AMERICAN FOREST RESOURCE COUNCIL

July 28, 2009

Appeal Deciding Officer
Randy Moore, Regional Forester
USDA Forest Service
1323 Club Drive
Vallejo, CA 94592
(707) 562-8737

Via email: appeals-pacificsouthwest-regional-office@fs.fed.us

RE: Administrative Appeal of the Browns Project Record of Decision (ROD)

To Whom It May Concern:

On behalf of the American Forest Resource Council (AFRC) and its members; Sierra Pacific Industries; Trinity River Lumber Company; Schmidbauer Lumber; and Roseburg Forest Products, we file this Administrative Appeal of the decision approving the Browns Project. The lead appellant is AFRC. Appellant's name, address, and phone number are:

American Forest Resource Council
1500 SW First Ave., Suite 765
Portland, OR 97201
Phone: 503-222-9505

The primary contact for this appeal will be Richard Svilich, our Northern California AFRC consultant. His contact information follows:

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The date of the decision was June 15, 2009. The decision was published June 19, 2009. The responsible official making the decision is J. Sharon Heywood, Shasta Trinity National Forest Supervisor.

APPELLANT'S INTERESTS

AFRC represents over 80 forest product businesses and forest landowners in the state of California and twelve western states. Our mission is to create a favorable operating environment for the forest products industry, ensure a reliable timber supply from public and private lands, and promote sustainable management of forests by improving federal laws, regulations, policies and decisions that determine or influence the management of all lands. Many of our members have their operations in communities adjacent to the proposed project area, and the management on these lands ultimately dictates not only the viability of their businesses, but also the economic health and protection of the communities themselves.

The appellant's interests will be adversely affected by the decision made for this project. It does not meet the intent of the purpose and need displayed in the Revised Final Environmental Impact Statement (RFEIS). The selected alternative does not meet the intent of the Forest Land and Resource Management Plan (LRMP) for the project area. We have clearly stated throughout the life of the project that meeting the intent of the projects purpose and need, LRMP, and maximizing commodity outputs and providing community protection is essential for this proposal. We believe the selected alternative is irresponsible forest management for the established purpose and needs identified in the RFEIS.

We emphasized the following from our 8/27/07 comments for the Draft Environmental Impact Statement (DEIS).

> "The no action alternative, #1, will cause serious long term environmental consequences to the project area and the other, #4, does not fully meet the intent of your purpose and need and Land and Resource Management Plan (LRMP) objectives."

At that time we advised the decision maker the proposed action, Alternative #3, was the only logical alternative for selection as it fully met the established purpose and need for the proposal.

REQUESTED RELIEF

1. As a minimum, the decision for the Browns Project should be revised to establish a retention canopy closure of 40-50%. This would be consistent with the original proposal for Alternative 4 in the DEIS;
2. Allow for flexibility in landing size. The current RFEIS does not allow enough space to operate with the expectation of whole tree yarding. There needs to be an allowance for flexibility of landing size up to at least 2 acres. This is also consistent with the original Alternative 4 proposal;
3. Implement the project quickly instead of over a 5 year time frame. Community protection is essential and delaying implementation does nothing for quickly achieving the community protection objectives;
4. The deciding officer truly analyze the alternatives, without prejudice, and select an alternative that more closely meets the purpose and need for the project while meeting all environmental constraints.

STATEMENT OF REASONS

I. Summary

The community of Weaverville has been threatened by wildfires numerous times during the past decade. Since 2001 approximately 35,000 acres have burned near the community. During those fires a total of 35 structures and 29 vehicles have been destroyed. The community has had mandatory evacuations during most of these wildfire events.

The RFEIS for the Brown Project clearly articulates the need to provide community protection for the community of Weaverville. The following are statements from the RFEIS highlighting the purpose and need for treatment within the project area (pages 1-2).

> "Fuel conditions that supported such intense wildfire events still exist on lands managed by the Shasta-Trinity National Forest in the vicinity of Weaverville.
>
> As a result of these conditions, the Shasta-Trinity National Forest proposed the Browns Project located north of the community of Weaverville. The purpose of the Browns Project is to modify existing fuel and vegetation conditions in the Wildland-Urban Interface surrounding Weaverville by:
> • Reducing ground and ladder fuels to conditions that reduce the potential for rapidly spreading crown fire while still meeting other resource needs.
> • Improving forest health, growth and sustainability where overstocked forest conditions exist; where there is inadequate stocking; or where there is substantial tree mortality due to insects and disease."

