Data Submitted (UTC 11): 5/13/2019 4:00:00 AM
First name: Steve
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Organization: The Clinch Coalition
Title: Associate Director
Comments: Michelle & Chuck, Below and attached are our comments on the proposed HK Tower Viewshed Project. Thank you for your consideration. Steve

May 13, 2019

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Re: High Knob Observation Tower Pollinator Habitat Expansion Project

While the Clinch Coalition generally agrees the objectives of the High Knob Observation Tower Viewshed and Wildlife Habitat Enhancement Project could benefit both the public as well as pollinators and other wildlife, we have concerns about the project design, implementation, and potential environmental impacts. These include: an increase in invasive species infestations, unnecessary habitat alterations, and soil and water impacts. In addition, we have serious questions about whether this level of ground disturbance is appropriate for an Improvement CE and urge the District to prepare an EA. Below are our detailed comments. Thank you for the opportunity to participate in the scoping of this project.

VIEWSHED ENHANCEMENT

Size and Shape of Viewshed Enhancement Area

* Is an eight-acre enlargement of the viewshed necessary? Do the eight acres include the existing opening, or is

a proposal for an additional eight acres?
* Has a viewshed analysis been completed, and used to determine that the proposed polygon is the optimal size and shape needed to provide the desired views?
*
Can a map be provided that delineates the opening that already exists (proposed harvest polygon overlaid on satellite imagery)? And can the project shape files be provided in KML format?

Pre-project Inventory and Treatment Work Should Be Done

* This proposal would change the existing native plant community and habitat. Thorough surveys of TES, native, and nonnative invasive plants (NNIS) should be completed by a qualified botanist. Existing populations of NNIS, (e.g. garlic mustard), currently present in the project area, should be controlled prior to any soil disturbance or overstory removal. Both of these activities would favor invasive species.

CONCERNS ABOUT PLANTINGS THAT ARE NOT BEST SUITED FOR THE SITE

* TCC has concerns about the species that may be planted for pollinators. The FS should consult DNH about the most appropriate seed mix. Native species seed purchased from "outside" areas can genetically contaminate our local ecotypes. If seed is used, it should only be purchased if it is documented that the seed was sourced from stock that came from nearby ecological zones.
* The FS should also consider allowing the naturally occurring species assemblages/biological communities to become established. It will require more time for the vegetation to naturally expand onto the site, but it will be ecologically superior to planting types and species that may be from seed sources that are several states away.
* As another alternative to purchasing seed that may be of unknown genetics, the FS could employ volunteers to collect seed that would be from local ecotypes.
* Using locally collected seed and allowing naturally occurring species to become established is likely to result in a system that will ecologically function better than any artificial planting. Additionally, since native plant seed is very expensive, this would save funds that could be used effectively for other management work.
* As part of this proposed action, the FS should also consider improving and/or replanting the area around HK Tower that has previously been seeded. At least some of the seed planted are nonnative species or types.

PROJECT FEASIBILITY/SUSTAINABILITY

* Some slopes in the project area are very steep. Is it feasible and safe to operate a tractor or other equipment in these areas? If they are too steep for equipment, how will the area be cleared, planted and maintained?
* Instead of stump removal, would treating stumps with herbicide be a better option (proposed CE does not allow the use of herbicide)?
* With current FS funding and staffing levels, is the FS able to implement, manage and maintain the pollinator enhancement area effectively? Specifically, will the FS be able to control invasive species and woody vegetation frequently enough to maintain the pollinator habitat? What assurance is there that the FS would not later deem this project as a low priority task?

NEED TO ADDRESS POTENTIAL IMPACT TO SOIL AND WATERSHEDS

* The steep slopes and proposed surface disturbance (ripping, stump removal, tree harvest/removal, road building, operation of equipment) are concerning. Conserving soil and protecting watersheds from sediment needs to be addressed.
* Rather than removing tree stumps, would the treatment of the stumps with an herbicide be a better alternative (proposed CE does not accommodate the use of herbicides)?

WEATHER SENSOR

* A weather sensor is located in or near the proposed project area. What would be done to protect the sensor from being damaged by the operation of equipment or the felling of trees?

