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April 21, 2009

Mary Wagner
Regional Forester
Appeal Deciding Officer
USDA Forest Service
333 SW 1st Avenue
Portland, OR 97204

RE: Protest of Decision Notice and Finding of No Significant Impact for the Rethin Timber Sale in the Clackamas District of the Mt. Hood National Forest

Dear Ms. Wagner,

Pursuant to 43 CFR 215, please consider the following protest of the Rethin Timber Sale, signed on March 9, 2009.

Decision Title: Decision Notice and Finding of No Significant Impact for Rethin.

Project Description: The project will log 2,175 acres of 47 to 73 year old trees. Logging would occur in Riparian Reserve (487 acres), Late-Successional Reserve (86 acres) and matrix designated lands in the Clackamas District.

Project Location: T.4 S., R.5 E.; T.4 S., R.6 E.; T.5 S., R.7 E.; T.6 S., R.6 E.; T.6 S., R.7 E.; T.6 S., R.8 E.; T.7 S., R.6 E.; T.7 S., R.7 E.; Willamette Meridian. Clackamas County, Oregon.

Date of Decision: March 9, 2009

Name of Deciding Officer: Gary Larsen, Forest Supervisor, Mt. Hood National Forest

APPELLANTS' INTEREST: In accordance with Pub. L. 102-381, Title III, Sec. 322(c), Oct. 5, 1992 and 36 CFR 215.11, Bark submitted comments on, and expressed interest in, this project and is entitled to appeal. Members of Bark use and enjoy the area affected by this project for various recreational, esthetic, and scientific pursuits including but not limited to: hiking, nature study, solitude, bird watching, fishing, and hunting.

REQUEST FOR RELIEF: Bark respectfully requests that the Forest Service withdraw the decision being appealed and —

1. issue a new decision that avoids logging and road building in stands that are known to have presence of OHVs and
2. avoids logging and road building in wetlands and
3. and includes a full analysis of the economic viability of a commercial timber sale program in the Clackamas District; or
4. prepare a new EIS that fully complies with the requirements of NEPA and the CEQ regulations and addresses the specific concerns expressed in our statement of reasons below.

REQUEST FOR STAY: In accordance with 36 CFR 215.10(b) all implementation of this project must cease until 15 days after the appeal is decided.

Bark's mission is to bring about a transformation of Mt. Hood National Forest into a place where natural processes prevail, where wildlife thrives and where local communities have a social, cultural, and economic investment in its restoration and preservation. Bark believes that the Rethin Timber Sale (Rethin) will cause or lead to unnecessary and lasting damage to the Clackamas River watersheds.

Please consider the following comments with regards to our concerns:

ALLOWING INCREASED OHV ACCESS TO TEMPORARY ROADS IS NOT IN CONJUNCTION WITH A MINIMUM ROADS STANDARD

Roads that are a part of the proposed Rethin units scheduled to be closed (decommissioned?) to the public through the Travel Plan process have not been identified and included in this analysis process. While containing impacts of Off-Highway Vehicles by creating designated areas may be a solvent direction, Bark strongly encourages the Forest Service to cease logging within a mile of the OHV boundary and any road system stemming from a proposed OHV area until there is shown accomplishment in the Travel Planning process.

The cluster of units 4, 5, 6, 9, 10, 14 and 16 are in an area with significant concerns for OHV impacts. Several of the units are within the boundaries of the La Dee Flat OHV area. The lower units are near or over a hiking trail network that has OHV presence and abuse. This trail network will lead into the newly designated Roaring River Wilderness Area. The area around Huxley Lake may likely be one of the most difficult enforcement challenges for the entire OHV planning process.

Units 2 and 3 are ***adjacent and in*** the LaDee Flat OHV area. On a recent visit we noted presence of existing OHV trails, future trails flagged with pink for the La Dee Flat OHV area, as well as potential for loop trails in Units 2 and 3. We understand that the Forest Service is taking OHV damage seriously and we are hopeful to see the Clackamas Stewardship Partners put such a priority on funding for road decommissioning and effective strategies to stopping the spread of OHV damage in the

Clackamas watersheds. However, the chosen action for the Rethin Timber Sale contradicts these efforts.

