



Bark

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November 12, 2005

Rudy Hefter
Bureau of Land Management
Salem District Office
1717 Fabry Road S.E
Salem, OR 97306

RE: Protest and Appeal of Final Decision Documentation and Decision Rationale for the Butte Creek Timber Sale, November 2005

Dear Rudy Hefter,

Pursuant to 43 CFR 5003, please consider the following protest and appeal of the Final Decision Documentation and Decision Rationale for the Butte Creek Timber Sale, signed by Rudy Hefter on November 2, 2005.

Decision Title: Final Decision Documentation and Decision Rationale Butte Creek Timber Sale.

Project Description: Commercially thin 519 acres within the General Forest Management Area portion of the Matrix Land Use Allocation (GFMA LUA), including 13 acres within the Riparian Reserve Land Use Allocation.

Project Location: The Butte Creek timber sale is located in the Molalla River Watershed in Township 6 South, Range 2 East, Sections 19, 25, 27, 29 and 35 and Township 7 South, Range 2 East, Section 1 and 25 Willamette Meridian, Clackamas County, Oregon.

Date of Decision: November 2, 2005

Name of Deciding Officer: Rudy Hefter, Field Manager, Cascades Resource Area, Salem BLM.

Appellant's Interest

Bark has a specific interest in this sale, and that interest will be adversely affected by this timber sale. We have previously expressed our interest in this specific sale, and have standing to appeal this decision according to 36 CFR § 215.11 (a)(2). Bark is a non-

profit organization based in Portland, Oregon and has worked to protect the Mt. Hood National Forest since 1999. Many of more than Bark's 5,000 members live in the communities surrounding the Cascade Resource Area and use the area extensively for recreation, viewing wildlife and wildflowers, hunting, fishing, overall aesthetic enjoyment, and other purposes. Specifically, members and/or staff of Bark have used the Butte Project area for recreational, aesthetic, and scientific pursuits. The value of the activities engaged in by Bark members and staff will be irreparably damaged by this project. We have a long-standing interest in the sound management of this area, and the right to request agency compliance with applicable environmental laws.

Request for Relief:

1. Withdraw the Decision Notice and issue a new decision that excludes Units 2, 9, 10 and 11.
- 2) Modify the sale to meet the objections presented in Appellants' Statement of Reasons and consistent with the National Environmental Policy Act, National Forest Management Act, these statutes' implementing regulations, and the Northwest Forest Plan

Request for Stay: Bark formally requests a stay of implementation of portions of this project in units 2, 9, 10, and 11. This includes sale preparation, layout, road planning, logging, road construction, or any site preparation of sale units 2,9,10 and 11 as well as any advertising, offering for bids, or auctioning of the project that includes these units.

This stay is essential to prevent unnecessary expenditure of taxpayers' money, an irretrievable commitment of agency resources, and irreversible environmental damage. Without a stay, the federal government may waste taxpayer money preparing a sale that may later be cancelled. Because we might pursue a legal challenge to this sale with or without this stay, offering this timber sale may unnecessarily expose the government to liability and the purchaser to financial losses.

Statement of Reasons:

Bark feels that Units 2, 9, 10, and 11 offer features that are not present in the other units included in this proposal. We feel that because of the remnant old growth trees in the area, and the higher number of large snags within these units that these areas should not be included in this project. This seems especially relevant in light of the land surrounding these units. For example, Unit 2 has fields on the west and east side and to the south the land was recently logged. Unit 9, 10, and 11 are all surrounded by tree farms that have recently been logged. We are also very concerned about the undetermined placement of roads in unit 2.

Purpose and Need Is Not Justified

The third listing under Purpose of and Need for Action is, "A healthy forest ecosystem can be maintained with habitat to support plant and animal populations and protect riparian areas and water resources." (EA page 5). The very premise of logging is that the forests targeted are in fact unhealthy. On page 30 of the EA it notes that by thinning these

stands it “encourages the development of larger diameter trees and creates more diversity within stands.” (EA p. 30). Yet nowhere in the analysis does The BLM provide any scientific basis for this assumption. While the BLM experts’ opinions are entitled to deference, the agency may only rely on expert opinion where the agency discloses the underlying data that serves as the basis for that opinion. Idaho Sporting Congress v. Thomas, 137 F.3d at 1150; 40 C.F.R. § 1502.24 (the agency “shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions” in the EA).

