



File Code: 1570-1/5150/1900

Date: January 10, 2002

Mr. Sam Hitt  
Founder  
Wild Watershed  
P.O. Box 1943  
Santa Fe , NM 87504

RE: Appeal #02-03-00-0009-A215, Santa Fe Municipal Watershed Project, Espanola Ranger District, Santa Fe National Forest

Dear Mr. Hitt:

This is my review decision on the appeal you filed regarding the Record of Decision (ROD) and Environmental Impact Statement (EIS), which provide for fuels treatment on approximately 7,270 acres of the Santa Fe Watershed.

### **BACKGROUND**

On September 28, 2001, Santa Fe National Forest Supervisor, Leonard Atencio, signed a ROD on the Santa Fe Municipal Watershed 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 Santa Fe Municipal Watershed project be affirmed and your request for relief be denied. The evaluation concluded: a) decision logic and rationale were generally clearly disclosed; b) the environmental effects disclosure is consistent with agency policy, direction and supporting evidence; c) the MIS habitat and population information analyzed at the project and Forest level is sufficient to support the conclusion that viable wildlife populations will be maintained, as required by the National Forest Management Act; and, d) public participation and response to comments were adequate.





## APPEAL DECISION

After a detailed review of the record, interested party comments and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision on the Santa Fe Municipal Watershed Project.

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

Sincerely,

/s/ James T. Gladen  
JAMES T. GLADEN  
Appeal Deciding Officer,  
Deputy Regional Forester,  
Resources

Enclosure

cc:  
Larry A. Delgado, Mayor City of Santa Fe  
Forest Supervisor, Santa Fe National Forest  
District Ranger, Espanola Ranger District  
Appeals & Litigation Staff, R3  
Aviation & Fire Management Staff, R3



## **REVIEW AND FINDINGS**

Of Sam Hitt's

Wild Watershed Appeal

#02-03-00-0009-A215

regarding

The Santa Fe Municipal Watershed Project

**ISSUE 1:** This project fails to provide for the diversity of plant and animal communities in the planning area or insure the maintenance of viable wildlife populations as required by the National Forest Management Act.

**Contention:** "(R)egulations implementing NFMA specify that the agency ensure viable populations of native animals are maintained by monitoring the impacts of Forest Plans, including specific management actions, on selected management indicator species. 36 C.F.R. 219.19 (a)(6)." The appellant claims that the Responsible Official (RO) has not monitored these Management Indicator Species (MIS) populations in a manner and to the extent that is required by the National Forest Management Act (NFMA) and therefore the Santa Fe Watershed Project fails to ensure maintenance of viable wildlife populations.

**Response:** In addressing this projects effects on wildlife habitats and populations the RO assembled and evaluated pertinent MIS information and data. (PR 223) This MIS information describes habitats, populations and trends of these species for both the project and Forest level. The following discussion summarizes the information, analysis and effects of this project for each MIS.

**Mexican Spotted Owl.** (PR 223 #1 pp 10-12, 222 #2 pg 9, PR 188 & 217 pg 99)

At the Forest level this species is ranked as rare (10 to 100 breeding pairs) with 40 Protected Activity Centers (PACs) on the Forest. These PACs are primarily on the Jemez and Pecos Ranger Districts where most Mexican spotted owls are found on the Forest. The estimated trend for the species is stable to increasing on the Forest.

No restricted or protected habitat for the species exists within the project area and no owls are located closer than five miles. The proposed action is in compliance with the Biological Opinion covering this action and thus will not jeopardize the continued existence of the species.

**Mourning Dove.** (PR 223 #1 pp 16-17, 223 #2 pg 8, PR 188 & 217 pp 91-98)

At the Forest level this species is ranked as common (1,000 to 10,000 breeding pairs). The species may occur in many habitats but they are more commonly found on the Forest from lower elevation grasslands up into open Ponderosa pine forest.

Although mourning dove occupy a variety of habitats across the Santa Fe National Forest, the density of the forested stands and the lack of openings in the project area limits the use of these stands by mourning dove. The proposed action should improve habitat for this species in the project area. Implementation of this project is not likely to measurably influence the status or trend of this species.

**Rocky Mountain Bighorn Sheep.** (PR 223 #1 pp 8-9, 223 #2 pg 11, PR 188 & 217 pp 91-98)

Suitable habitat for the bighorn sheep occurs only in the upper elevations of the Pecos Wilderness. It does not occur within the project area. Thus, the proposed action will have no effect on this species or its habitat.

**Rio Grande Cutthroat Trout.** (PR 223 #1 pp 17-26, 223 #2 pg 13, PR 188 & 217 pp 76-79, 102-105)

In northern New Mexico, populations of Rio Grande cutthroat trout are only found in the Jemez and Sangre de Cristo mountains, with over 151 miles of occupied stream occurring on the Forest and an estimated population of over 170,000 individuals present.

Although the Santa Fe River contains about 14 miles of potential habitat upstream from Nichols Reservoir that has the habitat conditions necessary for a cutthroat trout population to exist, the presence of the rainbow trout in this section of stream preclude a cutthroat trout population from becoming established due to hybridization between them.

