

Castle Mountains Restoration Project – Helena-Lewis and Clark National Forest Objection Responses – Mike Rhynard

Issue 01, 45-day Review

Contention: The objector contends that forty-five days is a challenging amount of time for people with other things to do to thoroughly review such a large document as the final EIS.

Response: Forest Service regulations at 36 CFR 218.6 do not permit objection filing period extensions except when the time period expires on a Saturday, Sunday, or Federal holiday. In these cases the time is extended to the end of the next Federal working day as stated in the legal notice. The 45-day objection filing period for the Castle Mountains project did not meet this exception.

I conclude that the responsible official complied with 36 CFR 218.6 and was not required to extend the objection period.

Issue 02, Prescribed Burning Response

Contention: The objector claims that most landowners adjacent to forest treatment areas are concerned about being burned out by a controlled burn that becomes uncontrolled.

Response: The objector says “Referring us to the Federal Tort Claims Act, instead of promising us we will be 100 percent indemnified for any and all damage done to our property and economic livelihood is not reassuring or, in the least, convincing.”

According to Forest Service Manual 5140.3: the prescribed fire program is planned and implemented by applying:

1. Principles and policy elements described in FSM 5103 and Wildland Fire Doctrine (FSM 5131).
2. Principles from the Cohesive Strategy (A National Cohesive Wildland Fire Management Strategy Phase II National Report, May 2012).
3. Guidelines from The Interagency Prescribed Fire Planning and Implementation Procedures Reference Guide (NWCG, PMS 484; see <https://www.nwcg.gov/sites/default/files/publications/pms484.pdf>).
4. Consideration of greenhouse gas emissions and effects on carbon sequestration.

(WO- Forest Service Manual – Chapter 5140.3, p. 3)

The Lewis and Clark Forest Plan Forest-wide management standards direct that prescribed fire with planned ignitions will be used in the management areas identified for the enhancement and maintenance of resources. (Forest Plan Management Area Direction, Chapter 3)

Prior to prescribed fire implementation, thorough planning and review processes must be conducted. All prescribed fire actions must be developed from resource/fire management objectives carried forward from L/ RMPs or FMPs (or both). A prescribed fire plan must be completed, reviewed, and approved before ignition can begin. The agency administrator has final approval authority for all prescribed fire plans, unless special circumstances warrant higher review and concurrence (such as may occur during higher preparedness levels or for extremely large, complex projects). In addition, the agency administrator

approves and signs the Agency Administrator Ignition Authorization (Element 2A Prescribed Fire Plan). The prescribed fire burn boss has the responsibility to complete and sign the Prescribed Fire GO/NO-GO Checklist. The prescribed fire burn boss ensures that all prescription, staffing, equipment, and other plan specifications are met before, during and after the prescribed fire. Every prescribed fire plan must receive a technical review. The technical reviewer and prescribed fire plan preparer must be qualified or have been previously qualified as a prescribed fire burn boss at an experience level equal to or higher than the complexity being reviewed. Either the technical reviewer or the prescribed fire plan preparer must be current in their qualification, minus the physical fitness requirement. (Interagency Prescribed Fire Planning and Implementation Procedures Guide, p. 6-7)

Original design feature - Prescribed fire activities would only be conducted when weather conditions are appropriate for fire control and smoke dispersal. Burn prescriptions are developed based on weather and existing fuel conditions for control first and resource objectives second. This practice reduces the available opportunities to use prescribed fire to achieve objectives but is effective in maintaining control of prescribed fires and dispersal of smoke from these activities. Mop up would be done on all burn units to reduce the risk of escape. Prescribed burn units are traditionally patrolled or monitored until weather conditions prevent fire spread such as a significant cool and wet weather event that impacts the burn area and makes fuels unburnable and/or the unit is called out. Structural improvements would be protected during burning operations. Values at Risk including structural improvements are identified in prescribed burn plans. Design burn prescriptions to achieve low to moderate fire intensity (USDA 1988; BMP 18.02; Harvey et al. 1994, page 43). (Fuels Specialist Report FEIS, p.33-35)

I conclude the responsible official completed the proper prescribed fire analysis. The Forest Service recognizes the concern of the private land owner. In the development of Alternative 5, treatments were addressed to include the type and amount of prescribed fire with the consideration of fuel loading adjacent to private boundaries. Planned prescribed fire follows national policy, regulations, guidelines, and the forest plan. The United States cannot agree in advance to provide 100 percent indemnification under the Federal Tort Claims Act (FTCA). (28 CFR part 14)

Issue 03, Salvage Need (Vegetation)

Contention: The objector is concerned about a large number of trees blown down during a severe microburst. Trees were uprooted and blew down on his property and on the national forest creating both a severe fire hazard and an open invitation for a fir beetle infestation. These threats require prompt mitigation by the USFS.

Response: The objector states “Timely treatment by mechanical means (logging), is the safest and most effective (and perhaps the only) mitigation means in the short timeframe before a beetle infestation will occur.” This issue was not raised during the comment period, because it occurred in the spring of 2019. The microburst occurred in areas that were not analyzed treatment units; therefore it cannot be included in the project.

The responsible official is aware of the recent microburst blowdown that is located outside of the analyzed treatment units. USFS personnel have met with the land owner and have considered his concerns of the recent situation.

Issue 04, Salvage Need in Roadless Area

Contention: The objector contends that the trees blown down on national forest are entirely within the Inventoried Roadless Area (IRA), where routine, common-sense mitigations are prohibited; or, at the least, made extremely difficult, by IRA regulations. Obtaining approval to do “the right

thing,” before it’s too late, will require high-level USFS sponsorship, and perhaps Congressional-delegation support.

Response: The objector states “Timely treatment by mechanical means (logging), is the safest and most effective (and perhaps the only) mitigation means in the short timeframe before a beetle infestation will occur.”

The Roadless Area Conservation Rule (36 CFR 294) specifically states that prohibitions and restrictions are not subject to reconsideration, revision, or rescission in subsequent project decisions. Rescinding IRA designation is not at the discretion of the responsible official and is outside the scope of the project. Additionally, the microburst in the spring of 2019 occurred in areas that were not part of the project treatment units and therefore, cannot be included in the project analysis. Alternative 5 was developed with treatment types/location to address some concerns raised by private landowners. Treatments within this alternative include cutting of small diameter trees and construction of fire lines; hand treatment for meadow restoration, aspen restoration and stand improvement thinning; and prescribed fire.

Enforcement of motorized use on closed roads is outside of the scope of this project. The project complies with current travel management plans and does not make any new travel plan decisions.