



United States
Department of
Agriculture

Forest
Service

Southwestern
Region

333 Broadway SE
Albuquerque, NM 87102-3498
FAX (505) 842-3800
V/TTY (505) 842-3292

File Code: 1570-1/2400

Date: May 17, 2001

Bryan Bird
Member of the Board
National Forest Protection Alliance
P.O. Box 276268
Boca Raton, FL 33427-6268

**CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**

Re: Appeal #01-03-00-0025-A215, Cree Fire Salvage Timber Sale, Smokey Bear Ranger District, Lincoln National Forest

Dear Mr. Bird:

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 salvage harvesting of dead standing trees on 369 acres, reforestation on approximately 100 acres, and personal-use firewood harvesting of approximately 100 cords. This amounts to salvaging approximately 7.5 percent of the project area (4,900 acres).

BACKGROUND

On February 12, 2001, Forest Supervisor Jose M. Martinez issued a Decision on the Cree Fire Salvage Timber Sale. 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 Cree Fire salvage Timber Sale 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 Cree Fire Salvage Timber Sale.

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
Deputy Regional Forester,
Resources

Attachment

cc:
Forest Supervisor, Lincoln National Forest
District Ranger, Smokey Bear Ranger District
FFH, R3
Appeals & Litigation Staff, R3

REVIEW OF FINDINGS

of the

National Forest Protection Alliance

Appeal #01-03-00-0025-A215

regarding

The Cree Fire Salvage Timber Sale

ISSUE 1: Socio-Economic Analysis – The Forest Service’s decision to implement the Cree Salvage is the end result of inter-related planning decisions and analyses made at the national, forest, and project level. 36 CFR 219.4. The economic analysis fails to assign any economic value to existing uses of the area, and fails to consider the externalized economic costs of logging. Failure to incorporate all natural resource benefits in to timber sale planning decisions at the National Forest level and site specific level is a violation of various Acts, and Forest Service Manual and Handbook requirements. Forest Service Manual and Handbook requirements include the Forest Service’s Economic and Social Analysis Handbook, Timber Sale Preparation Handbook, and the Forest Service Manual.

Contention 1a: The appellant alleges that, "the Forest Service has failed to complete an economic analysis of the Cree Fire Salvage Timber Sale (TS) project that provides the public with a full and fair accounting of net economic benefits."

Response: There is a requirement for programmatic social and economic analysis driven by 36 CFR 219 that has been met when Forest Plans were adopted for implementation. Projects such as the Cree Fire Salvage TS are developed to be consistent with the direction described in the Forest Plan. Project level requirements for social and economic analysis are described in Forest Service Manual (FSM) 1970 and Forest Service Handbook (FSH) 1909.17. 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 Environmental Assessment (EA) should briefly provide sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a finding of no significant impact (40 CFR §1508.9). Economic effects are not intended by themselves to require preparation of an EIS (40 CFR §1508.14).

The purpose of the economic analysis in an EA is to assist in decision-making. The Forest has prepared an economic analysis that is included in the project record (PR). The economic analysis (PR 60) displays estimated costs and returns of the alternatives for the decisions maker. A summary of this analysis is displayed on pages 26-28 of the EA. Also see PR 73, Appendix C,

Part I, Changes to the EA, page 27 - Economic Analysis, and Part II, Public Comments Received and Responses to Public Comments with regard to the economic discussion.

Finding: The economic analysis is consistent with regulation and manual and handbook direction for project-level analysis and is not in violation of applicable laws, regulation, or policy.

Contention 1b: The Cree Fire Salvage TS violates the Global Climate Change Prevention Act. The adverse ecological and economic effects of increases in atmospheric carbon caused by National Forest Timber Sales, has not been disclosed in the decision-making by the Forest Service when the Cree Fire Salvage TS was prepared and authorized.

Response: The ecological and economic effects of atmospheric carbon caused by National Forest Timber Sales is outside the scope of analysis for this project.

Finding: The economic analysis is consistent with law, regulation, and manual and handbook direction, and there is no violation of the Global Climate Change Prevention Act.

Contention 1c: The Cree Fire Salvage TS decision violates the APA. Appellant alleges that due to all the previously cited appeal points, the decision is arbitrary, capricious and unreasonable.

Response and Finding: The Responsible Official has conducted and documented a reasoned analysis of the Cree Fire Salvage TS and disclosed the effects in the public arena. The Cree Fire Salvage TS decision is in compliance with the APA.

ISSUE 2: The Cree Fire Salvage TS violates the National Environmental Policy Act (NEPA). “Hard look” at environmental consequences.

Contention: Appellant asserts the Forest Service has failed to meet its obligations to take a “hard Look” at the scientific assumptions and environmental consequences of the Cree Fire Salvage TS proposed actions.

Response: The appellant’s assertion does not suggest any environmental effects disclosure that is lacking. The EA discloses effects on soil, air, water, wildlife, and vegetation. It also includes social and economic effects and effects related to the significant issues. The effects disclosure is sufficient to reach a finding of no significant impact and to make a reasoned and informed decision.