Actions needed in order to fully meet the established purpose and need are clearly articulated on page 3 of the RFEIS.

Actions needed for reducing ground and ladder fuels:

> "There is a need to reduce overstory crown density in overstocked forest conditions.
> The application of thinning treatments over approximately 754 acres will reduce crown density to levels that are likely to reduce the potential for rapidly spreading crown fire. With an emphasis on removing the shorter trees in thinning treatments, the height of the lower level of residual crown canopy will be raised reducing the potential for crown fire.
> • There is a need to reduce fuel ladders created by the development of understory vegetation.
> The inclusion of biomass removal (trees less than 10 inches diameter) over approximately 754 acres will remove understory conifers and reduce the potential for ground fire being carried into the overstory crown canopy.
> • There is a need to reduce existing concentrations of woody ground fuels in the project area, and to avoid any additional accumulation of ground fuels resulting from project activities.
> Whole-tree removal during timber harvest will reduce the amount of additional woody ground fuel resulting from project activities. Fuels treatment of current excessive fuel loading and project-generated fuels over approximately 790 acres will achieve desired fuel loads.

• There is a need to focus fuels reduction activities on areas where there are threats to public safety, structures, or community infrastructure.
 Fuels reduction activities have been focused within the Wildland-Urban Interface zone and in areas identified as high hazard/risk/value. Fuels reduction activities were also focused on the Highway 3 travel corridor which would be used as an emergency route and a defensible zone during wildfire events."

Actions needed for improving forest health, page 4:

"There is a need to reduce tree densities to levels that restore and maintain forest health and vigor. Thinning treatments over approximately 754 acres will reduce tree densities to levels appropriate for the species, age, and site capacity of the stand. Thinning will improve the resistance of trees to insect attack, improve the ability of forest stands to withstand climate fluctuations such as drought, enhance growth in residual trees, and improve the long-term yield of the stand."

We believe the decision made in the RFEIS does not meet the actions required to fully provide for protecting the community of Weaverville, improve forest health conditions currently existing within the proposed treatment areas, and does not fully meet the need to reduce fuels or threats to the community in a timely fashion.

II. Not Meeting Purpose And Need

As stated above there are two identified purpose and need statements for the project area with actions required identified in the RFEIS.

The RFEIS states the desired condition for the project area includes:

1. "The desired condition is to have a forest where stand understories appear more open with less ingrowth particularly on sites where wildfire plays a key role in stand development. Fuel treatments would replicate fire's natural role in the ecosystem. Desired levels of unburned dead and down material is an average of 10 tons/acre on project area lands (Prescription III)."
2. "The desired condition is to manage forest stand densities at levels to maintain and enhance growth and yield to improve and protect forest health and vigor recognizing the natural role of fire, insects and disease and other components that have a key role in the ecosystem. Stand understories would appear more open with less ingrowth particularly in stands on sites where wildfire plays a key role in stand development. The stand densities would depend upon stand species, site quality, stand age, and stand objective."

The RFEIS describes the existing condition within many of the stands found in the project area:

- "In the absence of fire – or other natural disturbance or management activity – the volume and arrangement of forest fuels develop into conditions that can lead to the loss of entire forest stands in the event of wildfire. Accumulations of ground fuels increase heat intensity and flame lengths during wildfire, increasing the potential to ignite the overhead crown canopy. Understory vegetation and smaller trees serve as fuel ladders which can carry ground fire into the crown canopy. Overstocked forest conditions result in high density crown canopies that, if ignited by ground fuel and understory fuel ladders,

can result in rapidly spreading crown fire. The project area has been identified for treatment because of existing fuel conditions that could result in extensive, high-intensity wildfire.

A wildfire in the project area is likely to pose a threat to life and property in the nearby community of Weaverville, as well as cause excessive erosion and watershed damage. In the last two decades, several wildfires in the vicinity of Weaverville have demonstrated the danger associated with unnatural fuel accumulation within the Wildland-Urban Interface."

