

DRAFT

FINDING OF NO SIGNIFICANT IMPACT

Beartooth Front Storm Damage Clean-up and Fuels Reduction Healthy Forests Restoration Act Project – West Fork Rock Creek Beartooth Ranger District, Custer National Forest Carbon County, Montana

Township 8S, Range 18E and 20E; Township 7S, Range 18E and 19E
May 2009

After considering the environmental effects disclosed in the Beartooth Front Storm Damage Clean-up and Fuels Reduction Healthy Forests Restoration Act Project – West Fork Rock Creek Environmental Assessment (EA), and the project record, I find that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. My Decision is based on the following findings:

Context

The effects of the Beartooth Front Storm Damage Clean-up and Fuels Reduction Healthy Forests Restoration Act Project – West Fork Rock Creek will be limited in context. Treatment areas are limited in size (mechanical/hand treatments and prescribed pile burning across 935 acres in the West Fork Rock Creek drainage and activities will be limited in duration (Tree removal and thinning could begin by summer 2009 and continue for up to 5-10 years. Prescribed pile burning could take several years depending on opportunities to complete the burning depending on burning factors like fuel moisture, weather conditions, etc.). Effects will be local in nature and are not likely to significantly affect regional or national resources.

The project is located on NFS lands administered by the Custer National Forest lands. Activities will occur on National Forest System (NFS) lands both near and within the wildland-urban interface (WUI) adjacent to private property, structures, and developed recreation sites and within Red Lodge's municipal watershed (see Proposed Action Maps, EA Figures 6 and 7). NFS lands in the treatment areas and users of these lands will be affected by the Proposed Action. People most affected by the Proposed Action will be residents near the project area and Forest visitors to these areas during project implementation. This action is similar to other fuel reduction projects that have occurred for many years on the Custer National Forest, within the Northern Region, and across the nation without significant effects provided operational plans were followed. Project design and design features developed specifically for this project effectively eliminate or reduce to negligible most of the potential impacts (see 'Action Alternative Design and Mitigation Measures' section in the EA). The project design features are consistent with the Custer Forest Plan and Federal laws, regulations and policies and applicable State of Montana laws. Within the context of the landscape as a whole, and at the stand level, I find that the environmental effects are not significant in either the short-term or long-term.

Intensity

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action. I considered beneficial and adverse impacts associated with the Proposed Action as presented in the Beartooth Front Storm Damage Clean-up and Fuels Reduction Healthy Forests Restoration Act Project – West Fork Rock Creek EA and supporting project record. A summary of these effects as they relate to Key Issues is provided in EA Table 6 (pages 31-34). Further disclosure of beneficial and adverse effects is provided in the EA and EA appendices. I find that the selected alternative, the Proposed Action, is consistent with the Custer Forest Plan (USDA 1986). I find that the direct, indirect, and cumulative effects of the Proposed Action are not significant, and this action does not rely on beneficial effects to balance adverse environmental effects.
2. There will be no significant effects on public health and safety, because project design features and mitigations have been established to ensure any potential threats to public health and safety have been mitigated and resolved (see EA Table 5 and EA Appendices A, D, and L). Specific public health and safety mitigations are:
 - The Cascade fire area has been closed to personal use firewood cutting except in designated units with application of specific design features.
 - Signing, news releases and field level contacts to inform and educate the public regarding dispersed recreation opportunities or restrictions would form the basic plan to raise public awareness. Operations would be limited to weekdays to minimize impacts and avoid higher use of the area by recreation users on the weekends unless the work could occur without risk to the public. Limiting operations and log hauling to week days whenever possible would reduce impacts to adjacent land owners during evening hours and weekends. Special orders closing operating areas to the public Monday – Friday during project activities would be implemented for public safety when necessary.
 - Pile burning would be conducted under an approved burn plan in compliance with State air quality requirements.
3. There will be no significant effects on unique characteristics of the area, because:
 - The project does not contain any parklands, prime farmlands, wild and scenic rivers, or ecologically critical areas (EA page 18).
 - The proposed action is near the Absaroka-Beartooth Wilderness, but there are no treatments that would occur in the Absaroka-Beartooth Wilderness (EA Appendix K).
 - Treatments in Inventoried Roadless Areas are adjacent to existing developed areas and no new roads will be constructed in these areas (EA Appendix K).
 - The cumulative effect of the Action Alternative to cultural sites would be the restoration of the project area to a more desired condition and the protection and preservation of cultural resources, through fuel load reduction, making them more fire resistant (EA page 57).
 - Protection measures included in the proposed action would ensure the physical integrity of riparian areas and wetlands and comply with State of Montana and