We appreciate that the Forest Service acknowledged our concerns about units around Road 4611-130 in the Decision; however, the chosen action does not make any real changes to the proposal. Strong recommendations and mitigation options based on feasibility, do not add up to the restraint and enforcement that will be absolutely necessary from the agency to successfully quell OHV use where it is having destructive impacts.

We have brought up concerns about OHVs in our comments for the No Whiskey Timber Sale. In the pursuit to achieve an adaptive management model, we expect the Forest Service to be monitoring the effects that this logging has had on the proliferation of OHVs in this exact forest. We have seen OHVs tear up the past clearcuts and connect a massive system of loop trails using existing road beds from past “temporary” hauling roads. Indeed, the proof is already out there to connect the presence of logging with the ability for OHV riders to expand their impact on the forest. Understanding that there may be effective solutions to this conflict, we are not willing to simply allow the Forest Service to continue to determine that there are no significant cumulative effects without real monitoring of implemented solutions.

In addition, the Forest Service is under mandate to achieve a minimum road system. Opening up old logging roads and building new, temporary roads is not adhering to this mandate. The regulations require the agency to determine the “minimum road system needed for safe and efficient travel and for utilization, and protection of National Forest System lands.” 36 CFR § 212.5(b)(1). In addition, each forest supervisor, “must review the road system on each National Forest and Grassland and identify the roads on lands under Forest Service jurisdiction that are no longer needed to meet forest resource management objectives and that, therefore, should be decommissioned or considered for other uses, such as for trails.” 36 CFR § 212.5(b)(2).

By adding to this network, even in the short-term, the agency is going against the minimum roads standard and the Travel Management Rule (TMR). Subpart B of the Travel Management Rule dealt specifically with the need to have sound OHV management on national forest lands, reversing the “open, unless marked closed” policy and creating designated areas for OHV recreation.

To comply with the TMR, a Forest must address and implement the Rule as a unitary whole; both subparts A and B must be implemented. As an initial matter, the text and context of the regulatory scheme make clear that both subpart A (minimum road system analysis), and subpart B (motorized use designation), must comply with the applicable Forest Plans. The Forest Service must integrate transportation planning regulations “into an interdisciplinary effort that produces Regional, forest, and sites specific-project plans.” FSM 7712.03.

Therefore, when we see other planning projects allowing for roads to be left accessible in an area where the agency is specifically trying to comply, implement, and enforce a controversial change to the OHV rules, without an actual minimum road system analysis in place we have serious concerns about the Forest Service's compliance and success of implementing Part B of the TMR.

Although, we have considerable concern for any logging to occur in the La Dee area, we specifically cannot see how Unit 2 and 3 will be in compliance with the Travel Management Rule.

LOGGING ADJACENT TO WETLAND THREATENS AQUATIC CONSERVATION STRATEGY OBJECTIVES

Another point of contention with the project is the presence of wet meadows directly adjacent to the proposed units. Bark volunteers discovered meadows on both the east and west side of unit 39, and on the east side of Unit 46. Since the proposal went through the EA cycle during the fall and winter we haven't had the opportunity to see the species composition of these meadows but the presence of an enormous willow right in the middle of Unit 46 indicates that these areas are moist. Further there were no signs of weedy species present in the meadows leaving us to believe these are healthy functioning meadows. We are especially concerned since these meadows were barely mentioned in the EA, nor were any mitigating factors discussed that would protect these meadows from the effects of logging. These low elevation meadows are extremely rare in forests in the Clackamas district and should be protected.

