



File Code: 1920-2-5

Date: July 17, 2003

Dear Planning Participant,

As you may be aware, the Kootenai National Forest (KNF) is currently involved in litigation with the Ecology Center, INC., and The Lands Council regarding the potential effects that several timber sale projects may have on the amount and distribution of old growth forests. The following projects were named in this litigation: Pinkham Timber Sales and Associated Activities (Record of Decision, June 1999), Pink Stone Fire Recovery (Record of Decision, October 2001), Kelsey-Beaver Fire Recovery (Record of Decision, December 2001), Gold/Boulder/Sullivan (Record of Decision, December 2001), and the White Pine Creek Restoration Project and Associated Timber Sales (Record of Decision, June 2002). On June 27, 2003, Judge Donald W. Molloy, US District Court for the District of Montana, Missoula Division, enjoined the Forest Service from further timber sales pending resolution of an administrative process to allow for public review and comment on information gathered in support of how much old growth is currently available on the KNF. The Court is concerned that the public has not been given the opportunity to review and comment on the information developed and presented to the court during the litigation. This information is included as enclosures with this letter.

While this litigation addresses several substantive issues, the District Court has granted a partial summary judgment to Plaintiffs, limited to procedural matters under the National Environmental Policy Act. While summary judgment motions and possible appeals are pending on the entire case, the Forest Service has elected to make information (see enclosures), related to the amount and distribution of old growth on the KNF, available for review and comment.

In order to provide some additional context to the old growth issue I am including information from the *KNF 2001 Monitoring and Evaluation Report*. In this report we stated the following relative to old growth:

Old Growth Habitat (C-5): *Approximately 1,291,900 acres below 5,500 feet have been evaluated for old growth on the Forest since 1988 (there are about 1,865,000 acres of Forest System Lands below 5,500 feet Forest-wide). A total of 145,086 acres (11.2 percent of the acres evaluated) has been designated as old growth. Of the designated acres, 8.9 percent are effective old growth and 2.3 percent are replacement old growth. The fires of 2000 burned in compartments that had previously been validated for old growth, and most of these areas have been re-validated, with some minor differences in total acres of old growth. The level of old growth designated for the compartments validated to date is above the 10 percent level required in the Plan.*

After fourteen years of old growth validation work, 154 of the 255 compartments (60 percent) have been completely reviewed and an additional 44 compartments



(17 percent) are partially done. Much of the unsurveyed areas are in wilderness, proposed wilderness, or areas with very little National Forest System lands. Accordingly, we are meeting Forest Plan direction for old growth, and validation will continue on the unsurveyed areas.

One critical aspect that Judge Molloy considered in his ruling was whether or not replacement old growth can be counted in the 10 percent figure specified in the KNF Forest Plan. I have excerpted the following language from his ruling that supports the use of replacement old growth to count towards the 10 percent standard:

“The parties disagree about whether replacement old growth can be counted in the 10 percent figure, yet neither party can point to a specific place in the Forest Plan where the issue was directly decided, or dealt with, by the agency. Def.’s Br. 5-7; Pl.’s Br., 9-10. The KNF adopted the Plan with an understanding that ten percent of the Forest was not currently in old growth condition. Therefore, the Plan contemplated using old growth from adjacent third order drainages to boost the percentage for deficient neighboring drainages. The Forest Plan FEIS states that designated old growth includes old growth and soon-to-be-old growth. 67 AR 18: III-76. Therefore, the ten percent figure must be intended to include designated old growth that may include trees that are not yet technically old growth. However, this old growth must be designated as such, whether or not it possesses all of the characteristics included in the Forest Service’s old growth definition.”

The information included in the enclosures concludes that the KNF has 292,339 acres or 15.6% of total national forest acres below 5500 feet in an old growth condition. The documentation also demonstrates that the KNF has **designated** 205,784 acres or 11.0% of total national forest acres below 5500 feet to an old growth management area. This information demonstrates that we are meeting the Forest Plan requirements for old growth habitat. This information is different than the 2001 Monitoring and Evaluation Report because this now represents a review and inventory of the entire forest below 5500 feet in elevation. I am also enclosing a paper prepared in January 2003 by Dr. Dan Leavell, Forest Ecologist for the Kootenai National Forest. Dr. Leavell’s paper provides additional evidence that the Forest is providing 10% of the forest below 5500 feet in an old growth timber condition.

Pursuant to the Court’s order, we are providing you with the opportunity to review and comment on the enclosed old growth information. Your responses will be used to identify the appropriate procedures for moving forward with the five projects named above.

Please send written comments to me at the address above by August 17, 2003. If you have questions about the projects or the enclosed information, please write to me at the address above or phone Kirsten Kaiser or Joe Krueger at 406/293-6211. Since this project is subject to ongoing litigation, I would appreciate your quick response.

Sincerely,

A handwritten signature in black ink that reads "Bob Castaneda". The signature is written in a cursive, flowing style.

BOB CASTANEDA
Forest Supervisor

Enclosures (3)

cc:

Senator Conrad Burns

Senator Max Baucus

Representative Rehberg

Lincoln and Sanders County Commissioners