APPEAL TO THE REGIONAL FORESTER
OF THE UNITED STATES FOREST SERVICE
REGION 6

BARK,

36 CFR § 215 Appeal

In Re: Appeal of the
Decision

Memo for the Lake Branch
Thinning

vs

GARY LARSEN, FOREST SUPERVISOR,
DECIDING OFFICER.

APPELLANT'S: NOTICE OF APPEAL, REQUEST FOR STAY, REQUESTED RELIEF,
AND STATEMENT OF REASONS

Dated this 5th of November, 2009.

NOTICE OF APPEAL

To: Appeal Deciding Officer
Mary Wagner, Regional Forester
Appeal Deciding Officer
USDA Forest Service
333 SW 1st Ave
Portland, OR 97204

Emailed to: appeals-pacificnorthwest-regional-office@fs.fed.us

Dear Ms. Wagner,
Pursuant to 36 CFR 215, please consider the following protest of the Decision Notice and Finding of No Significant Impact for the Lake Branch Thinning that you signed on September 21, 2009.

**Decision Title:** Decision Notice and Finding of No Significant Impact for Lake Branch Thinning.

**Project Description:** The project will log 2,163 acres of forest in matrix, riparian reserve, and in a special emphasis watershed area.

**Project Location:** Township 1 North, Range 8 East and Township 1 South, Range 8 East, Willamette Meridian, Hood River County, Oregon.

**Date of Decision:** September 21, 2009

**Name of Responsible Official:** Gary Larsen, Forest Supervisor

**Introduction:**
Bark’s mission is to bring about a transformation of Mt. Hood National Forest into a place where natural processes prevail, where wildlife thrives and where local communities have a social, cultural, and economic investment in its restoration and preservation.

We understand that the Decision and Rationale implements the following action:

- → 2,163 acres of commercial thinning matrix land and Riparian Reserves
- → 30-60 year old stands
- → 1,000 acres of riparian logging
- → 2,000 acres in (B6) special emphasis watershed
- → 7.3 miles of road decommissioning
- → 19.5 miles of road closure
- → 6 miles of old roads reused
- → .5 miles of new temporary roads
- → 9.5 miles of old decommissioned roads re-opened
- → 787 acres of ground based logging
- → 904 acres of skyline logging
- → 714 acres of spotted owl dispersal habitat removed
- → 476 acres of spotted owl dispersal habitat degraded

Bark submits the following appeal of this project. We continue to have significant concerns about this project, however ask that the project not go forward until the following continued points are resolved.
REQUEST FOR STAY

Although an automatic stay is in effect for this sale as per 36 CFR 215.10(b), we formally request a stay of all action on this project, 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, an irretrievable commitment of agency resources, and irreversible environmental damage. Without a stay, the federal government may waste taxpayer money preparing a sale that may later be cancelled. Because we might pursue a 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.

REQUESTED RELIEF

Withdraw the Decision Notice and/or prepare an adequate supplemental Environmental Assessment that complies with the National Environmental Policy Act.

RANGE OF ALTERNATIVES IS INSUFFICIENT

In the past few years, Bark has put considerable pressure on the Forest Service to include a larger range of alternatives in the scope of an Environmental Assessment. Merely comparing the no action and a proposed action does not allow for meaningful consideration and comparison of the impacts. Recently the Forest Service has consistently added an additional alternative into the scope of analysis that proposes essentially the same project, but includes yarding by helicopter rather than the ground-based yarding and skyline yarding that is less expensive, but causes more impact to the forest.

This does not make for an adequate range of alternatives. The consideration and comparison of these alternatives seems only to be left to the economic feasibility for the timber companies, rather than the actual impacts to the environment. Impacts to the local economy may be included in NEPA analysis, however, this is not intended to task the agency with market speculation of what timber companies can and cannot afford. Using marketability of helicopter logging as a means of determining one alternative over another has led to a decision that is arbitrary and capricious.

