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September 23, 1997

Mr. Robert Williams
Regional Forester
Attn: 1570 Appeals
PO Box 3623
Portland, OR 97208-3623

36 CFR 215 APPEAL
Winslow Resource Management Project Area

Dear Mr. Williams:

In accordance with 36 CFR 215, we hereby appeal the decision to implement the **Winslow Resource Management Project Area** timber sale, Mt. Hood National Forest.

Title of Decision Document: Winslow Resource Management Project Area Environmental Assessment.

Description of Project: 9.62 million board feet of timber harvest; 1201 total acres of timber harvest; 181 acres of harvest within riparian reserves.

Location: Clackamas Ranger District, Mt. Hood National Forest; T 4S, R 5E, sections 23, 24, 25, 26, 35, and 36; T 4S, R 6E, sections 19, 29, 30, 31 and 32; Clackamas County.

Date Decision Signed: June 23, 1997.

Deciding Officer Name and Title: Mt. Hood Forest Supervisor Roberta A. Moltzen.

I. APPELLANT'S INTERESTS

We have a specific interest in this sale. We have previously expressed our interest in this specific sale, and we have standing to appeal this decision according to 36 CFR § 215.11 (a)(2).

Our interests will be adversely affected by this timber sale. We use and enjoy the Mt. Hood National Forest, including the Winslow area, for recreational, educational, aesthetic and other purposes. The value of those activities will be irreparably damaged by this timber sale. We have a long-standing interest in the sound management of this area, and the right to request agency compliance with applicable environmental laws.

II. 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 timber sale, 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 and to prevent irreversible environmental damage. Without a stay, the federal government may waste taxpayer money preparing a sale that may later be canceled. Because we intend to pursue our 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.

III. REQUESTED RELIEF

1. That the decision to implement this timber sale be withdrawn.
2. Alternatively, that an EIS be written and this sale be modified to meet the objections detailed below including:
 - no entry into Riparian Reserves as established by the Northwest Forest Plan and the North Fork Clackamas River Watershed Analysis;
 - surveying and establishing appropriate buffers for C-3 survey and manage species;
 - no amendment of the Mt. Hood Forest Plan A-9 Key Site Riparian Area designation around Winslow Creek and road 4611;
 - obliteration of road 4611 in the existing A-9 Key Site Riparian Area.

IV. STATEMENT OF REASONS

A. The Sale Violates The Northwest Forest Plan¹ By Entering Riparian Reserves.

1. The 50' buffers proposed in the EA (at p. 11) violate the Riparian Reserve requirements of the Northwest Forest Plan (at p. C-30) and the recommended buffer widths in the North Fork Clackamas River Watershed Analysis (at p. 5-9, attached as Exhibit A).

To be specific, the Northwest Forest Plan states that "Post-watershed analysis Riparian Reserve boundaries for permanently-flowing streams should approximate the boundaries prescribed in these standards & guidelines [300' for permanently flowing fish-bearing streams]" (at p. B-13). The buffers recommended in the North Fork Clackamas River Watershed Analysis exceed the interim Northwest Forest Plan buffers by as much 120' for permanently flowing fish bearing streams (at p. 5-9). So, both the Northwest Forest Plan and the North Fork Clackamas River Watershed Analysis recommend buffers of approximately 300' or more. Yet, despite these clear recommendations, the EA proposes 50' buffers in the Winslow area.

2. The buffers, as they are marked on the ground, violate the Northwest Forest Plan. Surveying several units in the Winslow area revealed riparian buffer violations in every unit. All units surveyed border fish-bearing streams, which, under the Northwest Forest Plan should receive 300' buffer. The North Fork Clackamas River Watershed Analysis recommends even greater buffers for fish-bearing streams: 420' Western Hemlock zone & 320' Pacific Silver Fir zone. (Note: any units not mentioned here have not yet been surveyed).

