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Department of
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Forest
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File Code: 1570-1/2200

Date: May 3, 2005

Carol Grohs
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**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 7000 2870 0000 1135 4134**

RE: Appeal #05-03-00-0004-A215, Integrated Treatment of Noxious or Invasive Weeds FEIS and ROD

Dear Ms. Grohs:

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

Enclosures (2)

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

Carol Groh's

Appeal #05-03-00-0004-A215

Integrated Treatment of Noxious or Invasive Weeds, Coconino, Kaibab, and Prescott NF**ISSUE 1: The Decision is based on faulty information, errors, and is not responsive to public concerns which are violations of NEPA.**

Contention A: There are discrepancies between the ROD statement and action proposed in the FEIS related to the overuse of herbicides and of 2, 4-D in particular. Alternative 4 includes herbicide treatments for 10 of the 13 species for which program objectives could be met through other means. The ROD says use of herbicides is limited. Appellant cites ROD page 5 and charts on pages 39 and 387 in FEIS.

Response: ROD page 5 states, "While this decision acknowledges the need to use herbicides to control some weed infestations, use of those herbicides is limited to those situations where alternative methods of control are not effective" (PR #1701).

The FEIS does not contradict this statement. The description for Alternative 4, notes "...if the selected integrated weed treatment method does not work, then other methods, including herbicides, could be used. For example, this alternative emphasizes either using non-herbicidal weed treatment methods first until proven ineffective, or non-herbicidal weed treatment methods in combination with herbicides to use the least amount of chemical required for an effective treatment" (PR #1700, FEIS, pp. 26-27).

Figure 1 referred to on page 39 of the FEIS displays a comparison of alternatives by weed control method with an estimate of total acres to be treated over 10 years. The figure estimates approximately 60,000 acres of herbicide use for Alternative 4. Table 2 on page 387 of the FEIS lists 23 invasive plants with herbicide active ingredients that would likely be used for treatment. A sample of the weeds that 2, 4-D is effective on is identified on page 34 of the FEIS.

It should be noted that 22 species are targeted for treatment under Alternative 4 compared to 13 species for Alternative 3, see Table 4 Summary Comparison of Alternatives (PR #1700 FEIS p.39). A number of the species can only be effectively treated through a combination of methods that often include herbicide use (PR #1700, pp. 30-36). As such, Figure 1 does not contradict the statement in the ROD that herbicide use will be limited to situations where alternative methods of control are not effective.

Finding: The FEIS and ROD do not contradict each other. The overall use of herbicides is limited and is managed to use the least amount of chemical required for effective treatment.

Contention B: 2, 4-D bio-accumulates which is partially acknowledged in FEIS pages 158, and 212. This herbicide bioaccumulates and therefore does pose a risk to upper food chain

consumers as well as browsing animals and their offspring. 2, 4-D is one of the few herbicides known to cause nervous system damage, is an endocrine disruptor and has a history of contamination with several forms of dioxin. The committee has downplayed the issue of endocrine disruption by leaving bioaccumulation out of their discussion page 21 of FEIS. Forest Service should not release any more endocrine disruptors.

Response: Endocrine disruption is covered in the FEIS (pp.211-213). Small amounts of chemicals were studied for endocrine disruption effects in scientific studies and these effects did not occur below a threshold dose. Scientific studies presented in the FEIS also demonstrate the level of toxicity of 2,4-D to various animal species depends upon the formulation used (amine salt versus ester formulation). These findings are supported by documentation in the Human Health and Ecological Risk Assessment of the chemical 2,4-D (referenced in citations at PR# 1700 FEIS p. 258). These risk assessments review and present an accepted body of scientific knowledge on a particular chemical. Human health effects from use of herbicides are described with references to the recent literature and Risk Assessments in the FEIS (PR# 1700 pp.196-211).

Finding: The use of herbicides such as 2,4-D has been previously studied and results were discussed in the analysis and decision documents.

Contention C: The overuse of 2,4-D in Alternative 4 was raised as an issue by Department of Interior (page 549, Project Record No. 1523, Comment Number 46 in FEIS). This comment was brushed aside.

Response: 40 CFR 1503.4 (a) requires that an Agency preparing a final environmental impact statement shall assess and consider comments and shall respond by one or more of the means listed below, stating its response in the final statement: (1) Modify alternatives including the proposed action. (2) Develop and evaluate alternatives not previously given serious consideration by the agency. (3) Supplement, improve or modify its analysis. (4) Make factual corrections. (5) Explain why the comments do not warrant further agency response, citing sources, authorities, or reasons which support the agency's position and, if appropriate; indicate those circumstances which would trigger agency reappraisal or further response.

The official period for submitting comments on this project ended April 19, 2004. The Department of Interior submitted comments to the Draft Environmental Impact statement for Integrated Treatment of Noxious or Invasive Weeds in a letter received May 3, 2004 (PR # 1523). In the letter, the Department expressed concern (PR #1700, FEIS, p. 584, comment #46) that 2,4-D was proposed for use far more than necessary and suggested that less toxic alternatives be used where possible.

