Forest Service Aims to Shortcut Environmental Review and Public Participation in Logging Projects

By Jim Scheff, Staff Ecologist

The U.S. Forest Service (USFS) recently issued final revised regulations that dramatically shortcut environmental review, and public input and oversight, on projects that include up to 2,800 acres of logging and 2 miles of new road construction. The changes in long-standing forest policy come as part of the Forest Service’s overhaul of its rules for implementing the National Environmental Policy Act, or “NEPA.”

The changes to the Forest Service’s NEPA regulations come on the heels of a major revision of the NEPA regulations issued by the presidentially-appointed Council on Environmental Quality or “CEQ.” The CEQ regulations set the overarching rules and guidance that other federal agencies, like the U.S. Forest Service, must abide by in setting their own procedures and duties.

Each of these revised rules (CEQ and USFS) serve to speed up the process of environmental review at the cost of public input and environmental protections. In the case of the Forest Service, it’s a means to get more timber out of the forest more quickly, and with fewer impediments. While the Forest Service reigned back on some truly audacious provisions in their proposed rule (issued in 2019), the final rule will undoubtedly lead to substantial damage to our national forest lands.

Leadership at the Daniel Boone National Forest have already said that they plan to use the new authorities to speed up logging on Kentucky’s national forest.

One of the more damaging provisions will be the expedited review and approval of logging up to 2,800 acres of forest at a time, along with up to 2 miles of new road construction. Most of these large logging projects will now be exempt from review in an Environmental Analysis (EA) under what’s known as a “Categorical Exclusion,” or “CE.”

Categorical Exclusions were historically used for routine things like mowing lawns at administrative sites. However, over the last 20 years, the Forest Service has granted more, and ever-larger, CE authorities for logging on national forest lands.

By using a CE, the Forest Service will be able to propose and approve large logging projects after issuing just one brief description of their plans (a “scoping document”) with a short comment period (“scoping period”), followed by a formal decision to approve the project.

(Cont’d on page 6)
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Field Work makes the Dream Work

By Lauren Kallmeyer, Council Member

Field work – getting out into the forest, documenting the flora and fauna, is a crucial piece of Kentucky Heartwood’s work.

As a new Council member, I was excited to go into the field with our staff and learn how we assess the ecological impact of the Forest Service’s proposed “project areas.” (These are typically areas the Forest Service is scoping for logging.)

In October, the Forest Service announced the beginning of a planning process in an area of the Jellico Mountains, and in 2019, announced a project near Cave Run Lake that consists of 12,000 acres in the Blackwater watershed. These two areas are a priority for Kentucky Heartwood. If we can document old growth trees, bat habitat, and rare and endangered species, it helps strengthen arguments to protect certain areas of the forest from logging.

The Jellico Mountains are part of the Cumberland Mountains on the KY/TN border. They’re the steep part of I-75 by the “Jellico” rest area, the beautiful rugged views you can see to the west off the interstate. I’ve wondered my entire life about those mountains when driving through. Who lives there? What grows there? What secrets do they hold? Based on the information shared by the Forest Service in the Jellico project kickoff meeting in October (which you can view by joining the Jellico IRMS Assessment group on Facebook), there is nothing much special to see in the Jellico’s….

Luckily, we did not take the Forest Service at their word. On my field trip to the Jellicos in October, I was able to hike just a small piece of the mountain in the proposed “project” area, but was amazed at what we found. Incredible, diverse forests filled with trees that rival some of the largest I’ve seen in Kentucky. Towering basswood, hickories, oaks, yellowwood.

As a clinical herbalist (a person who uses medicinal plants to improve health), I was thrilled to find the forest rich in medicinal herbs, including healthy populations of black cohosh and a rare gentian (both herbaceous plants) both of which are on United Plant Savers “species at risk” list from overharvesting and habitat loss.

Considering that natural medicine has become increasingly popular and the resurgence of folk herbalism has led many people to make their own medicine, many National Forest lands are starting to suffer from overharvesting. Therefore, dense areas of forest herbs have ecologic, economic, and cultural value that should be valued over logging sites. (Note: a permit and fee payment is required to harvest any roots from the National Forest. You should not harvest plants unless you can do it in a way that will allow...
Around the Boone (cont)

Day One: On my first visit to Kentucky Heartwood back in October 2020, one of the first emails I received alerted us to a virtual public meeting for the kickoff of the integrated restoration management strategy. We were well prepared, as we had received a survey about federal forest。(cont)

New Search for Forest Supervisor: In November 2020, the Forest Supervisor Dan Olsen unexpectedly stepped down and Deputy Forest Supervisor Scotts Ray moved up as the acting forest supervisor for the forest area and the lay of land for the new public involvement process. The lay of land refers to the critical habitat, timber sale, and other activities for forests and federal lands. The current key points of the new search for the forest supervisor are critical to both the public and the forest service.