Federal water quality and stream protection law, regulation, and policy (EA Appendix F).

4. The effects on the quality of the human environment are not likely to be highly controversial. Numerous public comments were received through the scoping process (see project record) and no highly controversial issues related to the human environment were identified during the public comment period (EA pages 16-18). Effects analysis was conducted using scientific literature (see References Cited in EA and EA appendices and copies of scientific literature in the project record). Effects analysis and the literature that applies to this project did not indicate that this project would be highly controversial.
5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risk: Natural resource specialists who were members of the interdisciplinary team for this project have considerable knowledge of and experience with the types of activities to be implemented. The effects analysis discloses methodology utilized and that the effects are not uncertain and do not involve unique or unknown risk (see EA and EA appendices).
6. This proposed action is a site-specific project that would not set precedence for future actions nor would it present a decision in principle about future considerations. Any proposed future project must be evaluated on its own merits and effects. With a short-term project-specific non-significant amendment of Forest Plan Visual Quality Objectives (Appendix M), the Proposed Action is consistent with the Forest Plan and the capabilities of the land (see EA and EA appendices). This action does not represent a decision in principle about a future consideration.
7. Predicted cumulative impacts are not significant (see EA and EA appendices). Analysis disclosed in the EA and supporting documents maintain this proposal would not cause significant cumulative effects on biological or physical resources or the human environment, even when considered in relation to other past present and reasonable foreseeable future activities.
8. The proposed action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, because the cumulative effect of the Action Alternative would be the restoration of the project area to a more desired condition and the protection and preservation of cultural resources, through fuel load reduction, making them more fire resistant (see EA page 57). The action will also not cause loss or destruction of significant scientific, cultural, or historical resources, because:
 - No significant scientific resources have been identified in areas potentially affected by the proposed treatments.
 - Proposed treatment plans on or adjacent to 33 cultural resource sites will be reviewed by the Montana State Historic Preservation Officer to ensure that any potential effects are avoided or appropriately mitigated.
 - Complete avoidance of impacts will occur at 27 sites.
 - An archaeologist will identify all site locations and/or structures to be treated and monitor all treatment activities. If the archeologist deems it necessary to verify significance and insure respectful consideration and treatment at one culturally

sensitive site, consultation with the Crow Tribe will also be completed (see EA page 56).

9. The proposed action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973, because the proposed action “May effect - Not likely to adversely affect” the threatened Canada lynx or proposed Canada lynx critical habitat and is “Not likely to jeopardize the continued existence of the species or result in destruction or adverse modification of proposed critical habitat” for the Experimental Nonessential gray wolf. (EA Appendix E, page 15). No impacts to other listed species are predicted because these species do not occur or have habitat in the project areas. Verbal concurrence with effects determinations for Gray wolf and Canada lynx was received from U.S. Fish and Wildlife Service and written concurrence is pending (EA Appendix E, page 41).
10. The proposed action meets Federal, State, and local laws or requirements for air quality (EA, page 37), heritage resources or cultural sites (EA, pages 56), noxious weeds (EA, page 59), water quality (EA, p. 40-41), fisheries (EA, pages 51-52) and Threatened and Endangered species (EA, pages 44-46). It also meets National Environmental Policy Act disclosure requirements (Beartooth Front Storm Damage Clean-up and Fuels Reduction Healthy Forests Restoration Act Project – West Fork Rock Creek EA and this Finding of No Significant Impact). Applicable laws and regulations were considered in the EA for numerous potentially affected resource areas (see EA appendices).