THE PUBLIC WAS NOT GIVEN ADEQUATE INFORMATION ABOUT LOCATION OF THE PROPOSED ACTION
As the Forest Service moves forward with larger thinning projects, it is imperative that ability for the public to be involved in the commenting process not be diminished. Proposals that cover thousands of acres cannot adequately be represented in just one map. Additionally, in the past, concerned people have been able to visit the forest and see the area for themselves, using timber markers and flagging as a guide to finding units proposed. These boundary and survey markers have become even more important as the reconciling of timber sale maps and overlapping designations become more difficult to determine on a large scale.

For the Lake Branch Thinning, the Forest Service released a “Preliminary Assessment” (Lake Branch PA) rather than the actual “Environmental Assessment” for the public to initially review the proposal. Within the Lake Branch PA, there was one attached map that showed the units and major drainages. Because of the size and scope of the project the map fails to provide detail that would help a person taking it out to the forest to look at the project for themselves. Through a Freedom of Information Act request, Bark was able to get a GIS shape file of the Lake Branch project to allow us to overlay the units in a map-making program, however, this is an unnecessary amount of work on the part of the public, when the Forest Service could easily attach the series of more detailed maps that came out with the EA at the beginning stages of the planning process.

**MITIGATION PLAN FALLS SHORT OF A HARD LOOK**

Throughout the Lake Branch EA, the Forest Service considers indirect and direct impacts to the forest and waterways as sufficiently analyzed and addressed because of the mitigating effects of road removal and culvert replacement also analyzed in the EA. We have seen this growing trend towards allowing a restoration “balance sheet” in timber sales. The Forest Service must use the NEPA process as an opportunity to take a hard look at the cumulative impacts that could be caused by proposed actions, not simply balance out harm from one action with benefit from another.

One of the purposes of this project is to “manage the road system to restore hydrologic function and reduce road maintenance costs.” (EA, 6) Although providing forest products to the local economy is, as usual, included in the purpose and need, this purpose does not then create a scenario where the road remediation work becomes an opportunity to avoid the hard look of impacts caused by removing those forest resources.

**AQUATIC CONSERVATION STRATEGY IS NOT UPHELD**

One of our biggest concerns with this timber sale is the emphasis on logging in Riparian Reserves. The EA claims that the proposed logging is meeting standards and guidelines; “Apply silvicultural practices for riparian reserves to control stocking,
reestablish and manage stands, and acquire desired vegetation characteristics needed to attain Aquatic Conservation Strategy.” (EA, 53) And yet in the section looking at compliance with the ACS, six of the nine objectives are met due to the road decommissioning and maintenance work being accomplished, not the actual restorative actions in the stands themselves.

There is very little information about how the actual logging project will meet ACS objectives. Logging in Riparian Reserves is intended to be entirely restorative, not mitigated by some other action taking place. For instance, Objective #5 addresses sediment impact. The EA states that the culvert removal and decommissioning work will enable long term reduction of sediment in streams. (EA, 54) Yet, there is not analysis of the potential for sediment loads caused by the short term impacts of opening up old roads, the use of those roads before removing culverts and decommissioning for log hauling or the impacts left from the many other culverts that will not be decommissioned. There are numerous roads that will be used for logging operations that have significant culvert issues but are not scheduled under this EA to be maintained, replaced or decommissioned. (See photos in Appendix A)

**CLIMATE CHANGE ANALYSIS IS INADEQUATE**

Bark has been increasingly concerned with the lack of analysis that the Forest Service has been including in the environmental assessments for timber sales and development projects in Mt. Hood National Forest. In our comments to the Lake Branch PA, Bark was critical of the continued inclusion of carbon storage in wood products as an appropriate point of reference for analyzing the potential impacts to climate change from any one project. We included a copy of The Wilderness Society’s report demystifying the idea that carbon sequestration potential in wood products completely misses the point that carbon storage and release is part of a larger natural process in the ecosystem.