Meadows vary greatly in location and type, and therefore not all provide the same functions. Below are some of the functions and values that meadows and wetlands in general are known to provide:

Flood Storage and Stream Flow Augmentation—Stream associated meadows store water during high flows, reducing flood peaks. Then the areas augment summer stream flows by slowly releasing stored water back into the stream system.

Food Chain Support—Because of their high productivity, meadows provide essential food chain support.

Erosion and Sediment Control—Meadows reduce flood velocities, reduces erosion, and trap

Wildlife Habitat—Meadows provide essential water, food, cover, and reproductive areas for wildlife. Many mammals and birds depend on meadows. In semi-arid areas, riparian wetlands are crucial to the survival of many wildlife species.

Recreation and Education—Wetlands provide opportunities for fishing, hunting, boating, plant identification, scientific study, and wildlife observation.

Open Space and Aesthetic Values—Meadows are pleasing and biologically diverse, and are often the last remaining natural features in highly altered areas.

Water Quality Improvement—Wetlands are very effective at removing nitrogen, phosphorous, certain chemicals, and heavy metals from water.

All of these vital functions of wetlands are compromised by this proposal. It is believed that prior to the influence of European American settlers; wet-moist meadows were probably more common in the mountains. A more diverse mix of species of grasses, forbs, and small shrubs were present as well. Some of these meadows have become dried out and/or been invaded or planted by trees, the soils in some meadows have become compacted, and the vegetation in many meadows has changed in composition and structure. Some of the less palatable and/or more grazing-resistant plant species have increased or invaded, while some of the more palatable and/or water-dependent species have decreased.

We believe the agency should avoid conducting operations along bogs, swamps, wet meadows, springs, seeps, draws, or other wet areas, and leave buffer strips to protect soil and vegetation from disturbances that damage water quality and quantity, aquatic habitat, and wildlife. Opening up the stands adjacent to meadows can change the vegetation composition and structure, and can lead to the drying of meadows. Roads can also dam up the water system, culverts and skid trails allow cutting and gullyng, further draining the system, and the meadows can become dry.

And as meadows are open habitats, encroachment of invasive species that logging creates can create permanent changes in plant communities. And as the EA states on page 94 “Increased traffic on Forest Service roads due to logging operations would likely spread weeds. Roads are conduits for the spread of weeds and vehicles are weed-spreading vectors. Construction of landings, and skid roads would provide opportunities and growing space for weeds to colonize. Openings in forest stands with disturbed ground resulting from thinning operations would provide opportunities and growing space for weeds.” By increasing the quantity of invasive plants directly adjacent to meadows as the above suggests, there are greater opportunities for invasives to take over these meadows and permanently alter their composition. This may eventually lead to increases in tree establishment in meadows. And as one of the reasons cited for the project was the need to create “skips and gaps” it seems like it would be better to keep the natural “gaps” that are already functioning for deer and elk instead of creating openings that will later become stands of trees.

Under the Northwest Forest Plan, the Aquatic Conservation Strategy Objective 8 states: “Maintain and restore the species composition and structural diversity of plant communities in riparian areas and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of coarse woody debris sufficient to sustain physical complexity and stability.” (NWFP, B-11) Bark does not believe that the agency has adequately shown how this action will help to attain this objective.

INADEQUATE ECONOMIC ANALYSIS FAILS TO SATISFY NEPA STANDARD

There are several issues with the inadequate economic analysis presented by the Rethin EA which fail to satisfy NEPA’s “hard look” standard. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 353 (1989); *Blue Mountains Biodiversity Project*