NEPA Overhaul: If you are unfamiliar with the sweeping changes to the National Environmental Policy Act (NEPA), we've included Jim Schell's detailed analysis. Of course, when asked about the NEPA changes, the agency's reaction to changes will allow the public to express its views. This is a critical part of the public's involvement in the decision-making process and the NEPA rules, which are under the council for environmental quality and the Forest Service's internal rules.

Stewardship Agreements: They sound harmless at first glance. Stewardship agreements are agreements that have been made with the private sector to manage forest lands in a sustainable manner. These agreements are primarily focused on managing timber sales, selling timber, and selling timber rights. Many of these agreements are held by forest service and forestry companies, and they have been controversial in the past. The most recent controversy is the agreement with the Forest Service and the Rocky Mountain Elk Foundation, known as the South Redbird agreement. This agreement has been contested by many environmental groups, and it has been challenged in court.

Forest Service Aims to Shortcut: The Forest Service is looking to streamline the environmental review process for logging projects. This is being done in order to speed up the process and to reduce the amount of time and money it takes to complete a project. However, this has caused concern among environmental groups and some members of the public who believe that the process is being rushed and that important aspects of the environmental review may be overlooked. The Forest Service is working with the Rocky Mountain Elk Foundation to create a new type of agreement, known as the South Redbird agreement, which is designed to speed up the process and to reduce the amount of time and money it takes to complete a project. This agreement has been controversial in the past, and it has been challenged in court.

Blackwater project: We would love to have you join us on these “Forest Watch” adventures and are working on scheduling some public trips later this year. In the meantime, please check out www.kyheartwood.org/jellico & www.kyheartwood.org/blackwater-irms for more information on the project areas mentioned. Please visit www.unitedplant savers.org for more information on medicinal plant conservation.

Around the Boone (cont)

Mr. Visack’s tenure, logging increased in national forests, but it’s heating up very quickly. We are engaged, building our record, and ready to protect public lands in Kentucky!
May the Forest Be With You!
By Levi Gordon, Council Member

Back in the summer of ’08, little did I grasp the importance of the connection between Jim Schef and Tina Marie Johnson. Sitting around the fellowship fire at the Regional Summer Council, Tina was glowing with the promise of a profound partnership. Raised in eastern Ohio foothills country, she had emigrated south to Berea. At that time a grant writer for MACED, she also juggled care of a home and two children while also working mightily for Kentucky Heartwood.

Meanwhile her soon to be other half is also raising two slightly older siblings while landscaping and directing efforts to preserve Northern Ozark land. Unlike his physician professor forbearers whose vocation was to heal and teach others to heal, Jim has pursued a career of deep ecological preservation. To my mind he is following in their footsteps healing many through maintaining and improving forest lands, providing much biodiversity, clean air and pristine waters.

Together, these two powerhouses have synergistically energized Kentucky Heartwood ever since. By involving local community in the preservation of aquifer recharge lands above Climax Springs, thousands of Kentucky citizens are still drinking pure water daily. Then the jumpstarting of Frack Free Foothills educated land owners of Rockcastle, Madison, Estill and Jackson counties to the tragic, hidden costs of fracking. Yet another natural resource give away was halted in its tracks! Hundreds of Western Kentuckians have been aided by Jim and Tina on dozens of journeys to refute the half truths peddled by the United States Forest Service. With his data collection and strategy, local leaders were enabled to preserve ancestral lands and older growth forests from ill-conceived logging in that amazing Land Between the Rivers.

Names like Blackwater, Beaver Creek, Greenwood, and Redbird represent years of fieldwork surveying skewed proposals. Long hours of research combined with vigilance for upcoming hare-brained schemes are a continuing condition. Through all of this there were monthly council meetings to set up, newsletters to write, and articles to author. Essential also was the effort to submit the grant paperwork and show up in community gatherings. Membership has increased three-fold in their directorship. Tina has formed a Facebook presence, while Jim has needed to add drone navigation to his skill set.

Now we come to the end of this era. Yet another in the age of Kentucky Heartwood. Tina is taking some time after twenty years in this and other public service to nourish the artist within. Jim is stepping back to a more limited role as Staff Ecologist and mentor to our new director Ashley.