Findings Required by Other Laws and Regulations

National Forest Management Act

This proposal is consistent with NFMA and Forest Plan goals, objectives and management area standards (EA and EA appendices). The project was designed to be consistent with appropriate Forest Plan standards for fuels, timber, recreation, transportation, and specific management area direction (USDA 1986).

This proposal requires a project specific Forest Plan amendment to temporarily adjust the Visual Quality Objectives in the project area from retention and partial retention to modification (EA page 23, EA Appendix M). The site specific amendment makes the project consistent with the Forest Plan and is not significant per the determination disclosed in Appendix M.

16 USC 1604(g) - National Forest System Land and Resource Management Plans.

According to the National Forest Management Act, a final determination of suitability for timber production is made through project decisions. This determination has been made because there are fuels treatments that would take place in storm and fire damaged stands that are either suitable or not suitable for long-term timber management. It has been determined that 800.63 acres of forested lands proposed for treatment are capable of producing industrial products (tentatively suitable forested sites) and 49 acres of forested lands proposed for treatment are not capable of producing industrial products (tentatively unsuitable forested sites) (EA Appendix L,

page 50-51).

16 USC 1604(g) - National Forest System Land and Resource Management Plans.

- (i) Timber harvest is not expected to result in irreversible damage to soil, slope, or watershed conditions (EA, pages 40-41, 51-52, and 58).
- (ii) Openings will be restocked within five years after harvest (EA Appendix G, page 51).
- (iii) The proposed harvests will not seriously or adversely affect water conditions or fish habitat (EA, pages 40-41 and 51-52).
- (iv) The proposed harvesting system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber (Purpose and Need for proposed action and EA pages 62-65).

16 USC 1604(g) - National Forest System Land and Resource Management Plans.

- (i) In some areas the selected fuels treatment methods will result in areas of even-aged stands of trees because of the quantity of storm damaged trees or fire killed trees within the treatment areas is so great there is no manageable forested stand that would remain after treatment. The proposed harvest is appropriate to meet the goals, objectives, and standards requirements of the Forest Plan (Purpose and Need for the proposed action).
- (ii) An interdisciplinary team reviewed and assessed the project. Their findings are reported in detail in each resource report and are summarized in the EA and EA Appendices.
- (iii) Fuels treatment units will be shaped and blended to the extent practicable with the natural terrain. Fuels treatments units would include varying spacing between trees and varying the size of trees retained in high-visibility areas, such as areas adjacent to roads, campgrounds and other recreation sites. Feather edges of fuels reduction areas to meet VQO requirements.
- (iv) In units treated as a result of the 2007 wind event or the Cascade Fire, NFMA waives the 40 acre opening size limitations. The interdisciplinary team of resource specialists has reviewed the size of any openings and has recommended design features or mitigation measures to implement to protect soil, watershed fish, wildlife, recreation, and aesthetic resources pursuant to NFMA (16 USC 1604(g)).
- (v) The proposed harvests will be carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource (EA appendices B, C, D, E, F, G).

Environmental Justice (Executive Order 12898)

No impacts to minority or low-income populations were identified from public comment or any other portion of public involvement or environmental analysis during the course of this analysis.

Consistency with other applicable laws, regulations, and policies, including the Endangered Species Act, Clean Water Act, Safe Drinking Water Act, Healthy Forests Restoration Act of 2003, Montana Water Quality Law, Montana Streamside Management Zone Law, Montana Stream Protection Act, National Historic Preservation Act, is disclosed on a resource-specific

basis in the EA and appendices.