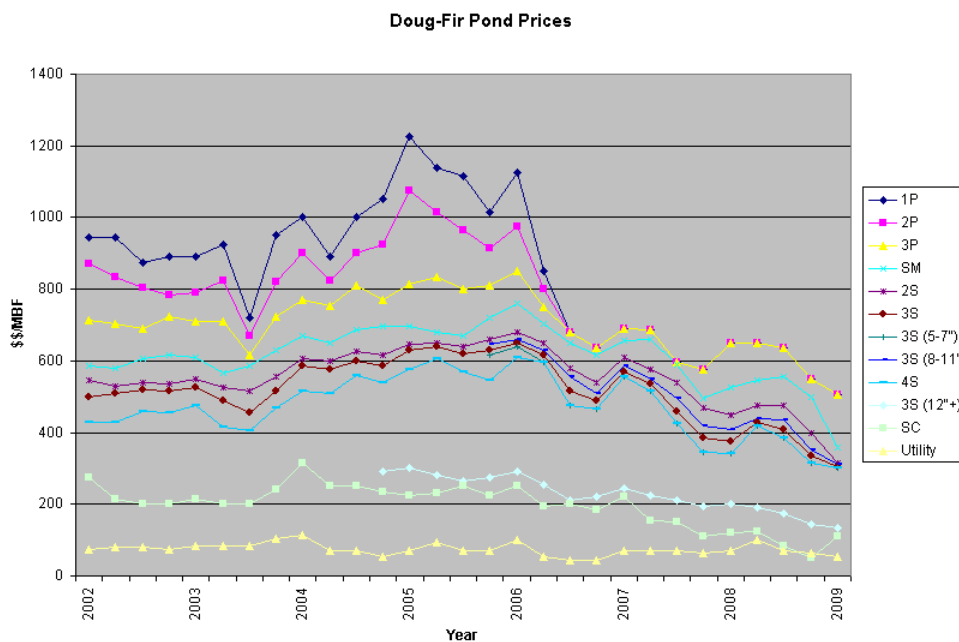
v. Blackwood, 161 F.3d 1208 (9th Cir. 1998) *cert. denied*, *Ochoco Lumber Co. v. Blue Mountains Biodiversity Project*, 119 S.Ct. 2337 (1999).

Absent Cost/Benefit Analysis

Over 3+ years, from 2004 (Cloak) to 2008/9 (2007 Thin), there was at least a cursory attempt at providing a look at the economics of the sale via their “Economic Viability – Cost/Benefit” analyses. Starting with the Upper Clackamas Thin and continuing with Rethin, there is no attempt to provide the public with such an analysis. While the cost/benefit analyses were primarily to provide comparison costs between potential action items, their comparison between similar timber sales provides an important cumulative economic analysis. Its absence alone fails to satisfy NEPA’s “hard look” standard since there is no look whatsoever.

Cost/Benefit Analysis

In the Cloak EA it is stated that “The current value of logs delivered to the mill is relatively high at slightly greater than an average of \$300/ccf...Delivered log prices would have to drop by more than \$185/ccf for skyline harvesting and more than \$210/ccf for ground based harvesting to result in a negative PNV.” Since the 4th quarter of 2004, per ODF (http://oregon.gov/ODF/STATE_FORESTS/TIMBER_SALES/logpage.shtml), the drop in delivered log price has been exceedingly steep. Whether you are starting with the \$300/ccf of the Cloak EA or the corrected figure of \$180-195\$/ccf found in Appendix A, there is a significant question regarding the “present net value” of a sale offered at this time since the steep reduction in timber value discussed in the Cloak EA has occurred. Once again, the complete lack of an economic analysis or any kind of presentation of a present net value clearly violates the NEPA requirement for a “hard look.”