The Forest Service responded to our comments by citing Upton, 2007, a study comparing the carbon release of various alternative building materials versus use of wood in home-building. The EA then exonerates the agency from any real climate change analysis by stating:

“The purpose of this analysis is not to resolve this debate. This project was not specifically designed to mitigate or respond to potential climate change and no attempt has been made here to quantify carbon emission or sequestration or to assert that one alternative would emit or sequester more than an other.” (EA, 113)

In fact, the Forest Service is tasked, under NEPA, to do exactly this; decide one alternative over another, based on best available science. And in fact, on January 13, 2009, the Forest Service issued *Climate Change Considerations in Project Level NEPA*
Analysis. This guidance document provides the Forest Service guidance on how to integrate climate change into NEPA analysis and documents.

The Types of Climate Change Effects section identifies two basic climate change effects: 1) the effect of a proposed project on climate change and 2) the effect of climate change on a proposed project. The Scoping and Climate Change Issues section warns decision-makers to avoid “prematurely dismissing climate change issues as ‘outside the scope’ of the analysis” and to try to look for “cause-effect relationships (if they exist) between the proposal and climate change.”

The Developing Alternatives Responding to Climate Change Issues sections commands that “[a]lternatives proposed to address climate change issues need to be relevant to the proposed action’s purpose and need as well as technically and scientifically feasible” and “relate to the cause-effect relationship between the proposal and climate change and have meaningfully different climate change-related effects when compared to the proposal and other alternatives.” (p. 4).

In the Lake Branch EA, the climate change analysis (EA, 112) falls short of the NEPA expectations for the following reasons. The EA claims that the project was not specifically designed to mitigate or respond to potential climate change. Yet, the EA goes on to say that variable density thinning will lead to a more resilient forest. Additionally, the EA claims that woody debris left on the ground will increase the soil’s carbon sequestration potential. And one of the prevailing reason for aggressive road removal is because of the expected flooding that will occur from climate change. We contend that all projects with a restorative purpose and need now has a direct link with the national forests role in climate change mitigation and adaptation strategy.

Additionally, the Lake Branch EA claims, “By its very nature, the discussion of a project’s effect on climate change is indirect and cumulative because the effects occur at a different time and place, and because the scale of the discussion is global. (EA, 112) This is in conflict with the standards and guidelines within the agency. The Climate Change Considerations in Project Level NEPA document sympathizes with the fact that the issue of climate change is a global one and the impact from a project like a timber sale may be difficult to speculate. However, the Forest Service is expected to “disclose the nature and direction (short-term and long-term) of the impact as opposed to the specific magnitude of the impact.” (Kimball, 6)

The continued inclusion of the “wood product” argument for climate change is unacceptable. There is not a single academic report stating that the existence of a piece of wood furniture is somehow better than a standing forest. To site a scientific report comparing wood products to alternative building materials is completely missing the point of the carbon cycle.
In the “Decision Documents” section of the *Climate Change Considerations in Project Level NEPA Analysis*, land managers are reminded that NEPA provides for the flexibility needed to begin incorporating climate change into environmental impact assessment. The agency is encouraged to develop and evaluate alternatives not previously given serious consideration by the Agency. Based on this guidance, the Forest Service is expected to include an alternative based on comments and concerns gathered in the public comment period with regards to climate change.

The EA states that the Forest Service claimed to have considered an alternative that would delete all the helicopter units, but that by leaving the helicopter units meant that the agency “could take advantage of market swings quickly.” (EA, 28) However, the Forest Service does no comparison of how eliminating helicopter units could lead to less jet fuel being used to complete this project and thus reduce the “carbon footprint” of this project.

Bark does not believe that the Forest Service has taken a hard look at the science available for carbon emission, sequestration or climate change analysis.

In light of these existing conditions, the proposed project will have significant cumulative impacts when viewed in conjunction with other past, present and future timber projects. It is Bark’s hope that these issue will be addressed through the requested stay of action and requested relief.

Sincerely,

Amy Harwood
Program Director
APPENDIX A: NONFUNCTIONING CULVERTS IN ROADS BEING USED FOR LOGGING BUT NOT PLANNED FOR REPLACEMENT OR OBLITERATION

ROAD 1320

ROAD 1330 620

ROAD 1311