



United States
Department of
Agriculture

Forest
Service

R3 Regional Office

333 Broadway SE
Albuquerque, NM 87102
FAX (505) 842-3800
V/TTY (505) 842-3292

File Code: 1570-1/2200

Date: May 4, 2005

Dorothy E.G. Anderson
2423 Eastern Dr.
Cottonwood, AZ 86326-5833

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 7000 2870 0000 1135 4127**

RE: Appeal #05-03-00-0005-A215, Integrated Treatment of Noxious or Invasive Weeds FEIS and ROD

Dear Ms. Anderson:

This is my review decision on the appeal filed regarding the Record of Decision (ROD), Environmental Impact Statement (EIS), on the above-referenced project, which provides for manual, mechanical, cultural, biological and herbicidal treatments on 31,047 acres with repeated visits over the next 10 years on the Coconino, Kaibab and Prescott National Forests.

BACKGROUND

Forest Supervisors Nora Rasure, Michael Williams, and Michael King made a decision and published it on February 5, 2005 for the Coconino, Kaibab and the Prescott National Forests on the Integrated Treatment of Noxious or Invasive Weeds. The Forest Supervisors are identified as Responsible Officials, whose decision is subject to administrative review under 36 CFR § 215 appeal regulations.

Pursuant to 36 CFR § 215.17, an attempt was made to seek informal resolution of the appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR § 215.18. I have 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 found that: a) the decision and actions are described in sufficient detail; b) the selected alternative should accomplish the purpose and need established; c) the decision is consistent with agency policy, direction and supporting information; and d) there was ample opportunity for public participation during the analysis and decision making process.



APPEAL DECISION

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Officials' decision on the Integrated Treatment of Noxious or Invasive Weeds Project on the Coconino, Kaibab and Prescott National Forests.

This decision constitutes the final administrative determination of the Department of Agriculture [36 CFR § 215.18(c)].

Sincerely,

/s/ Lucia M. Turner
LUCIA M. TURNER

Appeal Deciding Officer, Deputy Regional Forester

Enclosure

cc: Joy Kimmel, Sandra Nagiller, Nora Rasure, Stu Lovejoy, Charles F Ernst, John F Peterson, David M Stewart, Berwyn Brown, Gene Onken, Michelle Frank, Douglas L Parker, Constance J Smith, Arleen D Martinez, Mailroom R3, Mailroom R3 Coconino, Mailroom R3 Kaibab, Mailroom R3 Prescott

REVIEW AND FINDINGS

of

Dorothy Anderson's**Appeal #05-03-00-0005-A215****Integrated Treatment of Noxious or Invasive Weeds, Coconino, Kaibab, and Prescott NF****ISSUE 1: The Decision is not responsive to public concerns which is a violation of NEPA.**

Contention A: Allowing ADOT to spray herbicides along roadsides in the National Forest should not be allowed, since the Forest Service has no control over ADOT applications.

Response: Under selected Alternative 4, herbicide use along roadside rights-of-way corridors under national forest jurisdiction would be coordinated, publicly posted, and completed in a way to allow alternate routes to be accessible (PR#1700, p.27). The only road rights-of-way to be treated in this alternative are those outside control of the Federal Highway Administration (PR#1700 p. 134). A previous decision (EA/DN) authorized the Arizona Department of Transportation to use herbicides to control noxious weeds and hazardous vegetation along interstate, Federal, and State highways on all National Forest System lands in Arizona (PR #1700 pp. 15 footnote 2, 27). The ADOT applications to federal highways, State and county roads with herbicides are outside the scope of Alternative 4 and are not included in this Forest Service decision.

Finding: This contention is moot since ADOT application of herbicides is outside of the decision that was made.

Contention B: The synergistic effect of inert ingredients in herbicides affects human health, especially those with multiple chemical sensitivities. Appellant attached a portion of a report on glyphosate. Forest Service should accept studies which were dismissed in FEIS responses to comments starting at page 501.

Response: Inert ingredients are part of the formulation that is evaluated by EPA when registering a pesticide. All pesticides go through rigorous testing to obtain their label. The FS Human Health and Ecological Risk Assessments used in this analysis, reviews thousands of scientific articles and information sources, including proprietary information on inert ingredients to determine potential human health and ecological risks. That information is displayed clearly in those documents and incorporated by reference in the FEIS. The Herbicide Fact Sheet provided by the respondent is an article that does not include the breadth of findings included in the FS Human Health and Ecological Risk Assessments. It contains only a small portion of the available science. The Risk Assessments contain a more thorough analysis of the chemicals in question.

Persons with MCS can have reactions to most any chemical, including those produced by nature. The procedures outlined for public notification in the FEIS provides ample information so that individuals with MCS can avoid treatment areas during and post treatment. Those individuals

with MCS can then make informed decisions regarding where and when to visit, recreate or travel through the areas in question.

