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Gregory J. Dyson

[REDACTED]

August 6, 1997

Mr. Robert Williams
Regional Forester
Attn: 1570 Appeals
PO Box 3623
Portland, OR 97208-3623

36 CFR 215 APPEAL
Diablo Fire Climax Restoration

Dear Mr. Williams:

In accordance with 36 CFR 215, I hereby appeal the decision to implement the Diablo Fire Climax Restoration timber sale, Mt. Hood National Forest.

Title of Decision Document: Diablo Fire Climax Restoration Environmental Assessment.

Description of Project: 14.5 million board feet of timber harvest; 2948 total acres of timber harvest; timber harvest within riparian reserves.

Location: Barlow Ranger District, Mt. Hood National Forest; T 5S, R 10E, sections 13, 14, 15, 22, 23 & 24; T 5S, R 11E, sections 17-20; Wasco County.

Date Decision Signed: June 23, 1997.

Deciding Officer Name and Title: Mt. Hood Forest Supervisor Roberta A. Moltzen.

I. APPELLANT'S INTERESTS

I have a specific interest in this sale. I have previously expressed my interest in this specific sale, and I have standing to appeal this decision according to 36 CFR § 215.11 (a)(2).

My interest will be adversely affected by this timber sale. I use and enjoy the Mt. Hood National Forest, including the Fivemile area, for recreational, educational, aesthetic and other purposes. The value of those activities will be irreparably damaged

by this timber sale. I have a long-standing interest in the sound management of this area, and the right to request agency compliance with applicable environmental laws.

II. REQUEST FOR STAY

Although an automatic stay is in effect for this sale as per 36 CFR 215.10(b), I formally request a stay of action on this timber sale, including sale preparation, layout, road planning, any advertising, offering for bids, auctioning, logging, road construction, or other site preparation by a purchaser pending the final decision on this appeal.

A full stay is essential to prevent unnecessary expenditure of taxpayers' money and to prevent irreversible environmental damage. Without a stay, the federal government may waste taxpayer money preparing a sale that may later be canceled. Because I intend to pursue my 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.

III. REQUESTED RELIEF

1. That the decision to implement this timber sale be withdrawn.
2. Alternatively, that an Environmental Impact Statement (EIS) be prepared, addressing the following issues explained in detail below: impacts to Steelhead Trout; cumulative effects on Spotted Owls; Wolverines and Pine Martens; controversy with the Oregon Department of Fish & Wildlife, Wasco County Soil and Water Conservation District and the Confederated Tribes of Warm Springs over thermal cover and hydrologic recovery the effect of listing Fivemile Creek as "Water Quality Limited" by the Oregon Department of Environmental Quality the effects of the sale to the Dufur municipal watershed; and that this sale be modified to meet the objections detailed below including: no entry into Riparian Reserves; surveying and establishing appropriate buffers for survey and manage species appropriate mitigation measures for Steelhead Trout greater retention of trees necessary to meet the Visual Quality Objectives of the Dufur Mill Road Scenic Viewshed greater retention of trees necessary to meet the Mt. Hood Plan requirements for thermal cover increasing crown closure in all units so as to meet Mt. Hood Plan requirements for hydrologic recovery.

IV. STATEMENT OF REASONS

The Sale Violates The Northwest Forest Plan¹ by entering riparian reserves and contradicting the Aquatic Conservation Strategy, many of the proposed riparian buffers are more narrow than those prescribed by the Northwest Forest Plan (at C-30). While limited entry into Riparian Reserves is permitted by the Northwest Forest Plan, any such activity must further the Aquatic Conservation Strategy and be based on scientifically sound reasoning and fully justified and documented in a Watershed Analysis. The

¹ "Northwest Forest Plan" refers to the Record of Decision and Standards and Guidelines for Amendments to USFS and BLM Planning Documents Within the Range of the Northern Spotted Owl, and Standards and Guidelines for Management of Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, 1994.

Aquatic Conservation Strategy requires that all activities:

Maintain and restore in-stream flows sufficient to create and sustain riparian, aquatic, and wetland habitats and to retain patterns of sediment, nutrient, and wood routing. The timing, magnitude, duration and spatial distribution of peak, high, and low flows must be protected. (at B-11, #6) (Emphasis added).

The Fivemile EA states, at page 76, that Alternative 2 (the planned Alternative) “will adversely affect the timing, magnitude, duration, and spatial distribution of peak, high, and low flows.” This, and its related effect of increased stream sedimentation, violate the Aquatic Conservation Strategy, meaning any entry into Riparian Reserves is not permitted by the Northwest Forest Plan.

Moreover, a reduction of riparian buffers must be done in the context of a Watershed Analysis. The entry into riparian areas proposed in the Fivemile EA is not supported by the findings of a Watershed Analysis. (EA at p. 6). The reduced buffers were apparently determined by the ID team during the planning of the Fivemile sale (EA at p. 75), again violating the Aquatic Conservation Strategy and therefore the Northwest Forest Plan.

Also, the EA does not contain information on which streams in the Fivemile area are fish bearing. Without this, there is not enough information in the EA to either inform the public or provide the decision-maker with enough data to form a basis for determining whether the listed riparian buffers comply with the substantive requirements of the Northwest Forest Plan. This is arbitrary and capricious decision-making.

Thermal Cover

The Sale Violates The Mt. Hood Plan² by failing to adequately discuss the Visual Quality Objective (VQO) requirements.

A portion of the sale area falls in the Dufur Mill Road designated viewshed. (MHP at 4-110, EA at 2). The discussion in the EA of the VQO is incomplete and contradictory. The EA states, at p. 4, that the viewshed “has natural appearing forest with little evidence of human activity . . . The landscape meets the [VQO] of Partial Retention as seen from Road 44, Flag Point Lookout, and Fivemile Butte Lookout.” Later, at p. 70, the EA reads: “The overall existing scenic integrity of the Fivemile subwatershed is considered Very Low . . . Fivemile Butte Lookout has an industrial appearance.” According to the Mt. Hood Plan the requirements of this scenic viewshed are Foreground Retention, Middleground Partial Retention, and Background Partial Retention. The standards of Retention and Partial Retention have specific visual disturbance thresholds of 8% and 16%, respectively (FW-564, FW-565). Nowhere in the EA are these specifics discussed. Thus there is not sufficient information in the EA to either inform the public or provide the decision-maker with enough data to form a basis for determining whether her decision complied with the substantive requirements of the Mt. Hood Plan. This is arbitrary and capricious decision making.

² “Mt. Hood Plan” refers to the Land and Resource Management Plan, Mt. Hood National Forest, 1990

V. CONCLUSION

For these reasons I request that the decision to implement this sale be withdrawn, or, alternatively, that an EIS be prepared and the sale modified to meet the issues raised above.

Sincerely,
Gregory J. Dyson