- "Overstocked forest conditions were noted within the project area, and the distribution of overstocked stands was a primary consideration for identifying project treatment units. Overstocked conditions occur when tree density exceeds commonly accepted levels for the species, age, and site capacity of the stand. At higher densities, tree growth and vigor declines as individual trees compete for limited moisture, nutrients, and light. Climate variations, such as drought, can exacerbate the effects of overstocking. As tree vigor declines, the ability to repel insects declines and stands become susceptible to insect attack."

Crown Fire Risk

The decision in the RFEIS has modified the original proposal found in the DEIS. The main modification deals with the residual canopy closure limit. The DEIS displayed a residual canopy closure of 40-50%. The RFEIS has modified the residual canopy closure to 70%. We contend this modification will not meet short or long term objectives of providing for community protection, fuel reduction, and improvement of forest health conditions. Research shows that canopies need to be opened up significantly greater than 70% to fully meet these objectives. Numerous research documents highlight the need to reduce canopy closure levels along with treating ground and ladder fuels to effectively offset the threat of a disastrous crown fire. We will just highlight three, Agee and Skinner, 2005; Peterson, Johnson, Agee, Jain. McKenzie, and Reinhardt, 2005, and Fites-Kaufman, 2008.

Agee and Skinner identify key principals of fire resistance of dry forests. They include; 1) reduce surface fuels, 2) increase height to live crown, 3) decrease crown density, and 4) keep big trees of resistant species. The ROD decision for the Browns project currently only achieves three of these four principals. By keeping crown densities at 70% one of the key components of fire resistance is not being met.

The Peterson document also highlights the same four principals. It goes on to state "In forest stands that have not experienced fire or thinning for several decades, heavy thinning combined with (often multiple) prescribed-fire or other surface fuel treatments, or both, is necessary to effectively reduce potential fire behavior and crown-fire hazard."

It also emphasizes that "effective fuel treatments in forest stands with high fuel accumulations will typically require thinning to increase canopy base height, reduce canopy bulk density, reduce canopy continuity, and require a substantial reduction in surface fuel through prescribed fire or mechanical treatment or both." Leaving canopies at 70% will not reduce the canopy bulk

density or canopy continuity enough to provide any protection to the residents of Weaverville from a crown fire.

The Fites document clearly highlights the need to open up crowns in order to reduce the threat of a crown fire. It states; "Further, it is my view that there is insufficient science behind existing fire behavior models to support choice of canopy cover thresholds for reduced crown fire threat—such as 40% or 50% cover. In fact, based on my observations and research on fires and that of very experienced Fire Behavior Analysts working for me, canopy cover should be reduced to less than 40% if the likelihood of crown fires is to be substantially reduced. This does not mean that I advocate forests with less than 40% canopy cover everywhere--but certainly more areas in fuel treatment locations at this level, and in particular around communities at risk."

Forest Health Risk

We contend that leaving stands with 70% canopy closure will not provide for any short or long term benefits for improving forest health. In order to improve forest health, growth and sustainability and reduce the risk of tree mortality due to insects and disease stands need to be opened up to allow sufficient use of the available resources. By leaving stands as dense as what is proposed in the RFEIS inter-tree competition will still be prevalent. This density will continue to create competition between the remaining trees, will not reduce the risk to insect or disease outbreaks, and will not provide for any substantial growth gains on the remaining trees. Plenty of research has been done over the last several decades highlighting the need to adequately space trees apart in order to achieve any forest health benefit. Certified silviculturists would be the first to admit this decision will do nothing to meet this purpose and need for either the short or long term forest health improvement.

The RFEIS clearly states numerous times there is a need to reduce overstory crown density in overstocked forest conditions and a need to reduce tree densities to levels that restore and maintain forest health and vigor. The decision in the RFEIS does nothing to achieve these needed actions or meet any of the stated objectives. It must be remembered that leaving a residual crown cover of 70% is not static. These crowns will quickly grow back together in a manner of years rendering any benefit, if any, negligible.