PROPER NEPA ANALYSIS

While the Clinch Coalition could generally support the objectives of this proposal- increasing pollinator habitat and improving the High Knob Tower viewshed, we believe the District needs to complete an EA for this project. The District proposes to avoid an EA by relying on a CE for "timber stand and/or wildlife improvement activities."[1]) ("Improvement CE"). Example activities included: girdling trees to create snags; thinning or brush control to improve growth or reduce fire hazard including the opening of an existing road to a dense timber stand; prescribed burning to control understory hardwoods in stands of southern pine; prescribed burning to reduce natural fuel build-up and improve plant vigor.[2]

The Improvement CE came into existence in 1992 when the Forest Service decided to divide a 1985 CE for "low-impact silvicultural activities" that were "limited in size and duration" into several separate CEs.[3] The CE incorporated a 1985 CE for fish and wildlife habitat management activities "where there is little potential for displacement of exposed soil, changes in vegetation species composition, or new sources of water pollution."[4]

With this project, however, the District is proposing a great deal of ground disturbance. The ground disturbance from the proposed mechanical harvest, biomass and stump removal, and ripping will be very severe. The disturbance from tree removal, road construction, stump removal, and ripping could result in the loss of soil and potential sedimentation to streams. For a project involving this level of severe ground disturbance, the District should examine the history of other CEs, because the Forest Service has recognized the importance - and difficulties of - of setting appropriate limits for CE activities that involve ground disturbance.

At the same time the Forest Service created the Improvement CE, it also created a separate CE for timber harvest. The 1992 Timber Harvest CE allowed 250,000 board feet of timber harvest and 1,000,000 board feet of salvage harvest. Examples included harvesting, salvaging, and thinning.[5] In 1999, though, a federal court invalidated the 1992 Timber Harvest CE and prohibited its use throughout the nation.[6] The court did so because it found the drastic increases in allowable timber harvest were "a classic example of an arbitrary decision."[7] Additionally, the Court found the Forest Service failed to show that timber harvests of this magnitude would not have cumulative effects on the environment.[8] Consequently, the Court held the Forest Service's decision to advance the CE was arbitrary and capricious, declared the CE null and void, and enjoined the use of the 1992 Timber Harvest CE nationwide.[9] The Forest Service did not appeal the ruling.

Instead, in 2003, the Forest Service tried to craft a new timber harvest CE. In light of the court ruling in the Heartwood case, the agency proposed a CE "much more limited in scope" than the invalidated 1992 Timber Harvest CE.[10] The new timber harvest CE provided for 70 acres of timber harvest with no more than .5-mile temporary road construction. Examples of activities included: Removal of individual trees for sawlogs, specialty products, or fuelwood; and commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor. Importantly though, this CE cannot be used for even-aged regeneration harvest or vegetation type conversion.[11] Because this project proposes to convert forestland to open pollinator fields, this CE cannot be used.

The District should consider carefully that: (1) the Improvement CE was not intended to cover ground disturbance like the harvest, biomass and stump removal, and ripping proposed here, and (2) the Timber Harvest CE - which was crafted to address environmental impacts of ground disturbing activities like timber harvest - does not apply to the vegetation type conversion proposed here. Accordingly, we urge the District to consider preparing an EA because of the potential impacts to a relatively undisturbed forested area.

Moreover, limited herbicide application may be the only effective means to mitigate adverse impacts from NNIS spread. In addition, targeted cut-stump herbicide application is likely to be more cost efficient than stump removal, and would significantly limit soil disturbance. However, the proposed Improvement CE does not accommodate the use of herbicides.

We look forward to further discussions about this project. Thank you for considering these comments.

Sincerely,

Steve Brooks

The Clinch Coalition, Associate Director

[1] 36 C.F.R. [sect] 220 .6(e)(6); FSH 1909.15 chapter 30, section 32.2(6).

[2]Id.

[3] 56 Fed. Reg. 19718, 19720-21 (Apr. 29, 1991). Examples of activities under the 1985 Low-Impact Silvicultural Activities CE included: firewood sales; salvage, thinning, and small harvest cuts; site preparation; planting and seeding. 50 Fed. Reg. 26078, 26081 (June 24, 1985).

[4] 56 Fed. Reg. at 19745; see also 50 Fed. Reg. at 26081 (1985 CE for fish and wildlife management activities, such as improving habitat, installing fish ladders, and stocking native or established species).

[5] 57 Fed. Reg. 43180, 43209 (Sept. 18, 1992).

[6]Heartwood, 73 F.Supp.2d 962 (S.D. Ill. 1999), aff'd, 230 F.3d 947 (7th Cir. 2000).

[7]Heartwood, 73 F.Supp.2d at 975.

[8]Id at 976.

[9]Id at 980.

[10] 68 Fed. Reg. 1026-02, 1027 (Jan. 8, 2003).

[11] 68 Fed. Reg. 44598, 44607 (July 29, 2003).