



United States
Department of
Agriculture

Forest
Service

R3 Regional Office

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File Code: 1570-1/2400

Date: June 9, 2005

Erik Ryberg
Center for Biological Diversity
P.O. Box 710
Tucson, AZ 85702

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 7000 2870 0000 1135 4165**

RE: Appeal #05-03-00-0027-A215, Jacob Ryan Vegetation Management Project, North
Kaibab Ranger District, Kaibab National Forest

Dear Mr. Ryberg: Lead Appellant, Center for Biological Diversity

This is my review decision on the appeal you filed regarding the Decision Notice (DN), Environmental Analysis (EA), and Finding of No Significant Impact (FONSI) on the above-referenced project, which provides for thinning in the ponderosa pine, pre-commercial thinning (a subset of about 2,200 acres), group selection cuts (a subset of about 524 acres), maintenance of aspen groups, and reduction of hazardous fuels within the Wildland Urban Interface on a total of approximately 22,000 acres.

The decision approves thinning of about 1,143 acres of pinyon-juniper woodland, restoration of 263 acres of meadow by removing encroaching trees that are less than 16 inches diameter breast height, and removing snags within 1½ tree lengths of GarKane powerline.

Prescribed burning of 24,141 treated acres, and 9,149 non-treated areas, and maintaining fuel breaks on 56 miles within the 22,000 acres will be done. The decision would remove trees within 100 feet of centerline where needed to reduce winter ice buildup and to daylight hazardous portions of road along 12 miles of Highways 89A and 67. The decision will also close or re-close 110 miles of road within project area.

BACKGROUND

Forest Supervisor Michael Williams made a decision on March 4, 2005, for the Jacob Ryan Vegetation Management Project. The Forest Supervisor is identified as the Responsible Official, 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 your 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 logic and rationale were generally clearly disclosed; b) the benefits of the proposal were identified, and c) public participation and response to comments were adequate. However, the proposal and decision are not consistent with agency policy and direction in regards to soils analysis and the Kaibab National Forest Plan Visual Quality Objectives will not be met. Based on the technical review she recommended reversal.

APPEAL DECISION

I have reviewed the project record and find that one of the listed appellants, Forest Guardians, did not submit comments during the 30-day comment period. The project record shows that the District Ranger Jill Leonard mailed the proposed action for this thinning project to Forest Guardians (Laurie Fulkerson) on December 20, 2003 (PR#120 mailing list). The legal notice for comment on the proposed action was published in the *Arizona Daily Sun*, the newspaper of record on December 26, 2003. This legal notice required that comments be submitted within 30 calendar days of the publication date in order to have appeal eligibility (36 CFR 215.13(a)). The project record shows that no written or oral comments on Jacob Ryan project were received from Forest Guardians until this combined appeal was received on May 2, 2005 (with timely postmark on April 28, 2005) by the Regional Forester. As part of my appeal review, I am dismissing the Forest Guardians as an appellant.

After the technical review of the record and the Appeal Reviewing Officer's recommendation, I am reversing the Responsible Official's decision on the Jacob Ryan Vegetation Management Project. My reversal is based on the following:

- The soils analysis (Soils and Watershed Report at PR#126) displays effects that are not consistent with Forest Plan standards. As a result, the Finding of No Significant Impact is not supported by the soils information contained in the project record. The modeling analysis and soil loss predictions were inadequate. The mitigation measure listing has little discussion as to the effectiveness of the measures for reducing the predicted accelerated erosion.
- The Kaibab Forest Land Management Plan Visual Quality Objectives of Retention and Partial Retention for the highway corridors will not be met under the selected alternative. Short-term impacts of thinning, broadcast burning, and slash treatment would lower visual quality as described in the EA and record. A finding of Forest Plan consistency for the project cannot be met without amending the Forest Plan.

I am directing that these inadequacies be corrected and that a new decision be issued based on the new analysis of soil and visual resources. The new analysis and decision must fully comply with the public comment and appeal provisions of 36 CFR 215.

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

Sincerely,

/s/ Abel M. Camarena
ABEL M. CAMARENA
Appeal Deciding Officer, Deputy Regional Forester

Enclosure- ARO letter

cc: Mike R Williams, Mailroom R3, Mailroom R3 Kaibab, Charles F Ernst, Jonathan M Beck, Leonard Lucero, Marlin A Johnson, Constance J Smith



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Subject: ARO, Appeal #05-03-00-0027-A215, Jacob Ryan Vegetation Management Project, North Kaibab RD, Kaibab NF, Center for Biological Diversity et al, Reversal

To: Deputy Regional Forester

This is my recommendation on the disposition of the appeal filed in protest of Decision Notice and Finding of No Significant Impact concerning the Jacob Ryan Vegetation Management Project on the North Kaibab Ranger District, Kaibab National Forest. The selected alternative provides for thinning in the ponderosa pine, pre-commercial thinning (a subset of about 2,200 acres), group selection cuts (a subset of about 524 acres), maintenance of aspen groups, and reduction of hazardous fuels within the Wildland Urban Interface on a total of approximately 22,000 acres.

The decision approves thinning of about 1,143 acres of pinyon-juniper woodland, restoration of 263 acres of meadow by removing encroaching trees that are less than 16 inches diameter breast height, and removing snags within 1½ tree lengths of GarKane powerline.

Prescribed burning of 24,141 treated acres, and 9,149 non-treated areas, and maintaining fuel breaks on 56 miles within the 22,000 acres will be done. The decision would remove trees within 100 feet of centerline where needed to reduce winter ice buildup and to daylight hazardous portions of road along 12 miles of Highways 89A and 67. The decision will also close or re-close 110 miles of road within project area.

BACKGROUND

Forest Supervisor Michael Williams made a decision on March 4, 2005, for the Jacob Ryan Vegetation Management Project. The Forest Supervisor is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR 215 appeal regulations.

Mr. Erik Ryberg of Center for Biological Diversity as lead appellant filed an appeal 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 this appeal. The record reflects that informal resolution was not reached.



Review and Findings

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 appellant's issues and requests for relief have been thoroughly reviewed. Having reviewed the Environmental Assessment (EA), decision, 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.
- 3) 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.
- 4) The soils analysis (Soils and Watershed Report at PR#126) displays effects that are not consistent with Forest Plan standards. As a result, the Finding of No Significant Impact is not supported by the soils information contained in the project record. The modeling analysis and soil loss predictions were inadequate. The mitigation measure listing has little discussion as to the effectiveness of the measures for reducing the predicted accelerated erosion.
- 5) The Kaibab Forest Land Management Plan Visual Quality Objectives of Retention and Partial Retention for the highway corridors will not be met under the selected alternative. Short-term impacts of thinning, broadcast burning, and slash treatment would lower visual quality as described in the EA and record. A finding of Forest Plan consistency for the project cannot be met without amending the Forest Plan.

Recommendation

I recommend that the Responsible Official's decision relating to this appeal be reversed with instructions to re-analyze the project in terms of effects to soil and visual resources to ensure compliance with NEPA and the Forest Plan.

/s/ Lucia M. Turner
LUCIA M. TURNER
Appeal Reviewing Officer, Deputy Regional
Forester

cc: Constance J Smith, Leonard Lucero, Marlin A Johnson

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