



United States
Department of
Agriculture

Forest
Service

Southwestern
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File Code: 1570-1 (FOR)

Date: October 13, 1998

Mr. Bryan Bird
Forest Guardians
1413 Second Street
Santa Fe, NM 87505

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: Spring Valley Knolls Aspen Enhancement Project Appeal #98-03-00-0056-A215
Kaibab National Forest

Dear Mr. Bird:

I completed a review of your August 25, 1998, appeal of Spring Valley Knolls Aspen Enhancement project decision memo. The review was conducted in accordance with 36 CFR 215.

BACKGROUND: On July 6, 1998, the District Ranger issued a decision memo approving the implementation of the proposed Spring Valley Knolls Aspen Enhancement Project. The project is located on the Williams/Chalender Ranger District of the Kaibab National Forest. The legal notice of this decision was published in the Arizona Daily Sun on July 12, 1998. I received your appeal on August 26, 1998. I received the appeal record from the Forest on September 9, 1998.

On September 1, 1998, I received a letter from District Ranger Gene Waldrip which summarized the outcome of an August 28, 1998, phone conversation with Bryan Bird of your organization. The purpose of this negotiation was to attempt to resolve this appeal in an informal manner. The correspondence indicates that resolution of your appeal issues was not possible.

APPEAL ISSUES: Appellant alleges that the project violates legal requirements of the National Environmental Policy Act (NEPA) and its implementing regulations, the National Forest Management Act (NFMA) and its implementing regulations, and the Forest and Rangeland Renewable Resources Planning Act (RPA). These issues are addressed herein.

Issue I: Project Violates NEPA.

Issue IA: Prescribed Fire As An Alternative Was Not Addressed.

Contention: Appellant alleges that the Forest Service failed to explore the use of prescribed fire as an alternative.



Response: Review of the appeal record indicates that the appellant's office was sent a copy of the proposed action during the 30 day comment period. (AR 2). The purpose of the comment period is to gather any issues or concerns related to the proposed action. (40 CFR 1503.3). The appeal record indicates that the appellant did not comment with respect to this issue. (AR 6). However, public comments were raised relevant to the use of prescribed fire, these were evaluated by the specialists and addressed in the decision memo as well as the appeal record. (AR 7, AR 9). The District Ranger determined that prescribed fire without vegetation treatment would result in catastrophic effects to the forest. (AR 9).

The District Ranger is affirmed on this issue.

Issue IB: Forest Service Fails To Discuss Past Silvicultural Techniques And Mitigation Measures For The Project.

Contention: The appellant contends that "past success and failures of its chosen silvicultural and "mitigation measures" were not discussed within the project. (Appeal p. 3).

Response: The decision memo documents that alternative treatments were evaluated and it was felt that the proposed silvicultural technique was the preferred method of treatment. (AR 7, AR 9). The fact that this project is a categorical exclusion indicates that the determination was made that no extraordinary circumstances exist and is a "routine " action . (FSH 1909.15 sec 31.2). Therefore, in keeping with FSH 1909.15 minimal documentation is required for a categorical exclusion. The decision memo states that mitigation measures, such as soil and water Best Management Practices will be incorporated into all implementation activities, in addition to mitigation relating to road impacts. (AR 9). The appeal record shows that a heritage resource survey and report was also completed for the area, along with a biological evaluation. (AR 4, AR 8).

The District Ranger is affirmed on this issue.

Issue IC: Project Requires An EIS Not a CE.

Contention: Appellant contends that the decision to categorically exclude the project is suspect because when analyzed in conjunction with past, present, and future CE's across the district , the effects are significant. (Appeal p. 4).

Response: It is documented in the decision memo that this action meets the agency's requirements for a Categorical Exclusion. (AR 9). By definition, " Categorical Exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment ... " (40 CFR 1508.4). No extraordinary circumstances were identified during the scoping process, the decision memo along with the biological evaluation, cultural clearance report, and silvicultural prescription address the potential effects of the proposed activity. (AR 1, AR 4, AR 7, AR 8, AR 9).

