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08/23/02 09:52 AM

To: <ceq_nepa@fs.fed.us>
cc:
Subject: NEPA Taskforce Comments

CQ216

Dear Sir: Enclosed are my comments. I appreciate the opportunity to review and comment.



Jan Alexander Category 8.doc

Comments: Council Of Environmental Quality Task Force on NEPA

Dear Sir:

I worked for the Forest Service in Region 6 for 21 years in the locatable minerals program. During that time, I was ID Team leader and wrote many CEs and EAs. I was continually frustrated by the fact that EAs on minerals projects were strung out for years, specialists exhibited anti-mining bias in their analysis, and in the last few years, the Forest Service began opting for expensive, time intensive EISs for small scale projects which would have been better served under an EA. The reason given was that "an EIS is more defensible in court". The NEPA process has been brought to a standstill by the environmental faction who routinely appeal, sue and win. Forest Service specialists do not understand the effects of mining, do not especially care to understand these effects, and are not prepared to defend their analysis. They have learned that if they do nothing, miners won't mine and there will be no decision for the environmentalists to appeal. The following are my comments concerning the revisions needed for the NEPA process.

Under "**A Technology, Information Management**", I have grave concerns about the Forest Service's continued use of "junk science". When the agency has an axe to grind, (such as get the cattle off the National Forest, or stop mining) the agency tends to make up data about the effects of the current situation in order to prove that a change in management is needed. There is no accountability.

The South Fork Burnt River Grazing EIS is a good example where this was done. The Water Master in the South Fork Burnt River area for 17 years, commented on the draft EIS, pointed out where the watershed data was wrong and provided the accurate watershed information to the Forest Supervisor during the DEIS comment period so that she could rewrite the document based on the facts. The correct information about the watershed is readily available from Oregon Water Resources Department, Oregon Department of Environmental Quality, studies by Oregon State University, Baker County Water Master and the Burnt River Irrigation District, yet the Forest Supervisor chose to ignore all this information. She signed a decision with completely erroneous statements, such as; the current grazing situation is increasing peak flows, decreasing late season flows, that bacteria count is high, that stream temperatures are exceeding State law, that there is an adverse effect on lynx, (which are not present) because of the present degraded condition of the watershed. Even though none of this is true, the FEIS states all these things as if they were facts. I believe the Forest Supervisor understood the obvious problems with this EIS, but because of the time and money spent on the document, and her agenda to see an end to cattle grazing on the National Forest, she and the Regional Forester chose to implement her decision, even though the baseline watershed information was wrong.

The problems with a flawed EIS does not end with that document. All other EAs in the watershed tier to it. Thus the original problems are compounded until a new document is written.

The recent Snow Creek Mining Amendment and Orion Mine EAs on the Unity Ranger District also reported as if they were facts, untrue statements about the current condition of the watersheds. Both EAs were sent back to the drawing board due to public comment which pointed out the errors in the baseline data.

The Forest Service must be held accountable for the information they use. They must not be allowed to manipulate data to prove a point.

Under “**C Programmatic Analysis and Tiering**”, non-discretionary activities such as locatable minerals exploration, as well as pick and shovel work and suction dredging where T&E species exist, could be facilitated under programmatic analyses. The State already permits these types of activities, so a programmatic approach would be appropriate, at least in Oregon. The Forest Service has been afraid to use this type of analysis, since they are so fearful of the environmental faction and the appeals and lawsuits their NEPA documents bring.

Under “**D, Adaptive Management and Monitoring**”, this is exactly the approach the Forest Service needs to take with its analysis of locatable minerals plans of operation. Uncertainty and limited knowledge are problems, and Forest Service specialists are largely unable to write effects for locatable minerals projects. They don't have to know much to analyze the effects of timber entries with 300 foot stream buffers; thus, they do not have any idea on how to analyze the effects of mining operations in floodplains. Performance based environmental parameters are just what is needed. Decide what the end result should be, work with the operator so he has a clear vision as to what that end result is, and allow the operator to design an operation that will bring about that end result. Then monitor to ensure that the end result is achieved and is satisfactory. I like this approach.

Under “**E, Categorical Exclusions**”, the Forest Service needs the flexibility to use CEs for small scale locatable minerals exploration projects. The process for establishing new categories is cumbersome and there is no process in place for field units to submit categories they feel they need.

Proposed Revision of 36CFR 228.31.2 Category 8

Currently, in Region 6, the Forest Service is unable to use CEs for most locatable minerals projects where the operator submits a plan of operation to conduct assessment work using mechanized equipment, or proposes exploration work using equipment. The mining season in Northeastern Oregon is very short, and the one year restriction on duration of activities in the current CE category is not reasonable. Also, with the restriction on floodplains (100 year floodplain) it lets out about 75% of the test operations. It takes the Forests Service much longer than one year to approve a one year CE. EAs take many years longer. There is a huge backlog of Plans of Operation submitted from 1-6 years ago, which have not been responded to.

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Category 8 should be for "Short term (five years or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than one mile of low standard road, or use and minor repair of existing roads".

Public scoping and scoping via the SOPAs, ID Team involvement, generation of site specific mitigation measures and reclamation plans, should all be a part of the process to approve exploration Plans of Operations under CEs. Just because floodplains and wetlands are in the area where test holes will be excavated, (extraordinary circumstances) this would not necessarily prohibit the District Ranger from using a CE. If there will be no adverse effect on the floodplain or wetland which would result in irreparable damage to the land, the District Ranger should have the option of using a CE. Most exploration plans of operation never result in a mining plan.

Appeals under 36CFR215 should not result in an automatic stay. Appellants should have to post a non-refundable bond which they will lose if it is shown that their appeal is frivolous.

The current NEPA process involves no timeframes at all. EAs drag on for years. Environmentalists appeal and sue on every decision. Many times they win these suits because the environmental documents are not based on science and specialists have no idea at all how to write cumulative effects. Some of the projects which were documented under CEs and EAs 10 years ago, are today documented in EISs. This so called "Cadillac of NEPA documents", is no more defensible in court than an EA when junk science is used as the baseline for the document.

I appreciate the opportunity to comment on the NEPA process.

Jan Alexander
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Draft AFRC comments on CEQ NEPA Task Force Federal Register Notice.
COMMENTS DUE AUGUST 23

CQ217

NEPA Task Force
PO Box 221150
Salt Lake City, UT 84122

Re: *Federal Register* Notice and request for comments, July 9, 2002

Please accept the following comments prepared by Tricon Timber LLC. Tricon Timber LLC is a lumber producer located in a depressed section of western Montana, which employs approximately 100 people. Our mill depends the timber from federal, state and local lands. It is extremely important that we are able to streamline the appeals process in order to place timber up for sale before it loses its value.

- 1) We agree with all the comments made by the American Forest Resource Council as stated below.
- 2) In order to purchase a timber sale, timber companies are required to put up a bond in order to place a bid. We feel that if an organization wishes to appeal an EIS or EA, they should also be required to put up a bond.
- 3) If through litigation, an appeal is decided to be unfounded, the organization that appeals the timber sale should absorb those costs.

Sincerely,

Angelo N. Ververis
Assistant Plant Manager