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Agriculture

Forest  
Service

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File Code: 1570-1/2400

Date: July 13, 2001

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

**Certified Mail--Return Receipt Requested**

7099 3220 0000 8709 9979

Re: Appeal #01-03-00-0032-A215, Scott Able Forest Health Project, Sacramento Ranger District, Lincoln National Forest

Dear Mr. Segee:

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 approximately 2000 acres, reforestation on approximately 400 acres, and personal-use firewood harvesting

### **BACKGROUND**

On April 13, 2001, Forest Supervisor Jose M. Martinez issued a Decision on the Scott Able Forest Health 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 Scott Able Forest Health 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 Scott Able Forest Health 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

Enclosure

cc:  
Forest Supervisor, Lincoln National Forest  
District Ranger, Sacramento Ranger District  
Appeals & Litigation Staff, R-3  
FFH, R-3

**Review & Findings**  
**of the**  
**Center for Biological Diversity**  
**Appeal # 01-03-00-0032-A215**  
**Scott Able Forest Health Project**

**ISSUE 1:** “The Scott Able decision violates the National Environmental Policy Act (NEPA)”

**Contention 1a:** “The Forest Service has failed to take a ‘Hard Look’ at the environmental consequences of the Scott Able decision. The Forest Service has failed to take a hard look at or adequately analyze the adverse environmental consequences of salvage logging.”

**Response:** The appellant’s assertion does not suggest any environmental effects disclosure that is lacking. The environmental assessment (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.

**Contention 1b:** “The Forest Service has failed to adequately describe the mileage of roads which will be ‘reconstructed’ to facilitate the post-fire logging or address the effect that reconstruction will have.”

**Response:** The appellant’s assertion that environmental effects are lacking does not identify the specific effects. The Scott Able Environmental Analysis includes a section on transportation (EA, pgs. 3-59 – 60) that describes the precise mileage for the Level 1, 2, and 3 roads that will be used for post-fire salvage. The discussion includes a description of maintenance or reconstruction for each type of road including mitigation, and maintenance work that might be needed when salvage is concluded (pg. 3-59). In addition, the transportation map included in the document clearly delineates the road system within the project area that will be employed during the salvage operation. The effects of any needed road maintenance and/or reconstruction are displayed in the EA in the Comparison of Impacts of Alternatives for both Soil and Water Resources @ Figure 12, 2-17 and also in the Soils section. (EA, pages 3-9 thru 3-13)

**Finding:** The EA adequately describes the road system, road mileage, anticipated maintenance and/or reconstruction, mitigation requirements and displays the effects of road reconstruction/maintenance, consistent with policy, regulation and law.

**Contention 1c:** “The Forest Service has failed to take a hard look at the impacts post-fire salvage logging will have on riparian areas and other waters.”

**Response:** The Scott Able project area does not contain any perennial water (EA, pgs. 3-15 and 3-87). Nevertheless, the EA contains three sections that describe effects on streams channels, streams, wetlands, riparian areas and fisheries habitat (EA, pgs. 3-15 to 3-19, 3-43, and 3-87 to 3-91. In addition, the project record (EA, Appendix- Section D) contains numerous pages of detailed description of planned mitigation and avoidance measures for water and soil protection.

**Finding:** The EA adequately describes the environmental impacts to riparian and water systems, consistent with policy, regulation and law.

**Contention 1d:** “The Forest Service failed to take a hard look at the effect post-fire salvage logging will have on the Sacramento Mountain Salamander.”

**Response:** A thorough analysis of the potential effects of the post fire salvage logging on the Sacramento mountain salamander is found in the Biological Assessment and Evaluation (BA/E), Scott Able Fire Forest Health Project (pgs 32-36). Included is a discussion of known habitat parameters, literature review, and mitigation for the proposed project.

**Finding:** The BA/E thoroughly analyzes the potential effects on the Sacramento mountain salamander. The determination of effect concluded for the project is “May impact individuals, but is not likely to result in a trend toward federal listing”, which is consistent with Forest Service policy, regulation and law for FS sensitive species.