While the Department's comments were not submitted in a timely manner, the Forest Service did respond to the various concerns raised. With respect to comment #46, the Forest Service responded to the Department, noting: "There will be opportunities to adjust which herbicides are used as implementation efforts begin. At this time, 2,4-D is very effective on many of the weeds with minimal impact on many of the other resources that are being coordinated" (PR #1700, FEIS, p. 549). This statement is supported by numerous documents in the project file, including, but not limited to, various species description papers, data on species responses to various weed treatment methods, herbicide data sheets, and impact of various treatment methods on non-targeted species (PR # 41, 166, 170, 280, 281, 283, 305, 311, 336, 848, 879B, 1108-1112, 1115,

1117, 1127, 1131, 1133, 1141, 1142, 1144, 1169, 1180-1184, 1186-1188, 1190, 1199, 1201, 1203-1223, 1225, 1226, 1230-1237, 1239-1242, 1244-1251, 1253, 1255-1257, 1259, 1262, 1264-1266, 1269, 1270-1282, 1284, 1317-1323, 1325, 1347-1384, 1386-1402, 1425, 1527, 1531).

Finding: Comments submitted by the Department of Interior were considered in the decision-making process. The effectiveness of 2,4-D on species identified for treatment is thoroughly documented in the project record.

Contention D: Roadsides should be designated as no-spray zones. Public notification will not protect our basic right to use the roads and notification will not do enough to protect the general public, including those with multiple chemical sensitivity (MCS).

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. Interstates, U.S. highways and State highways have been covered under a previous decision on treatment of vegetation along public roads in the National Forest System in Arizona (PR#1700, pp.15 footnote 2, 26-27). 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 number of noxious or invasive species commonly occur and spread along roadsides (PR #1700, pp 61-66). To effectively eradicate, contain/control, or prevent these species from spreading, infested roadsides would need to be treated. Where effective, non-herbicidal treatments would be used; however a number of these species can only be effectively treated through a combination of methods that often include herbicide use (PR #1700, pg 30-36). Public notification described in the FEIS (PR # 1700, pp. 27 and 273) will alert individuals with multiple chemical sensitivities to avoid areas and alternative routes will be designated around the treated zones.

Finding: Public notification will allow individuals with multiple chemical sensitivities to minimize their contact with treated areas.

Contention E: Allowing ADOT to spray herbicides along roadsides will contribute to the proliferation of undesirable plants. Non-target native species will be weakened, if not killed, by herbicide spraying, giving weeds an ever-increasing opportunity to take hold.

Response: The decision on roadside spraying was previously made, see response to earlier Contention D.

Weed populations have expanded on the three Forests, and it has been demonstrated that many invasive plants have the ability to eliminate all native plants within a given area over 3 to 10 years. Some of these invasive plants tend to form monocultures that will eventually eliminate all native plants. The negative effects on native plants and other resources such as soils, wildlife, and watershed condition are outlined in the FEIS (PR#1700 p. 12). An inadequate response to weeds will contribute to expansion of weed populations over the landscape (ROD PR#1701 p. 6). Integrated weed treatment methods will reduce competition with non-native species and will encourage reestablishment of native vegetation (PR #1700 FEIS pp. 28, 31).

Finding: The analysis and record support the integrated treatment of noxious weeds and invasive species to reduce their expansion over the landscape and enable native vegetation to re-establish.

Contention F: The risk assessments in the FEIS are flawed because they are based on active ingredients alone, rather than on full formulations of products to be used. A chemical that is used as an inert ingredient can be found as an active ingredient as another, therefore risk assessments based on active ingredients alone can be misleading.

Response: All chemicals proposed for use are labeled by EPA, have gone through extensive screening processes, and their inert ingredients tested. All have been found to have minimal impacts to human health and the environment. Inert ingredients are listed by EPA as such because they do not contribute to the pesticidal activity. EPA lists the inerts based on general level of toxicity. Refer to FS Human Health and Ecological Risk Assessments for various herbicides listed. These Risk Assessments for Herbicide Use for the Forest Service were developed specifically to address human health issues raised by use of herbicides (PR #1700 p.196).

Finding: Risk Assessments looked at all health factors raised by use of herbicides including long-term risks using standards of safety that are generally accepted by the scientific and health communities.

Contention G: The committee's rationale for using herbicides on 57,000 acres of National Forest land is unconvincing because it is based largely on a plea of ignorance, on page 5 of ROD. The fact that we don't know everything there is to know about the effects of herbicides on humans and wildlife is not justification for dismissing what we do know.

Response: The decision is based on a thorough review of scientific information available from a variety of sources related to the types of herbicides proposed for use, application rates, and mitigation measures. The environmental protection measures outlined in Appendix B of the FEIS provide additional protections to address concerns related to the effects of herbicide use on humans and wildlife. See also the response to Contention C earlier.

Alternative 4 provides for adaptive management strategies which address this concern in that if new, substantiated science uncovers unanticipated impacts, then use of those methods will be discontinued or altered to mitigate those impacts (PR#1700 FEIS p. 26, and Chapter 6).

Finding: The decision rationale provided in the ROD is supported by the effects analysis included in the FEIS and supporting documentation in the project record related to the use of herbicides and their affects on target and non-target species.

Contention H: The committee's current list of consultants and information sources do not represent a broad enough range of perspectives. More input is needed from experts in health-related fields, such as doctors of veterinary medicine and environmental health.

Response: The use of the FS Human Health Risk Assessments in the analysis incorporates a huge volume of literature that includes information from scientists from relevant fields. A full discussion is outlined in the FEIS (PR #1700 pp. 196-213) with references.

Finding: The list of consultants and information sources is adequate for the decision being made.



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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