private landowners, business owners, and others adversely affected by proposed logging in the DPVMP in combination with other timber sales ongoing and planned across the Kaibab National Forest, the Southwestern Region and the National Forest System as a whole.

Response: Forest Service Manual (FSM) 1970 and Forest Service Handbook (FSH) 1909.17 contain detailed guidelines for conducting economic and social analyses. However, FSM 1970.3(6) states, "Select cost effective methods of conducting economic and social impact analyses to ensure that the degree of analysis is commensurate with the scope and complexity of the proposed action." Obviously not every project requires the same level of analysis. FSM 1970.6 adds, "The responsible line officer determines the scope, appropriate level, and complexity of economic and social analysis needed." An EA should briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a Finding Of No Significant Impact (40 CFR §1508.9). Economic and social effects are not intended by themselves to require preparation of an EIS (40 CFR §1508.14).

The responsible official conducted economic and financial analyses (record at 82) and summarized them in the EA on pages 40-43. One issue concerning the profitability of the project to a timber operator was considered. The effect of each alternative relative to this issue is discussed in the EA on page 42.

No significant social issues were identified during the analysis. The EA discloses that logging will temporarily disrupt some visitor's use of the area. The EA also discusses impacts on several social values identified as; future option value, direct but non-market use, bequest value, and ecological function value.

Appellant contends that the analysis ignores the economic and social value of unlogged forests. The EA acknowledges that some people find value in public lands unaffected by chainsaws, but

points out that there are very few acres within the planning area that have not been harvested before (EA p. 40). The appellant's contention presumes that the project area holds the value of unlogged forests now. If this is the case, then it is evident that such value is not irretrievably lost when an area is logged, since most of the project area has been previously logged. In either case, the EA does address this value.

Appellant also asserts that ecosystem service values such as flood control, nutrient cycling, soil production, water purification, carbon sequestering, medicinal plants, mushrooms, floral greens, and recreational uses were ignored in the analysis. Appellant implies that these values are sacrificed to vegetative management. As the EA details on pages 15-40, there will still be a forest after treatment. The aforementioned functions will continue.

Economic and social effects were not needed as a basis for alternative development or comparison but were, however, disclosed in the EA. The Responsible Official conducted a level of economic analysis commensurate with the scope of the proposed action.

Finding: The economic and social analyses are consistent with regulation and manual and handbook direction. The record does not support the appellant's claim that the project creates more harm than good.

ISSUE 3. The project cannot proceed until the Forest Service completes an environmental impact statement for the national timber sale program, as a whole.

Contention: In the absence of the national level environmental impact statement (EIS), the Forest Service must suspend implementation of individual timber areas, including the DPVMP, to prevent the commitment of resources "prejudicing selection of alternatives" for managing the national forest system logging program, including an alternative that considers no program at all (40 CFR 1502.2 (f)). Appellant asserts that "The decision to avoid preparation of a program-wide EIS violates National Environmental Policy Act (NEPA) as well because there are significant cumulative effects of the program which are hidden at the scale of an individual timber sale or forest, but visible only at the scale of an entire region, or, nationally." Appellant also asserts that "...the effects of the national forest logging program on private timberland management must be considered at a national scale."

Response: The purpose of the DPVMP environmental analysis was to disclose the effects of the proposed project and to determine if the project would have significant impacts as described in 40 CFR 1508.27. Significance is evaluated in terms of context and intensity. The Responsible Official made a reasonable determination that the proposed project will not have a significant impact based on context and intensity (AR 148).

NEPA regulations clarify that "Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects on the locale rather than in the world as a whole." (40 CFR 1508.27(a)). Overall proposed actions in the DPVMP include; harvesting sawtimber and pulpwood through a series of silvicultural treatments over approximately 6,200 acres, and prescribed burning approximately 1,026 acres (AR #148). In this site-specific case, the effects of the project are localized in nature. Therefore, it would not be appropriate for the Responsible Official to consider the effects of the logging program for the entire U.S.D.A. Forest Service in this site-specific action.

Finding: The DPVMP environmental assessment and decision document disclosed the appropriate level of site-specific information required by the Council on Environmental Quality regulations for NEPA.