Finding: The FS used documentation in their analysis that incorporates a wide base of knowledge regarding the chemicals it intends to use. The Human Health and Ecological Risk Assessments cited in this analysis address not only the chemicals, but their inert ingredients. The FEIS analysis is adequate.

Contention C: Notification is needed for people in the forest when treatment is planned, for those people who live in campgrounds or in forests. There needs to be an 800 number or Forest Service hotline to keep people informed.

Response: The selected alternative, Alternative 4, addresses the concern to notify the public of proposed treatments. “Communication systems will be established to notify individuals and groups who are collecting plants or traveling through zones where herbicides are scheduled for use. Proposed treatment plans will be posted on the World Wide Web and updated regularly to show time periods during which certain areas could be treated. This information will also be available on a 1-800 phone number. Specific actions will also be included and identification of alternative routes around the treated zones, if available” (PR #1700, FEIS, p. 27).

Appendix B (PR #1700, FEIS, p. 273) includes the following mitigation measures related to public notification of treatments:

“Any proposed use of herbicides in right-of-way corridors under national forest jurisdiction will be coordinated, publicly posted, and completed in such a manner that alternate routes will remain accessible until the manufacturer’s re-entry period is met, so individuals with multiple chemical sensitivities and other people vulnerable to chemicals can still access recreational and other facilities found within the project area.

Public posting will include signs at trailheads leading to or near herbicide application sites and on the trail before encountering herbicide application sites adjacent to forest trails.

Hold a yearly meeting to discuss spraying goals and locations and alternative travel areas around sprayed zones to allow chemically sensitive people freedom to travel for the year ahead and to listen to concerns from the MCS community as the project proceeds.

An 800 number will be available with weekly updates of all herbicide applications on the Prescott, Kaibab, or Coconino National Forests.

Plan the timing of herbicide applications to coordinate with times of low public use (for example mid-week or during forest or area closures if timing is effective for weed species control).

Use dye markers with herbicides to raise awareness of the physical spray location on the weeds.”

Finding: The Forest Service properly addressed the concern to keep people informed of herbicide spraying. The selected alternative addresses public notification by activating a 1-800 number for the purpose of keeping people informed. Furthermore, notification is not limited to the 1-800 number. Additional notification methods are outlined in Appendix B of the FEIS (PR # 1700).



File Code: 1570-1/2200

Date: May 2, 2005

Route To:

Subject: ARO, Appeals #05-03-00-0004 and 0005-A215, Integrated Treatment of Noxious or Invasive Weeds FEIS and ROD, Coconino, Kaibab and Prescott National Forests

To: Regional Forester
Appeal Deciding Officer

This is my recommendation on the disposition of the two appeals filed in protest of the Integrated Treatment of Noxious or Invasive Weeds Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) concerning the manual, mechanical, cultural, biological and herbicidal treatments of noxious or invasive weeds on the Coconino, Kaibab and Prescott National Forests.

Forest Supervisors Nora Rasure, Michael Williams and Michael King signed the decision on November 8, 2004, and published it on February 5, 2005. The Forest Supervisors are herein termed as the Responsible Officials. Dorothy Anderson and Carol Grohs filed timely appeals of this decision under the 36 CFR 215 appeal regulations.

Informal Disposition

Pursuant to 36 CFR 215.17, an attempt was made to seek informal resolution of these appeals. The record reflects that informal resolution was not reached.

Review and Finding

My review was conducted in accordance with 36 CFR 215.19 to ensure that the analysis and decision are in compliance with applicable laws, regulations, policies, and orders. The appeal records, including the appellants' issues and requests for relief have been thoroughly reviewed. Having reviewed the FEIS, ROD and the project record file, as required by 36 CFR 215.19(b), I conclude the following:

- 1) The decision clearly describes the actions to be taken in sufficient detail that the reader can easily understand what will occur as a result of the decision.
- 2) The selected alternative should accomplish the purpose and need established. The purpose and need stated in the FEIS reflect consistency with direction in the Forest Plans for the Coconino, Kaibab and Prescott National Forests as amended.



- 3) The decision is consistent with policy, direction, and supporting evidence. The record contains documentation regarding resource conditions and the Responsible Official's decision documents are based on the record and reflect a reasonable conclusion.
- 4) The record reflects that the Responsible Official provided ample opportunity for public participation during the analysis and decision making process. The Responsible Official's efforts enabled interested publics the opportunity to comment and be involved in the site-specific proposal.

After considering the claims made by the appellants and reviewing the record, I found that the Responsible Officials conducted a proper and public NEPA process that resulted in a decision that is consistent with the Coconino, Kaibab and Prescott National Forest Plans. I found no violations of law, regulations, or Forest Service policy.

Recommendation

I recommend that the Responsible Officials' decision relating to these appeals be affirmed with respect to all of the appellants' contentions.

/s/ Jeanine A. Derby
JEANINE A. DERBY
Forest Supervisor

Hard copy of this letter to be attached to ADO letter sent to appellants.

cc: Constance J Smith, Mailroom R3 Coronado