United States Department of Agriculture | Forest Service | Alaska Region | P.O. Box 21628 Juneau, AK 99802-1628

File Code: 1570 **Date:** July 22, 2009
Route To:

Subject: Navy Timber Sale Appeals

To: Appeal Deciding Officer

This is my recommendation, as Appeal Reviewing Officer, on the action you should take, as Appeal Deciding Officer, on the pending appeals of the Navy Timber Sales project on the Wrangell Ranger District. The following appeals were filed under 36 CFR 215:

- 09-10-00-0002, Juneau Group of the Sierra Club;
- 09-10-00-0003, Southeast Alaska Conservation Council (SEACC);
- 09-10-00-0004, The Wilderness Society;
- 09-10-00-0005, Greenpeace, Cascadia Wildlands Project, Tongass Conservation Society, and Sitka Conservation Society (Greenpeace et al.).

The decision being appealed is the Tongass National Forest Supervisor, Forrest Cole's authorization of the sale of timber and the construction of roads on Etolin Island, Alaska. The Selected Alternative would allow the harvest of approximately 72.8 million board feet (MMBF) of timber, the construction of about 8.1 miles of new National Forest System (NFS) road, 8.8 miles of temporary road, and the reconstruction of about 3.5 miles of existing road.

Background

The 2008 Tongass Forest Plan Amendment was completed while the Navy project was being planned. The 2008 Forest Plan Amendment Record of Decision (ROD) was signed on January 23, 2008, and became effective on March 17, 2008. The ROD for the 2008 Forest Plan Amendment adopts the Timber Sale Program Adaptive Management Strategy, under which portions of the suitable land base become available for project-level planning in three phases. The Navy project is within the Phase 1 portion of the suitable land base with the exception of the Navy watershed, which is Phase 2. Only the planning for the activities within the Phase 1 portion of the Navy project is allowed to continue for this project and implementation once the planning process is completed. All activities in the Navy watershed were deleted from the alternatives between the Navy Draft EIS (DEIS) and the Final EIS (FEIS), which allows planning to continue for this project and implementation once the planning process is completed.

A Notice of Intent for the Navy Timber Sales EIS was published on January 23, 2006. On November 30, 2007, a Notice of Availability of the DEIS was published in the Federal Register. The Tongass Forest Supervisor signed the ROD for the FEIS on March 10, 2009. The Juneau Group of the Sierra Club, SEACC, The Wilderness Society, and Greenpeace et al. filed appeals of the ROD.

My review of these appeals was conducted pursuant to 36 CFR 215.19. The appeal and planning records have been carefully reviewed in my consideration of the objections raised by the appellants and their requested relief. The Wrangell Ranger District office prepared the enclosed indices of the documentation supporting the decision, which are keyed to specific points raised by the appellants. My recommendation hereby incorporates by reference the entire appeal record.

Recommendation

Several appellants raised the issue that the Selected Alternative had significant changes from those alternatives analyzed in detail in the FEIS. While the Forest Supervisor has the latitude to select an alternative with modifications in the Record of Decision (ROD), the magnitude of the changes made in the Navy ROD make it difficult to fully assess the environmental effects of those changes. These changes include all the units from Alternative D, modification of six units from Alternative C, addition of approximately 40 units from Alternative C, and four units from Alternative E. Additional changes were made to several roads and unit prescriptions.

I agree with the issue raised by the appellants and recommend that you remand the Forest Supervisor's decision and instruct him to either: 1) select an alternative that was analyzed in detail in the DEIS and FEIS or 2) supplement the DEIS to provide the detailed analysis for the Selected Alternative using the direction in 40 CFR 1502.9(c). Both options ensure that the public has had or will have an adequate opportunity to review and comment on the alternatives analyzed in detail.

The appellants raised numerous other issues in their appeals of the Navy project. Since I am recommending you remand the Forest Supervisor's decision, I have elected to not respond to other issues raised by the appellants. I have, however, considered all of the issues raised by the appellants, as well as the supporting information provided by the Forest with respect to these issues. If the Forest Supervisor decides to proceed with the Navy project, I recommend that he consider the additional issues raised by the appellants to determine whether they warrant further consideration and to take appropriate action to ensure that they are adequately addressed in the EIS or project record.

In addition, there is no documentation in the planning record that the Natural Resources Defense Council (NRDC) provided comment or otherwise expressed an interest in the Navy project during the 45-day comment period for the DEIS as required by 36 CFR 215.13(a). Since the Juneau Group of the Sierra Club and NRDC jointly appealed the Navy ROD, I

recommend that you dismiss NRDC as an appellant because they do not have standing [215.16(a)(6)] . The Juneau Group of the Sierra Club does have standing to appeal and I have considered all of the issues raised in their appeal.

PAUL K. BREWSTER
Deputy Regional Forester

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File Code: 1570
Date: JUL 23 2009

Ms. Karen Hardigg
Alaska Forest Program Manager
The Wilderness Society
705 Christensen Drive
Anchorage, AK 99501

Dear Ms. Hardigg:

Pursuant to 36 CFR 215.18(b)(1), I have reviewed the administrative record for the Navy Timber Sale Final Environmental Impact Statement (FEIS) and Record of Decision (ROD). The Tongass Forest Supervisor signed the ROD. I have also considered the Appeal Reviewing Officer's (ARO) recommendation (enclosed) regarding the disposition of your appeal (Appeal # 09-10-00-0004 A215). The ARO recommended that the Forest Supervisor's decision be reversed, with instructions for the Forest Supervisor to either: 1) select an alternative that was analyzed in detail in the DEIS and FEIS; or 2) supplement the DEIS to provide the detailed analysis for the Selected Alternative using the direction in 40 CFR 1502.9(c). Both options ensure that the public has had or will have an adequate opportunity to review and comment on the alternatives analyzed in detail.

I concur with the ARO's recommendation and I reverse the decision. The Forest Supervisor is directed to follow the instructions outlined in the ARO's recommendation.

My decision constitutes the final administrative determination of the Department of Agriculture with regard to your appeal (36 CFR 215.18(b)(c)).

Sincerely,

Dennis E. Bschor

DENNIS E. BSCHOR
Regional Forester

Enclosure

cc: Forrest Cole, Patrick Heuer, Mark Hummel