Flawed Economic Assumptions Behind Jobs Creation

The assertion within the Rethin EA that one of its goals “is to provide jobs” as outlined by the NFP fails to satisfy NEPA’s “hard look” standard for the same reason that the NFP’s economic analysis failed to in its socio-economic goals. A specific failure of both the NFP, and Rethin, is a failure to consider timber as a commodity that responds to supply and demand. To base the goal of providing jobs strictly on the supply of timber without considering demand amounts to “pushing on a string.” The Forest Service cannot create demand and while they can supply timber at attractive rates that create bidders that additional supply will mean that local and regional jobs will be lost outside of the Forest Service since the timber from those areas will no longer be needed because the demand is finite. As noted by Charnley (Conservation Biology, Volume 20, #2), “key assumptions underlying the implementation strategies were flawed...” and in order for the economic management goals found in the NFP to succeed they needed to be “based on accurate assumptions about the relations between the resources being managed and well-being in local communities.” As noted by Power (Conservation Biology, Volume 20, #2) “because this economic strategy ignores basic market adjustments, it is likely to fail...” and that the economic links between forests and communities are much more complex than the simple-minded board foot/job equation presented in the Rethin economic analysis. It just isn’t enough of a “hard look” to assert rote assumptions found in the NFP as truth at this point in time.

There has been enough analysis to show that the link asserted by the Rethin EA “the annual incremental contribution of each million board feet of timber is approximately 8.3 jobs” is no longer credible:

- ★ *Departure from a market responsive timber policy can have positive impacts on the wood products sector, but the net effects on the local community are very small. The costs to the public treasury of pursuing such a policy dwarf these small community benefits* (“Distributive effects of forest service attempts to maintain community stability,” Daniels, Hyde, Wear, Forest Science, v. 47, 245-260)
- ★ *These findings raise questions about the validity of using national forest harvest policy to effect employment and community stability objectives* (“Statistical causation: national forest policy in Oregon,” Burton and Berck, Forest Science 42: 86-92)
- ★ *Linkages between sector specific policy and sector employment are explored...Application of this technique to Oregon’s forestry sector and national forest policy demonstrates that macroeconomic forces have statistically important effects while national forest policy, measured as timber sold or timber cut, does not.* (“An Astructural Analysis of National Forest Policy and Employment,” Diana Burton, American Journal of Agricultural Economics, 79, 964-974)
- ★ *Employment base-multiplier effects of timber employment on other county employment are small and state economic conditions rather than local employment conditions are the principal driver behind local poverty* (“Poverty and Employment in Forest-Dependent Counties,” Berck, Costello, Fortmann, Hoffman, Forest Science, v49, 763-777)

While there is a relationship between timber and jobs, it is complex and the failures of the socio/economic goals found in the NFP (as outlined in pages 4-297) are no longer an acceptable substitute for a “hard look.” Automation has been depressing the number of jobs per board foot for decades. “The impact of this automation on employment can be seen in the Pacific Northwest where wood product output was higher in 1988 than it was in 1978, but the jobs associated with that output had fallen by 35,000, or 20%” (Power citing Charnley -- Conservation Biology, Volume 20, #2). Over a decade has passed since the NFP FEIS was published and to continue to cite any number of jobs per board foot from that source is not only no longer a credible “hard look” but comes very close to falling into the territory of “arbitrary and capricious.”

The economic analysis of the Rethin EA fails to offer an adequate look at the issues required for it to examine. It fails to adequately discuss either the economic or social ramifications of the timber sale in a manner that is adequate for public examination. If decisions are going to be made on the basis of costs or revenues or "jobs", then significantly more in-depth information would be needed have been made available.

CONCLUSION

We appreciate the opportunity to continue to bring these issues to your attention. We request that the following actions take place before allowing any action under the Rethin Timber Sale project.

1. Provide a monitoring plan for understanding the efficacy of OHV deterrence projects after the No Whisky Timber Sale;
2. Drop all of Units #2 and #3;
3. Include an area closure on all road access to Units 4, 5, 6, 9, 10, 14 and 16 during active logging and provide other measures to ensure that these units will not become conduits into the Roaring River Wilderness Area;
4. Drop all of Units #46 and #39 until a more complete analysis of impacts to adjacent wetlands is completed;
5. Include an economic analysis that adjusts to recent timber trends, as well as recent timber sale projects auctioned through the Clackamas District and;
6. prepare a new EIS that fully complies with the requirements of NEPA and the CEQ regulations and addresses the specific concerns expressed in our statement of reasons below.

Thank you,

Amy Harwood
Program Director
Bark