The Pacific Northwest Science Update “Restoring Complexity: 2nd Growth Forests & Habitat Diversity” states that “crowded trees are tall but skinny; little vegetation grows on the forest floor.” Units 2, 9, 10, and 11 have a rich diversity of life on the forest floor as well as other characteristics of a mature forest including course woody debris, large snags, and a mid-level canopy. There was much Oregon grape, vine maple (some 15 feet in height), and even *Calypso bulbosa* and *Hypopitys monotropa*, which are generally only found in old growth forests. In units 2, 9, 10, and 11 this forest does not fit into the description of an impaired plantation stand that might benefit from human intervention.

Retention of large old trees.

In the table on page 12 of the EA, the age of the oldest stand is listed as 90 years (stand G). Yet only remnant old growth trees older than 200 years will have designed retention (EA page 8). While in some cases it is entirely appropriate to cut some co-dominant trees to reduce stocking, all of the largest and best trees that are older than the dominant trees that came in after logging or fires should be retained and protected from cribbing and other damage associated with falling and yarding. It may be possible that all remnant trees are over 200 years old in units 2, 9, 10, and 11, and because of this these units should be excluded.

On page 16 of the Final Decision Documentation it is stated that, “The project is designed to leave the largest and best trees.” Yet in the southern Portion of Unit 2 there are two Doug Firs with a DBH over 4 feet that were not adorned with orange paint. One of these was only a few feet away from another remnant tree with a slightly smaller DBH. Removing this tree will not only deprive the site of this legacy feature but may potentially damage its neighbors, which are equally vital to the area. Again as the EA states, “trees would be left to protect large existing snags, and remnant old growth” (EA 8). The easiest way to accomplish this would be by not entering these stands.

We strongly feel that because of the old growth features in these units they should be excluded. On page C-42 of the Northwest Forest Plan ROD Standards and Guidelines, note that retained trees in the matrix “should include the largest, oldest live trees.” As the markings in this unit suggest that this is not being achieved, we feel that it would be in the best interest to exclude these units to preserve these legacy features.

Mychorrhiza and soil conditions

In Unit 2 there are *Hypopitys monotropa*, growing in the forest understory. Recent studies have shown that this plant is no longer to be considered a saprophyte but that

instead is parasitic. Studies now show that this plant instead taps into the mycorrhizal relationship between tree and fungus. The reason we cite this is because the presence of this plant in the unit indicates that this area has developed a mycorrhizal relationship between trees and fungi to such an extent that it can now support *Hypopitys monotropa*. We have never found this indicator species in logged areas and it is generally abundant in old growth stands. One can only surmise from this distribution that compaction from logging is disrupting the mycorrhizal relationship. Within this planning unit, the presence of these parasitic plants suggests that this area of the forest is in a healthy subsurface condition. Scientific evidence suggests those mycorrhizae and other soil organisms and processes are extremely important and are easily destroyed by logging. The EA did not recognize the importance of mycorrhizal fungi on forest growth and productivity, and failed to discuss within the EA how mycorrhizae will be impacted by the proposed timber project. In fact, this resource's important function in forest ecology was completely overlooked in the EA. The EA failed to address how past logging has affected mycorrhizae in areas within the analysis area that have been logged.

Snag retention.

One of the main reasons why thinning natural stands is so problematic is that any *prospective* benefits to complexity and diversity accomplished by thinning these stands will be negated by the *certain* loss of snags--the most important structural components of older, complex stands. BLM states on page 10 that "landing and skyline corridor locations would be designed to avoid destruction of any snags larger than 20" diameter at breast height (DBH) or remnant old growth found in the project area." Yet on page 12, we discover that the vast majority of the project will be yarded with ground-based systems (501 acres) and only a small portion will be skylined (22 acres). And on page 8 it states that, "new skid trails would be spaced approximately 150 feet apart." Therefore, this safeguard provides very little protection for snags. In addition, many valuable snags that have a large diameter are less than 15 feet tall. These snags are usually the easiest to save (because they are short and therefore are less of a hazard.)

While the BLM has described the measures used to minimize impacts to soils (running on top of slash on designated skid trails) no measures are discussed to protect snags. Given that the yarding corridors are 75' apart, it is very likely that this network of skid trails will impact snags greater than 19 inch snags over 15 feet tall in units 2, 9, 10, and 11.

The EA states that there are very few snags in the project area. "Some residual snags (20" DBH +) are present, but are widely scattered and in advanced decay classes. The stands are generally snag deficient (EA pg 19)." "There are snags and scattered remnant old-growth trees with bark attached that may provide suitable habitat for bats; however, this resource is very scarce in these mid-seral stands (EA pg 24)." These statements point out very clearly that there is a paucity of snags. BLM has an obligation to promote viable populations of snag dependent species. All large old snags regardless of decay class must be retained.