The proposed action will have no effect on cutthroat trout populations because there are no cutthroat trout present in or below the project area. Suitability of the habitat within the project area will be maintained.

**Rocky Mountain Elk.** (PR 223 #1 pp 8-9, 223 #2 pp 12, PR 188 & 217 pp 91-98)

The current elk population on the Santa Fe National Forest is identified as being between 6,000 and 10,000 animals with a stable to increasing population trend. Habitat within the project area is suitable for elk use. Because of the density of the tree strands, this habitat is of poor quality and will not support a large number of elk.

The proposed action will improve elk habitat by reducing the tree density to allow an increase in herbaceous vegetation, which will improve forage availability. Implementation of this project is not likely to measurably influence the status or trend of this species.

**Merriam's Wild Turkey.** (PR 223 #1 pp 2-3, 223 #2 pg 2, PR 188 & 217 pp 91-98)

The turkey is common (1,000 to 10,000 breeding pairs) on the Santa Fe National Forest. The population trend for this species is stable to slightly increasing.

The forested stands within the project area provide low quality suitable habitat because the stand density precludes the growth of herbaceous vegetation. The proposed action will reduce the stand density in the project area and thus improve the understory vegetation providing a better food source for these birds. A reduced stand density will also speed up the growth rate of the trees in the project area, which should allow the structure of turkey roosts to develop. Implementation of this project is not likely to measurably influence the status or trend of this species.

**Hairy Woodpecker.** (PR 223 #1 pp 4-5, 223 #2 pg 6, PR 188 & 217 pp 91-98)

The hairy woodpecker is considered abundant (10,000 to 100,000 breeding pairs) on the Santa Fe National Forest with over 700,000 acres of suitable forested habitat.

The entire project area provides suitable habitat for this species. Although there is an abundance of snags in the project area, these snags are generally smaller in size than the snags preferred by this species.

The proposed action will improve the habitat for this species over time in the project area by reducing the stand density, which will increase the growth rate of the trees, eventually providing larger average size snags. Implementation of this project is not likely to measurably influence the status or trend of this species.

**Pinyon Jay.** (PR 223 #1 pp 14-15, 223 #2 pp 4-5, PR 188 & 217 pp 91-98)

The pinyon jay is considered a common bird (1,000 to 10,000 breeding pairs) on the Santa Fe National Forest with a stable to slightly decreasing trend Statewide. There are over 450,000 acres of suitable pinyon-juniper habitat on the Forest for this species.

Although a common bird on the Forest, it is considered uncommon (10 to 100 breeding pairs) in the project area, primarily because of the limited amount of suitable habitat present. The proposed action does not treat any pinyon-juniper habitat, thus the proposed action should have no effect on the pinyon jay in the project area. Implementation of this project is not likely to measurably influence the status or trend of this species.

**Finding:** The MIS analysis and information support the conclusions in the FEIS that the Santa Fe Watershed Project will not result in any negative consequences for the affected MIS species. (PR 217 pg 78, 98; PR 223) In fact four of the six species with habitat in the project area would be beneficially affected by improvements in habitat conditions after treatments are implemented. The remaining two species would not be affected (PR 223). Because the effects of the project on MIS are beneficial or neutral, the MIS habitat and population information analyzed at the project

and Forest level is sufficient to support the conclusion that viable wildlife populations will be maintained.

**ISSUE 2:** The U.S. Forest Service must reinitiate formal consultation because the assumptions used in finding that the proposed actions would not jeopardize the Mexican spotted owl are no longer valid.

**Contention 2a:** “Specifically, the Forest Service has failed to monitor the owl population. The 1996 Biological Opinions and Forest Plan amendments both require that the Forest Service produce: 1) baseline imagery to monitor macrohabitat; 2) annual microhabitat monitoring reports; and 3) design and implement an owl population monitoring program. Each of these requirements was to be fulfilled by November 25, 1997. Yet four years later, the monitoring program is stalled and shows no sign of moving forward.”

**Response:** Owl monitoring is a Forest Plan or Regional Program and is thus outside the scope of this project. However, the monitoring program is not stalled. The Region and the Mexican Spotted Owl Recovery Team have jointly developed protocols for all three phases of monitoring. Accomplishments to date include an analysis of change in the quantity of owl habitat at the macro scale, which was completed in 1998. Microhabitat monitoring reports are provided to the U.S. Fish and Wildlife Service annually. The Spotted Owl Recovery Team is currently refining the population monitoring strategy.

**Contention 2b:** “There is no evidence to indicate that this project is consistent with the April 10 Biological Opinion’s Area-Wide Mandatory Minimization Measures or those specific Mandatory Minimization Measures which apply to the Mexican spotted owl.” “Instead the Forest Service has changed the name of the mixed conifer forests in the project area to ‘ponderosa pine/Douglas fir cover type’ for the express purpose of avoiding the owl Mandatory Minimization Measures (Cassidy 2000).”