RELIEF REQUESTED

As a minimum, the decision for the Browns Project should be revised to establish a retention canopy closure of 40-50%. This would provide for the stated purpose and need to be met for the short term and would be consistent with the original proposal for Alternative 4 in the DEIS;

III. Implementation Feasibility

The ROD states that whole tree yarding will be employed as part of implementation. It also wants to facilitate maximum disposal of wood by-products as biomass, fuelwood and erosion cover for decommissioned roads and skid trails.

The decision in the RFEIS is requiring landing size to be approximately ¼ to ½ acre. The DEIS allowed flexibility for landings to be up to 2 acres in size. Any logging system specialist will admit that landing sizes of ¼ to ½ acre will not be sufficient when requiring whole tree yarding. Enough space needs to be allocated to allow space for merchantable material, unmerchantable material, equipment to process both types of material, and trucks to remove merchantable and biomass products.

We contend the landing size restriction found in the ROD makes any implementation effort completely unfeasible. Past experience has shown this. The Shasta Trinity has considerable experience with whole tree yarding. It is difficult to understand how a decision can be made with this type of landing size restriction based on the Forest's past experience.

RELIEF REQUESTED

Allow for flexibility in landing size. Flexibility needs to allow for landings up to at least 2 acres in size. This is consistent with the original Alternative 4 proposal.

IV. Project Implementation

The EIS for the Browns Project has been ongoing for many years. The primary reason for the project was to provide for community protection to the community of Weaverville. Now that the RFEIS has been signed one would think rapid project implementation would be emphasized. Rather the opposite appears to be true. Rather than quickly implementing a community protection project the decision has now been made to phase it in slowly doing small portions over the next several years. The original intent was to complete the project with one contract in order to maximize timing. Now the project will be implemented with several contracts over a 5+ year time frame. We don't understand how this slow implementation phase will assist with providing some quick protection measures for the community.

RELIEF REQUESTED

Implement the project quickly, with one stewardship contract, instead of over a 5 year time frame. Community protection is essential and delaying implementation does nothing for quickly achieving the community protection objectives.

REQUEST FOR AN APPEAL RESOLUTION MEETING:

We would like to schedule an appeal resolution meeting as soon as the appeal period has expired. We believe it would be beneficial to meet in order to present our issues face to face. We sincerely hope the Forest Service will work with us, through the appeal resolution process, to find a mutually agreeable way to proceed with the project while avoiding litigation.

CONCLUSION

We believe the decision made in the RFEIS for the Browns project does not meet the full intent of your purpose and need.

AFRC believes your decision is arbitrary and capricious for the following reasons.

- The selected alternative does not best meet the intended purpose and need established for the project,
- Fails to provide for short and long-term community protection,
- Fails to provide resiliency from insects and disease to the proposed treatment stands,
- Does not enhance long term resiliency to the forest and project area,
- Does not comply with the Forest Land and Resource Management Plan and thus is in violation of the National Forest Management Act, the National Environmental Policy Act, and is arbitrary and capricious and in violation of the Administrative Procedures Act.

We conclude your decision is not based on fact, rather it is based on the public's lack of understanding of the Forest ecosystem, personal and group agendas and personal biases. As such your decision does not meet the needs of the Browns project area, your stated purpose and need, and forest plan direction and is arbitrary and capricious.

You stated your decision was based on public comments yet we find total neglect of the comments we raised as professional foresters. We as a forestry industry and long time foresters are very concerned that good forestry be practiced on the National Forest land base. The decision made for this project does not practice sound forestry and does very little to provide for community protection, reduction of fuel hazards, and does not provide for positive forest health issues.

If you have any questions, please contact Rick Svilich (AFRC) at 530-842-3345 or 530-905-0181.

Sincerely,

Tom Partin, President
American Forest Resource Council

General Bibliography:

Agee, James K., Carl N. Skinner, "*Basic Principals of Forest Fuels Treatments"*, Fire Ecology and Management 211(2005) 83-96.

Fites-Kaufman, Jo Ann, Summit on Wildfire Prevention, August 13, 2008.

Peterson, David L., Morris C. Johnson, James K. Agee, Theresa B. Jain, Donald McKenzie, Elizabeth D. Reinhardt, "*Forest Structure and Fire Hazard in Dry Forests of the Western United States"*, Pacific Northwest Research Station, General Technical Report, PNW-GTR-628, February 2005.