**ISSUE 2:** Appellant alleges, “[a] n Environmental Impact Statement must be prepared.”

**Contention 2a:** “The Scott Able Project will have a significant effect on the environment.”

**Response:** The appellant does not describe the basis for the assertion that the project will have a significant effect on the environment. The Decision Notice includes the identification of nine specific factors with findings of non-significance (PR 64, pgs 3-4). The findings are supported by the EA and the BA/E (PR 64, pg. 3).

**Finding:** The conclusion of non-significance is sufficiently described and is supported by the EA. An Environmental Impact Statement is not needed.

**Contention 2b:** “The cumulative effects analysis is inadequate”

**Response:** The appellant does not describe or identify where inadequacies are apparent in the environmental document. Cumulative effects for soil and water are described (EA, pgs. 3-18 – 19), for vegetation (EA, pg. 3-32), and for wildlife (EA, 3-41 – 42). Cumulative effects on Wildlife and Protected Plant Species are included in the Project Record (PR # 46). Cumulative effects are also addressed in the Decision Notice (PR 64, pg. 3 – 4) in the discussion of non-significance and the factors supporting the conclusion of non-significance.

**Finding:** The disclosure of cumulative effects that are included in the EA and in the Project Record are sufficient to support the finding of no significant impact.

**ISSUE 3:** “The Scott Able decision violates the National Forest Management Act (NFMA)”

**Contention 3a:** “The Scott Able decision fails to meet Mexican Spotted Owl Standards and Guidelines. Scott Able violates the Lincoln Forest Plan and the 1996 Regional Amendments by proposing to log within Mexican Spotted Owl Protected Activity Centers.”

**Response:** A thorough discussion of the effects of the fire on known Mexican spotted owl (MSO) PACs and habitat is found in the BA/E: Scott Able Fire Salvage Logging (BA/E, pgs 17-29). In addition, a discussion of the MSO Recovery Plan’s guidelines for salvage logging is included (BA/E pgs 26-27) and how the proposed project fits within those guidelines.

The U.S. Fish & Wildlife Service has been involved in this project from the beginning, with informal consultation occurring during the process. The U.S. Fish & Wildlife Service has issued a concurrence finding for a “may affect, but not likely to adversely affect” the Mexican spotted owl for both the fire suppression efforts (PR @ 28) and for the proposed salvage logging (EA @ Appendix H)

**Finding:** The proposed activity is consistent with Lincoln Forest Plan as Amended and the Mexican Spotted Owl Recovery Plan guidelines for salvage sale operations.

**Contention 3b:** “The Scott Able decision fails to properly consider Management Indicator Species, especially songbirds.”

**Response:** The EA adequately describes the potentials effects on Management Indicator Species (MIS) and songbirds (pages 3-33 through 3-42 of the EA). Cumulative effects on MIS for the proposed action are discussed on pages 3-41 and 3-42 of the EA.

**Finding:** The EA’s treatment and analysis of effects on MIS and migratory birds (songbirds) is consistent with Forest Service policy, regulation and law.

**ISSUE 4:** “The Scott Able decision violates the Endangered Species Act (ESA)”

**Contention:** “The Scott Able decision violates the Mexican Spotted Owl Recovery Plan”

**Response:** A thorough discussion of the Mexican Spotted Owl Recovery Plan’s guidelines for salvage logging (BA/E pgs 26-27) and how the proposed project fits within those guidelines, are included in the project record.

The U.S. Fish & Wildlife Service has been involved in this project from the beginning, with informal consultation occurring during the process.

**Finding:** The proposed activity is consistent with the Mexican Spotted Owl Recovery Plan guidelines for salvage sale operations.

**ISSUE 5:** “ The Scott Able project violates the Administrative Procedures Act (APA)

**Contention:** “The project is arbitrary and capricious.”

**Response & Finding:** The Responsible Official has conducted and documented a reasoned analysis of the Scott Able Forest Health Project and disclosed the effects in the public arena. The Scott Able Forest Health Project is in compliance with the APA.