As a personal friend and long-time board member, I thank you both for the incredible efforts, the profound accomplishments, and continued inspiration to better serve our public lands. May the forest be with you always!

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Typically the Forest Service allows scoping comments on categorically excluded projects anywhere from 2 weeks to 30 days, though the duration isn’t spelled out in the law or regulations. Most scoping documents, at least in the past, have provided specific locations where logging and other management activities are proposed. However, with the recent Blackwater project near Cave Run Lake, the Forest Service is testing a new system called “condition based management,” where the specific locations for logging won’t be disclosed or decided upon until after a decision is made approving the project. Throughout the analysis of the Blackwater project, the Forest Service has been unwilling to disclose where they will log, how much they will log, where they will build roads, or where they will implement possible stream restoration activities.

The Forest Service has also adopted a new mechanism called a “Determination of NEPA Adequacy,” or “DNA.” The DNA allows the Forest Service to decide that an existing, previous project analysis can be used in whole as the analysis for a new project if the agency believes the two projects to be similar. Using a DNA means that the Forest Service would approve a project without examining or surveying a project area for any unique, special, or sensitive natural communities and habitats. The Daniel Boone Forest Plan, adopted in 2004, acknowledges that the agency doesn’t know the location of every rare natural community, old-growth site, and other resources, and defers to project development as the time to acquire that information. The DNA basically assumes that everything is known, and that there is nothing important that could be harmed by logging, road building, or other management.

Until recently, scoping was typically followed by an in-depth analysis of the project and its likely environmental impacts, coupled with opportunities for public input and scrutiny. This period of analysis, and the opportunity for input, have led to important changes and protections in several projects on the Daniel Boone National Forest. Examples of those changes include:

- In the Greenwood project, the Forest Service originally proposed logging the forest between the Three Forks of Beaver Creek trailhead and the boundary for the Beaver Creek Wilderness Area. People hiking into the Wilderness Area or visiting the Three Forks of Beaver Creek overlook would have had to walk through a logging site. However, between scoping and publication of the EA, the Forest Service agreed to drop logging in that location, along with about 600 other acres in the project area.

- In the Crooked Creek project, the Forest Service proposed logging hundreds of acres in Rockcastle County. Following scoping we identified important old-growth in proposed logging areas, and helped organize a broad coalition of people concerned about karst and spring resources, including effects to Climax Spring. Based on this information the Forest Service withdrew the project.

- In the Pine Creek project, Kentucky Heartwood provided information that got the Forest Service to drop logging a forest used by many to access Pine Island Double Falls and change management direction for proposed logging along the Sheltooe Trace National Recreation Trail. And, based on our input, new old-growth designations were increased from 500 to 920 acres.

- In South Redbird, information we provided about old-growth and landslide hazards led to the protection of the Little Flat Creek old-growth site which was initially proposed for logging.

These are just a few examples of the important, substantive changes that happen to project proposals through the analysis and public comment opportunities associated with the Environmental Assessment process. The Forest Service’s new systems do away with these opportunities, and assume that there is no worthwhile information to be had.

And further complicating things, while the new Forest Service regulations state that projects using a CE or DNA will still be publicly scoped, the new CEQ regulations suggest that scoping is only required – and potentially only allowable – when an agency is preparing a full Environmental Impact Statement. Therefore it’s entirely possible that scoping will be done away with altogether. Eliminating scoping was part of the Forest Service’s draft regulations, and could surface again.

The new rule does state that logging projects using the new 2,800 acre CE “shall be developed or refined through a collaborative process that includes multiple interested persons representing diverse interests.” However, nowhere is “collaborative process” defined.

In September, 2020, the DBNF proposed the “Upland Forest Restoration Project” to log 2,990 acres of mostly white pine plantations in the London District under a CE authority granted in the 2003 Healthy Forests Restoration Act as amended by the 2014 Farm Bill. That CE also requires that a project be developed through a “collaborative process.” However, there was no “collaborative process” through which the project was developed. Instead, the agency pointed to the few public meetings and field trips held as part of the Pine Creek project development. But nearly all of the logging in the Upland Forest Restoration Project lies outside of the Pine Creek analysis area, and nothing like the Upland Forest Restoration Project was discussed during the “collaborative” or analysis phases of the Pine Creek project. While the Forest Service did provide 30 days for submitting comments, the project was never included in the quarterly Schedule of Proposed Actions (SOPA).

Whether and how these rule changes (both USFS and CEQ) will change with the incoming Biden administration remains unclear. Undoing regulations is a lengthy and