On the chart on page 24 of the EA it notes that there are 17 snags greater than 19 inches DBH in unit B (unit 2) and 15 snags greater than 19 inches DBH in units K and L (units 9, 10, and 11). The remainders of the units have only 2 or 4 snags of similar size. This

shows that while the rest of the planning area may be snag deficient as the EA suggests these three units are an exception. This becomes especially relevant; as the surrounding lands are farms, clearcuts, and dog-hair stands that offer no habitat. As is stated in the Salem District Resource Management Plan in objectives for General Forest Management any timber sale should “provide habitat for a variety of organisms associated with both late-successional and younger forests.” As the surrounding acreage offers plenty of the latter, these units are especially important for providing attributes of the former.

While the “project design features reduce the risk to CWD habitat in EA pg. 7”, BLM states in the EA that “existing snags and CWD habitat may be degraded” (page 25). This section of the EA suggests that the project design features that reduce the risk to CWD are outlined on page 7 of the EA. There is no mention of mitigation measures to protect legacy features on page 7 of the EA (BLM refers to this page for snag retention mitigation a second time in the EA). The words “snag”, “CWD”, “legacy” or any other words that describe large dead material standing or laying down in the forest do not even appear on page 7 of the EA, much less measures that are designed to protect them. BLM made the identical mistake in the B cubed project and the BLM continues to refer to language that simply does not exist in the EA. Given that snag retention is always a concern to Bark and concerns about snags led to many problems in implementing Clear Dodger, BLM should withdraw these units.

The measures that are actually mentioned in the EA are essentially management by caveat techniques that call for the retention under the “greatest extent possible under standard contractual logging procedures, BMP, and OSHA requirements. If a snag is determined to be a safety hazard, after inspection by the contract administrative officer, and it is determined that it needs to be felled, the snag would remain on site for coarse woody debris.” (EA pg 11). This essentially allows snags to be felled if they interfere with logging operations. In order to protect snags, BLM must make adjustments to yarding and falling operations to simultaneously protect workers and snags.

Protecting snags except where safety is an issue should no longer be used as a blanket loophole to cut existing snags. It must be noted that OSHA revised the federal Logging Standard (29 CFR 1910.266) in order to clarify its intent that danger trees and snags may be avoided, rather than being felled. The revised rule allows some discretion in determining the hazard area around a danger tree, by allowing work to commence within two tree lengths of a marked danger tree, provided that the employer demonstrates that a shorter distance will not create a hazard for an employee (OSHA Logging Preamble, Section V).

Legacy features of native forests are structurally the most important for habitat and the most difficult to replace if they are lost. The BLM is obligated to use the best available science to protect public resources. The Northwest Forest Plan ROD is clear that “a renewable supply of large down logs is critical for maintaining populations of fungi, arthropods, bryophytes and various other organisms... Models for computing expected numbers and sizes of logs should be developed for groups of plant associations and stand types which can be used as a baseline for managers to develop prescriptions for landscape management.” (C-40)

BLM should use the DecAID decision support tool and consider all the many values of snags and down wood presented in Rose, C.L., Marcot, B.G., Mellen, T.K., Ohmann, J.L., Waddell, K.L., Lindely, D.L., and B. Schrieber. 2001. Decaying Wood in Pacific Northwest Forests: Concepts and Tools for Habitat Management, Chapter 24 in *Wildlife-Habitat Relationships in Oregon and Washington* (Johnson, D. H. and T. A. O'Neil. OSU Press. 2001)

Other important research that BLM must use to develop projects is PNW Research Station, "Dead and Dying Trees: Essential for Life in the Forest," Science Findings, Nov. 1999 (<http://www.fs.fed.us/pnw/sciencef/scifi20.pdf>) ("Management implications: Current direction for providing wildlife habitat on public forest lands does not reflect findings from research since 1979; more snags and dead wood structures are required for foraging, dining, nesting, and roosting than previously thought.") See also: Jennifer M. Weaken and John P. Hayes, HABITAT USE BY SNAG-ASSOCIATED SPECIES: A BIBLIOGRAPHY FOR SPECIES OCCURRING IN OREGON AND WASHINGTON, Research Contribution 33 April 2001, <http://www.fsl.orst.edu/cfer/snags/bibliography.pdf> and check out *Science Findings* Issue 57 (October 2003) Coming home to roost: the pileated woodpecker as ecosystem engineer, by Keith Aubrey, and Catherine Riley <http://www.fs.fed.us/pnw/sciencef/scifi57.pdf>. Determining pileated woodpeckers population potential based on nesting sites alone will not provide adequate habitat for viable populations of this species, or secondarily, the habitat they provide to other cavity nesters.

