

DIANA COOGLE ET AL.

IBLA 81-854 Decided February 19, 1982

Appeals from decisions of the Medford, Oregon, District Manager, Bureau of Land Management, to offer timber tract 81-11 for sale.

Affirmed.

1. Timber Sales and Disposals

A BLM decision to proceed with a proposed timber sale, when reached after consideration of all relevant factors and supported by the record, will not be disturbed absent a showing that the decision is clearly erroneous.

APPEARANCES: Diana Coogle, pro se; Christopher Bratt, Chairman, Applegate Citizens Opposed to Toxic Sprays; Mr. and Mrs. B. N. Landrum, pro sese; Southern Oregon Timber Industries Association, pro se; Hugh Shera, District Manager, Medford District Office, Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Diana Coogle, Mr. and Mrs. B. N. Landrum, and Applegate Citizens Opposed to Toxic Sprays (A.C.O.T.S.) appeal separate decisions, dated June 2, 1981, of the Acting District Manager of the Medford District Office of the Bureau of Land Management (BLM). The BLM decisions denied appellants' protests against the Thompson Creek Timber Sale (tract 81-11). That tract was offered for sale on March 26, 1981, and no contract has been awarded pending disposition of these appeals, pursuant to 43 CFR 4.21. Southern Oregon Timber Industries Association appears as intervenor in support of the BLM decision to hold the timber sale.

The grounds for protest and the reasons for appeal from the decisions denying the protests are both numerous and very general in their terms, but they may be summarized in the following terms. Appellants disagree with the use of the land for timber harvest and, particularly, the practice of intensive forest management, on the ground that it is violative of the concept of sustained yield and that it is not a desirable use of resources. It is alleged that the land is suited for recreational use and that use for timber harvest violates the multiple use concept. Objection is expressed to the visual impact of timber harvesting, especially clear cutting, and to the impact of herbicides commonly used to facilitate reforestation. Appellants

protest the threat to various species of plant and animal life which it is alleged will result from timber harvest. Each of the appellants objects to the alleged threat to the watershed and water quality from the harvesting of timber on the land. In particular, the Landrums assert that they hold water rights to Dry Gulch, that they depend on water in that stream for domestic use and livestock watering, and that clearcutting of timber on the watershed above Dry Gulch will increase runoff during periods of rainfall and, thus, reduce water availability during the dry season.

The record contains an environmental assessment prepared for the Thompson Creek timber sale which includes an analysis of the environment of the sale area, the anticipated impacts of the proposed action, and possible mitigating measures. The analysis is cross-referenced to the final environmental impact statement for the Jackson and Klamath Sustained Yield Units, Ten Year Timber Management Plan.

Management of the revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road grants lands is governed by statutory mandate. Section 1 of the Act of August 28, 1937, 43 U.S.C. § 1181a (1976), provides that the land:

[S]hall be managed * * * for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities * * *.

It appears from the record that the Thompson Creek timber sale reflects consideration of the effect on watershed and water quality. To the extent that timber harvesting on a particular tract may be inconsistent with another use, such as recreation, on that same tract, it must be recognized that implementation of a mandate for management for multiple uses can only be achieved through the management of all public lands where uses which conflict are applied to those parcels to which they are most appropriate. See State of Utah v. Andrus, 468 F. Supp. 995, 1003 (D. Utah 1979).

[1] The Federal Land Policy and Management Act of 1976 (FLPMA) provides the Secretary of the Interior and BLM with the authority and responsibility to manage the public lands under principles of multiple use and sustained yield. See sections 301 and 302 of FLPMA, 43 U.S.C. §§ 1731, 1732 (1976). This Board has consistently construed the relevant provisions of FLPMA as granting BLM substantial discretion in the management of Federal timber lands. A.C.O.T.S., 60 IBLA 1, 4-5 (1981). "[A] BLM decision to proceed with a proposed timber sale, when reached after consideration of all relevant factors and supported by the record, will not be disturbed absent a showing that the decision is clearly erroneous." A.C.O.T.S., 61 IBLA 166, 168 (1982); see also Ernest J. Goertzen, 51 IBLA 196, 197 (1980). Thus, the appellants here have the affirmative burden of proving their cases in accordance with the just stated standard.

We have considered the appeals, including the contentions that the timber sale will impair the watershed, water quality, and wildlife, and that

insufficient opportunity was provided for public input into the BLM decision to offer this tract for sale. We understand that these appellants have a close and abiding interest in how BLM manages the land near their properties, but we do not believe that BLM's decision has been shown to be clearly erroneous. BLM's decision denying A.C.O.T.S.'s protest stated in part:

The timber sale area was viewed by Fish and Wildlife biologists, soil scientists, a hydrologist, a landscape architect, an archaeologist, and a recreation planner as well as by foresters and engineers. We feel the proposed timber sale does adequately take into account all other resources.

The Thompson Creek area is "high intensity management land" and is capable of being managed for permanent production in conformance with the principles of sustained yield.

We find that the BLM decisions on appeal in this case create a record representing BLM's consideration of the factors deemed relevant by the appellants, and the points made by BLM in its decisions have not been rebutted. As we noted in A.C.O.T.S., 60 IBLA 1, 4-5 (1981), FLPMA grants BLM latitude and discretion in carrying out its statutory responsibilities of public land management. We do not see that BLM has abused its powers of discretion.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed are affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Edward W. Stuebing
Administrative Judge