Since there were no significant effects, an EIS was not needed for this project. The District Ranger appropriately applied the categorical exclusion for this project and is affirmed on this issue.

Issue 2: Project Violates NEPA, NFMA, RPA.

Issue 2A: The Spring Valley Knolls Project Fails To Follow Forest Service Manual And Forest Service Handbook Guidance For Economic And Social Analysis. Project Fails To Meet NFMA And RPA Requirements For Managing For Highest Net Public Benefit. Cannot Proceed Until EIS Completed For National Forest System Logging Program As A Whole.

Contention: The appellant contends that the "adverse external economic costs of logging as well as ecosystem service values of standing forests were not estimated in the CE project file using the latest quantitative techniques available." (Appeal p. 5). The appellant also states that an alternative to implement this project without a "commercial sale component was not considered." (Appeal p. 5).

Response: The decision memo is the basic documentation for categorical exclusions (FSH 1909.15, 32.2, 32.3, 40 CFR 1508.4). The appellant fails to specify how the Spring Valley Knolls Aspen Project fails to follow Forest Service Manual and Forest Service Handbook guidance for social and economic analysis, so we are unable to specifically respond to this issue. No issues were raised during scoping with regards to social impacts and/or economic concerns. However, as stated in FSM 1970.6, "The responsible line officer determines the scope, appropriate level and complexity of economic and social analysis needed."

The appellant states that the economic costs of logging, as well as the value of standing forests were not estimated "using the latest quantitative techniques available." (Appeal p. 5). The appellant references the Department of Interior's Natural Resources Damage Assessment (NRDA) procedures which are not binding to the individual project under appeal.

The appellant does not cite which NFMA or RPA requirements have not been met, other than to state that these requirements are those "regarding management of forest service lands for highest net public benefits." (Appeal p. 4). The NFMA regulations definition of net public benefits is meant to be used by decision makers when establishing or revising a Forest Plan. Nowhere does NFMA require such a decision rule for projects. (36 CFR 219.3).

The purpose of the Spring Valley Knolls Aspen Enhancement project decision memo was to disclose the effects of the proposed action and to determine if the project would have significant impacts as described in 40 CFR 1508.27. The proposed actions include the removal of competing ponderosa pine and Douglas fir trees from five acres of aspen stands. (AR 9). In this site specific case, the effects of the actions are localized in nature. Therefore, it would not be appropriate for the District Ranger to consider the effects of the logging program for the entire U.S.D.A. Forest Service in this site specific action.

The appellant states that an additional alternative needed to be considered for this project which addressed implementation without use of a commercial sale. Review of the appeal record indicates that the appellant's office was sent a copy of the proposed action during the 30 day comment period. (AR 2). The purpose of the comment period is to gather any issues or concerns related to the proposed action. (40 CFR 1503.3). The appeal record indicates that the appellant did not comment with respect to this issue. (AR 6).

The District Ranger is affirmed on this issue.

RECOMMENDATION OF APPEAL REVIEWING OFFICER (ARO): The Appeal Reviewing Officer has reviewed the appeal record and forwarded his recommendations to me. I have attached a copy of the ARO's letter. The ARO found that the District Ranger's decision was supported by the appeal record and recommended that the decision of the District Ranger be affirmed.

APPEAL DECISION: After reviewing the appeal record and considering recommendations from the Appeal Reviewing Officer, I find the District Ranger determined the appropriate scope of social and economic analysis needed for this project and complied with the National Environmental Policy Act, the National Forest Management Act and the Forest and Rangeland Renewable Resources Planning Act. I affirm the District Ranger's decision to implement the Spring Valley Knolls Aspen Enhancement Project. Appellant's request for relief is denied.

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

/s/ John R. Kirkpatrick
JOHN R. KIRKPATRICK
Appeals Deciding Officer
Deputy Regional Forester, Resources

Enclosure

cc:
Kaibab NF
C. Gonzalez
Forestry