<http://www.nwhi.org/nhi/whrow/chapter24cwb.pdf> See Rose, et al., Decaying Wood in Pacific Northwest Forests: Concepts and Tools for Habitat Management, Chapter 24 in *Wildlife-Habitat Relationships in Oregon and Washington*

Roads.

This project would construct 1 mile of new road spurs. 0.5 miles of new road would be constructed to access units 3, 9, 10, and 13. An additional 0.5-mile of temporary new road construction *could* be constructed in units 2 and 14. While we are pleased to learn that the roadwork into Unit 2 has been moved to avoid old growth remnant trees and large snags, we are concerned about the solution. The Decision Rationale notes, "new road construction could be built by the purchaser if necessary to facilitate ground-based logging." It is unacceptable to place the discretion of the purchaser if and where these roads would be placed. We urge the BLM to drop this unit since the environmental effects cannot be determined based on such vagueness.

Nothing is worse for sensitive wildlife than a road. Over the last few decades, studies in a variety of terrestrial and aquatic ecosystems have demonstrated that roads aggravate many of the most pervasive threats to biological diversity -habitat destruction and fragmentation, edge effects, exotic species invasions, pollution, and overhunting -. Roads have been implicated as mortality sinks for animals ranging from snakes to wolves; as displacement factors affecting animal distribution and movement patterns; as population fragmenting factors; as sources of sediments that clog streams and destroy fisheries; as sources of deleterious edge effects; and as access corridors that encourage development,

logging and poaching of rare plants and animals. Road building in National Forests and other public lands threatens the existence of de facto wilderness and the species that depend on wilderness.

Noss, Reed; The Ecological Effects of Roads;

<http://www.wildrockies.org/WildCPR/reports/ECO-EFFECTS-ROADS.html>

See also NRDC Report: “End of the Road: The Adverse Ecological Impacts of Roads and Logging: A Compilation of Independently Reviewed Research” (1999) which discusses the fact that roads:

1. Harm Wildlife
2. Spread Tree Diseases and Bark Beetles
3. Promote Insect Infestations
4. Cause Invasion by Harmful Non-native Plant and Animal Species
5. Damage Soil Resources and Tree Growth
6. Adversely Impact Aquatic Ecosystems

While wildlife harassment is abated by ripping the temporary roads and blocking the permanent ones, these roads still degrade soil, increase the risk of sedimentation, and provide vectors for invasive weeds to spread. The BLM states that the road construction, temporary and permanent “would displace topsoil and severely compact subsoil on less than 3.4 acres of forested land, converting it to non-forested land” (EA pg. 22). This will cause long-term reduction in soil productivity. The BLM provides no evidence to support your assertion that erosive effects would be “non-measurable”. The EA lacks analysis and quantified data of effects on soil and water from past and foreseeable timber harvest elsewhere in the watershed. The failure to include this information violates NEPA because the BLM has failed to disclose and adequately analyze the cumulative effects of new system roads given the current ecological and funding landscapes.

Impacts of Noxious Weeds Not Adequately Addressed

The BLM admits that roading and yarding “may lead to an increase in the invasive/non-native plant populations in project area... All known invasive/non-native species from the project area are priority III noxious weeds and are well established and widespread throughout the Cascade Resource Area... Eradication of Priority III noxious weed species is not practical using any proposed treatment methods due to their widespread infestations... Adverse effects from invasive/non-native are not anticipated” (EA pg. 28). Essentially, the BLM admits that this project will likely facilitate the spread of invasive weeds, but says that all is well because they are everywhere already and cannot be controlled.

Control of invasive weeds tops many of the most prestigious scientists lists of concerns for the future, including Jerry Franklin. BLM is currently developing an integrated strategy to control invasive weed populations. The best way to control the spread of invasive weeds is to avoid disturbing ground in the first place. According to independent scientists, the spread of both native and exotic pests and pathogens in many forest systems can be linked to the ready travel corridors provided by extensive road networks.

Conclusion

In conclusion, Bark is very concerned about this project. We would not object to this project if units 2, 9, 10, and 11 were excluded from this proposal on account of the high incidence of legacy trees and large snags. As the surrounding lands are largely degraded these stands and their legacy features are extremely important to the ecological well being of the area. We also strongly disapprove of allowing logging companies to make decisions on where roads are to be placed with units.

Sincerely,

Michele McKinzie
Bark
Volunteer/Outreach Coordinator