ADMINISTRATIVE REVIEW OR OBJECTION OPPORTUNITIES

The Beartooth Front Storm Damage Clean-up and Fuels Reduction Healthy Forests Restoration Act Project – West Fork Rock Creek is an authorized fuel reduction project as defined by the Healthy Forest Restoration Act of 2003, section 101(2). This project is subject to the Predecisional Administrative Review Process (referred to as the ‘objection process’) pursuant to the interim final rule for 36 CFR 218, subpart A, published January 9, 2004 (available online at: <http://edocket.access.gpo.gov/2004/pdf/04-473.pdf>) . The site-specific Forest Plan amendment included with this project decision is also subject to 36 CFR 218, as specified at 36 CFR 219.13 (available online at: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr219_main_02.tpl). This process is not subject to notice, comment, and appeal provisions pursuant to 36 CFR 215 (see 36 CFR 218.3).

Objections must be filed with the Reviewing Officer in writing. The Reviewing Officer is the next higher level supervisor of the Responsible Official. Objections must be submitted by mail at: USDA Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807; by FAX at: (406) 329-3411; or by Email at: appeals-northern-regional-office@fs.fed.us. The acceptable formats for submitting an electronic objection are: MS Word, Word Perfect, or RTF. Please type “Beartooth Front Objection” in the Email subject line. Hand-delivered objections will be accepted at the Regional Forester’s Office, 200 E. Broadway, Missoula, MT, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. All objections shall be open to public inspection during the objection process (36 CFR 218.7(a)).

Objections will be accepted only from those who submitted written comments specific to the proposed project during the 30 day comment period (36 CFR 218.6). The publication date of a legal notice in the Billings Gazette is the exclusive means for calculating the time to file an objection (36 CFR 218.9(a)). Those wishing to object should not rely upon dates or timeframe information provided by any other source. An objection, including any attachments, must be filed (regular mail, fax, Email, hand-delivery, express delivery, or messenger service) as stated above within 30 days of the date of publication of this legal notice for the objection process (36 CFR 218.9(a)). Incorporation of documents by reference shall not be allowed in the objection (36 CFR 218.7(c)).

At a minimum an objection must include the following (36 CFR 218.7(d)): 1) The objector’s name and address, with a telephone number, if available; 2) a signature or other verification of authorship upon request (a scanned signature for Email may be filed with the objection); 3) when multiple names are listed on an objection, identification of the lead objector (verification of the identity of the lead objector shall be provided upon request); 4) the name of the proposed authorized hazardous fuel reduction project, the name and title of the Responsible Official, and the name(s) of the National Forest(s) and/or Ranger District(s) on which the proposed authorized hazardous fuel reduction project will be implemented; and 5) provide sufficient narrative description of those aspects of the project that are objected to (36 CFR 218.7(b)) by identifying specific issues and suggested remedies which would resolve the objection.

If an objection is received on this project the Reviewing Officer and objector may meet and/or converse by telephone to discuss issues raised in the objection and potential resolution. The Reviewing Officer has the discretion to determine whether or not adequate time remains in the review period to make a meeting with the objector practical. These meetings would take place soon after the closing date for filing an objection. All meetings are open to the public. If you are interested in attending any resolution discussions, please contact the Responsible Official or monitor the following website for postings about current objections in the Northern Region of the Forest Service: http://www.fs.fed.us/r1/projects/appeal_index.shtml.

IMPLEMENTATION DATE

Pursuant to 36 CFR 218.11, if no objections are filed within the 30-day objection filing time period, a Decision Notice may be issued and decision implementation may occur on, but not before, 5 business days from the close of the objection filing period. When objections are filed, the Responsible Official may not issue a Decision Notice and begin implementation until the Reviewing Officer has responded to all pending objections.

CONTACT

For additional information concerning this project or the Forest Service objections process, contact Dan Seifert, at the Beartooth Ranger District., 6811 US Highway 212 South, Red Lodge, MT 59068, 406-446-2103.

MARY ERICKSON
Acting Forest Supervisor
Custer National Forest

Date

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