**Response:** Cover types in the Santa Fe watershed were re-typed to be consistent with the definitions of owl habitat, provided in the Mexican Spotted Owl Recovery Plan and incorporated into the Santa Fe Forest Plan in 1996. It was appropriate for the Forest to re-type this habitat component to meet the Forest Plan Standards and Guidelines.

**Finding:** The Santa Fe National Forest does not need to reconsult with the U.S. Fish and Wildlife Service because the assumptions used in finding that the proposed actions would not jeopardize the Mexican spotted owl are still valid.

**ISSUE 3:** This Decision is inconsistent with the Santa Fe National Forest Plan’s prohibition against logging on steep slopes.

**Contention:** The appellant asserts that logging is prohibited on slopes over 40 percent.

**Response:** The proposed action is not a logging project. Logging includes the use of equipment to skid (drag) material to landings for transportation to another site. In this project, the proposed treatments include thinning and burning. The use of mechanical equipment is included in the

proposal for the purpose of felling and placing material. Material will either be left on site or stacked and burned. No material will be removed from the site.

The Forest-wide Standard on page 73 of the Santa Fe Land and Resource Management Plan is specific to logging and states:

“Limit ground lead logging equipment in most areas to slopes less than 40 percent. Skyline logging systems generally will be used for slopes over 40 percent or areas with sensitive resource needs. These skyline systems will only be used on selected demonstration areas in the next 10 years.”

Ground lead logging usually involves the use of equipment to drag logs to a landing. Ground lead systems will not be used for this project, since the purpose of the project is to thin and burn. In fact, the Responsible Official has stated in the Record of Decision (PR#217, pg. 3) that in the first year, “one portion of the project area will be thinned and slash piled manually by crews with chain saws, and another portion of the project area will be thinned with feller-buncher machines that cut the trees and then lay them on the ground. The relative safety, effectiveness and environmental effects of these two thinning methods will be monitored and evaluated prior to determining whether or not to continue using one or both.” The Responsible Official and staff are concerned about the effects of mechanized equipment and are proceeding with caution.

The Draft Environmental Impact Statement (DEIS) did state that thinning could occur on slopes up to 65 percent. The errata sheet for the Final Environmental Impact Statement (FEIS) (PR #217, pg. 9) updates the estimated maximum slope for machine thinning based on additional field reconnaissance and research to: “45 – 50 percent slope.”

The Forest Plan Standard on page 73 includes a statement that “these *skyline systems* will only be used on demonstration areas in the next 10 years.” That statement is specific to the use of skyline cable logging systems and is not pertinent to the proposed treatments in the Santa Fe Municipal Watershed.

**Finding:** The decision is consistent with the direction in the Santa Fe National Forest Land and Resource Management Plan. The FEIS (PR #217) clearly describes the project area and the management area prescriptions that apply to the area. The purpose and need for the project is to thin and burn in order to reduce fuel loads in the area. These activities are consistent with Forest Plan direction.

**ISSUE 4:** This Decision is inconsistent with the 1996 Amendments to the Santa Fe National Forest Plan addressing management of Old Growth forests.

**Contention:** The appellant asserts that the Responsible Official failed to allocate at least 20 percent of the watershed to management for existing and future old growth forest and that the allocation must be made before the Santa Fe Watershed Project can be implemented.

**Response:** The 1996 amendment that is referenced requires that: “until the plan is revised, allocate no less than 20 percent of each forested *ecosystem management area* to old growth.”

The standard for old growth is applicable at a landscape or ecological unit level rather than at the project level.

This specific concern was raised in a comment letter for the DEIS. The response to Comment 8 in Appendix C (PR #217, pg. 7) explains the Forest's interpretation of the standard.

“The DEIS analyzed changes in structural stage and canopy cover (DEIS pgs. 87 – 105). The Forest Plan requirement for old growth allocation is not applicable to project areas, but is appropriately applied on an ecosystem management area basis. The forest is currently defining probable old growth management areas as part of a watershed assessment process, while maintaining existing mature and old growth forest. There is no existing old growth forest within the project area, and the EIS describes how the treatments would enhance the development of mature/old growth forest. Treatments would not in any way reduce the ability of these forest stands to become old growth. All the large, mature trees on the landscape would be maintained, and their growth enhanced...Forest structure would shift from that resembling a young forest to that of a more mature forest...”(DEIS, pg. 104)

In Chapter 1 of the FEIS (PR #188, pg. 1), the watershed is described to include “the upper 17,384 acre portion of the entire 174,000 acre Santa Fe Watershed. The project proposal includes approximately 42% of the 17,384-acre watershed. Another 40% of the watershed is in the Pecos Wilderness.” The Old Growth Standard referenced would apply at a scale beyond the scope of this project. An allocation to old growth is not required as part of the project decision.

**Finding:** The decision is consistent with the 1996 amendment to the Santa Fe National Forest Land and Resource Management Plan. The FEIS (PR #188) clearly describes the project area and its relationship to the entire watershed. Environmental analysis concludes that the proposed treatments would do nothing to preclude the ability of these stands to become old growth.