We surveyed the following buffers:

- Unit 1 - 115' to the combined Winslow / Boyer Creeks, just above their confluence with the North Fork;
- Unit 4 - 100' to Winslow Creek;
- Unit 10 - 245' to Boyer Creek;
- Unit 11 - 110' to Boyer Creek (and 75' from the West edge of the unit to the perennial stream along that edge, also in violation of the NWFP);
- Unit 12 - 130' to Winslow Creek;
- Unit 13 - 100' from the SW corner across road 4611 to Winslow Creek; 70' from the SW corner across road 4612 to Winslow Creek.

¹ "Northwest Forest Plan" refers to the Record of Decision and Standards and Guidelines for Amendments to USFS and BLM Planning Documents Within the Range of the Northern Spotted Owl, and Standards and Guidelines for Management of Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, 1994.

B. The Sale Violates The Northwest Forest Plan By Failing To Survey For 'Survey And Manage' Plant Species.

The EA states that no surveys were conducted for C-3 survey and manage plant species. This is not adequate, and it violates the Northwest Forest Plan. For strategy 2 C-3 species, "surveys must be completed prior to ground disturbing activities that will be implemented in F.Y. 1999 or later." (at p. C-5). Ground-disturbing activities will undoubtedly take place in the Winslow area later than October 1, 1998. Therefore, surveys for all strategy 2 C-3 species must take place in the Winslow area.

That survey protocols are not yet completed is no justification for planning the sale without completing the required surveys. Nowhere does the Northwest Forest Plan create an exception to the survey and manage requirements if protocols are not yet developed. The only action the lack of survey protocols can justify is a delay until the protocols are finalized. To proceed without the C-3 surveys is a blatant violation of the Northwest Forest Plan.

C. The EA Violates The Mt. Hood Plan By Making An Unsupported Amendment To The Mt. Hood Plan.

The justifications given for amending the boundaries of the A-9 key site riparian area along Winslow Creek are weak, at best. The Mt. Hood Forest Plan prohibits new road construction in A-9 area (A9-033) and it strongly encourages the obliteration of existing roads (A9-034).

First, there will be more sedimentation caused by the combined effect of the so-called "obliterated" road 4611 and the building of the new bypass road in the upland terrestrial riparian area than by leaving the current road (and the A-9 boundary) intact. As the North Fork Clackamas River Watershed Analysis confirms, even an obliterated road will increase sedimentation for 5 years (at p. 2-9, attached as Exhibit B).

The North Fork Clackamas River Watershed Analysis also states that the total amount of sedimentation coming from the Winslow sub-watershed into the North Fork Clackamas is minimal: 1% to be exact (at p. 2-11). The Boyer Creek sub-watershed contributes much, much more sediment to the watershed as a whole, yet in the Boyer Creek watershed, roads will added to an already extensive road system. Thus, sedimentation cannot be the real issue here. This amendment to the Mt. Hood Forest Plan that will drastically decrease the size of the A-9 key site riparian area (by 89 acres) is merely a ruse used to increase the timber base in the Winslow area.

Also, continued access to Huxley Lake cannot be a genuine issue here. Public access to Huxley Lake will be difficult after the obliteration of existing road 4611 and

construction of the bypass road because the bypass road will be a level II road designed for limited passage of traffic (EA at p. 16).

Therefore, the existing road 4611 should be obliterated to meet the A-9 and ACS requirements, and no new bypass road should be built.

D. The Removal Of 89 Acres From The A-9 Key Site Riparian Designation Is A “Significant” Action Requiring The Production Of An EIS.

The removal of 89 acres from the A-9 key site riparian area designation and into the timber base is a “significant” act as defined by NEPA regulations, therefore an EIS should be written. (40 CFR § 1508.27).

V. CONCLUSION

For these reasons, we request that the decision to implement this sale be withdrawn, or, alternatively, that an EIS be prepared and the sale modified to meet the issues raised above.

Sincerely,

Gregory J. Dyson, and

John L. Rancher