Finding: The EA adequately discloses the environmental impacts of the proposed action and alternatives, consistent with policy, regulation, and law.

ISSUE 3: The Cree Fire Salvage EA cumulative effects analysis is inadequate.

Contention: Appellant acknowledges the cumulative effects discussions in the EA and in the PR. The appellant believes the discussions are too brief and should be quantified.

Response: Cumulative effects are discussed throughout the document including Chapter 3, Affected Environment: Past Actions that have Affected the Present Condition (pg. 7), Environmental Consequences, Soils/Water (pg. 13), Environmental Consequences, Vegetation (pg. 18), Environmental Consequences, Smoke/Air Quality (pg. 19), Environmental Consequences, Wildlife (pg. 22). The cumulative effects discussions describe the effects of the alternatives including reference to quantified baselines. The discussion is adequate for the decision-maker to make an informed decision and finding of no significant effects.

Finding: The EA adequately discloses the cumulative effects for the proposed action and alternatives, consistent with policy, regulation, and law.

ISSUE 4: Viability

Contention: Appellant alleges the Cree Fire Salvage will jeopardize the viability of species that find optimal habitat in naturally disturbed areas. Further, no population or monitoring data have been presented in either the Cree Fire Salvage EA or Biological Assessment and Evaluation (BA/E) nor has the Forest Service determined what a viable population is for Management Indicator Species (MIS) and Threatened and Endangered Sensitive Species (TES) in the Analysis Area.

Response: A Biological Assessment (PR 58) was completed for the Cree Fire Salvage and found that the proposed action will have “No Effect” on TES species and/or their habitat. The EA and WFRP Report (PR 59) analyze the effects by alternative on MIS within the analysis area.

Reference 36 CFR 219.19 (a)(6). There is no requirement in NFMA that requires monitoring of individual MIS or an analysis of viability at the project level. Population trends and changes in MIS habitat are accomplished at the Forest-level monitoring program.

Finding: The EA and BA adequately disclose the effects of the action on MIS and TES species consistent with policy, regulation, and law as defined by the NFMA, Endangered Species Act, and the Code of Federal Regulations.

ISSUE 5: Post Fledgling Area (PFA) designations

Contention: Appellant alleges the Forest Service has not followed the Regional Forester’s direction to comply with the standards and guidelines in Amendment #11 of the Lincoln LRMP regarding mapping of goshawk and post fledgling areas.

Response: The Post Fledgling Area (PFA) for the Cree goshawk has been mapped; reference BA (PR 58). In addition all proposed treatment units are outside of the established PFA.

Finding: Appellant does not provide sufficient evidence, to substantiate allegation of noncompliance with Lincoln Land and Resource Management Plan (LRMP). Evidence within the PR indicates compliance with the Lincoln LRMP Amendment # 11.

ISSUE 6: Lincoln LRMP expires in October 2001, and the Lincoln LRMP Final Environmental Impact Statement (FEIS) is outdated

Contention: The Cree Fire Salvage TS must be suspended until the Lincoln National Forest revises its LRMP and until the Forest Service develops a renewable resources program.

Response: The LRMP will remain in effect until it is revised, consistent with the requirements of the NFMA. The Lincoln National Forest is scheduled to initiate the Forest Plan Revision process in 2004 and is anticipated to complete the process in 2007. The current Forest Plan Revision schedule has been developed in response to the planning regulations adopted on November 9, 2000.

Finding: The current plan is in effect until the revision process is completed. There are no requirements to suspend activities until the process is completed.

ISSUE 7: Appropriate Expertise

Contention: The appellant alleges the Forest Service failed to utilize professionals with appropriate expertise for a project of such scale and uncertain consequences as the Cree Fire Salvage, nor has it included dissenting opinion or the work of scientists outside the agency.

Response: FSH 1909.15 Sec. 12.1 directs that the disciplines and skills of the interdisciplinary team must be appropriate to the scope of the action and the issues identified. The teams will consist of whatever combination of Forest Service staff and other federal government personnel is necessary to provide the necessary analytical skills. The Forest Service assembled an interdisciplinary team composed of journey level professionals representing many different land management specialties. In addition, the Forest Service consulted with professionals from the US Fish and Wildlife Service.

Finding: The interdisciplinary team is eminently qualified for this analysis.

ISSUE 8: Conservation of Forests

Contention: The appellant alleges, “by contributing to a vast global waste of wood products the Forest Service has failed to meet substantive obligations to conserve forests and promote use of recycled materials.”

Response: The objectives of the Cree Fire Salvage TS are to 1) salvage harvest of dead standing trees on 369 acres; 2) reforestation (tree planting) on approximately 100 acres; and 3) personal-

use firewood harvesting of approximately 100 cords. By not proceeding with the sale the Forest Service would be contributing to a waste of wood and/or products.

Finding: The Cree Fire Salvage TS does not forego conservation of wood products or the use of recycled material.