

UTAH NORTHERN GOSHAWK PROJECT
NFMA Finding Of Nonsignificance
(October 1999 DRAFT)

Note: Based on Alternative F, the identified preferred alternative.

Background

Under the National Forest Management Act (NFMA), (16 USC 1604(f)(4), Forest Plans must "be amended in any manner whatsoever after final adoption and after public notice, and, if such amendment would result in a significant change in such plan, in accordance with subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section." The NFMA regulations at 36 CFR §219.10(f) state: "Based on an analysis of the objectives, guidelines, and other contents of the Forest Plan, the Forest Supervisor shall determine whether a proposed amendment would result in a significant change in the plan." Neither NFMA nor its implementing regulations define the term "significant." Instead, the regulations place full discretion to determine whether or not a proposed amendment will be significant in the hands of the Forest Service.

Under NFMA and its regulations, an amendment that does not result in a significant change in a Forest Plan must be undertaken with public notice and appropriate NEPA compliance. If a change to a Forest Plan is determined to be significant, the Regional Forester must follow the same procedure required for the development of the Forest Plan, including preparation of an Environmental Impact Statement.

The Forest Service Land and Resource Management Planning Handbook (Forest Service Handbook 1909.12) provides more detailed guidance for exercising this discretion. This guidance offers a framework for consideration, but does not demand mechanical application. No one factor is determinative and the guidelines make it clear that other factors may be considered.

Forest Service Handbook 1909.12, section 5.32, lists four factors to be used when determining whether a proposed change to a Forest Plan is significant or not significant: (1) timing; (2) location and size; (3) goals, objectives and outputs; and (4) management prescriptions. It also states that "[o]ther factors may also be considered, depending on the circumstances." The determination if a proposed change to a forest plan is significant or not depends on an analysis of all of these factors. While these factors are to be used, they do not override the statutory criterion that there be a significant change in the Plan. Basically, the decision maker must consider the extent of the change in the context of the entire Plan affected, and make use of the factors in the exercise of his or her professional judgement. The Forest Service has carefully evaluated the proposed management direction and concluded that it does not constitute a significant amendment of the 6 Forest Plans in Utah (i.e., Ashley, Dixie, Fishlake, Manti-LaSal; Uinta, and Wasatch-Cache).

Reasons for the NFMA Finding of Nonsignificance

1. Timing

The timing factor examines at what point, over the course of the Forest Plan period, the Plan is amended. Both the age of the underlying documents and the duration of the amendment are relevant considerations. The handbook indicates that the later in the time period, the less significant the change is likely to be. All of the Forest Plans affected are at least two-thirds through the first planning period. As noted in the Environmental Assessment (Chapter 1, section 1.4.2 and 1.6; Chapter 4, section 4.1) and FONSI (pages 1-2, items 1 and 2), the action is limited in time and changes to the Plans are not intended to be permanent. The fact that the proposed management

direction, by definition, will only be in place until efforts to revise forest plans are complete (projected to be 4 years), supports the determination that they do not constitute significant amendments of the Forest Plans.

2. Location and Size.

The key to the location and size is context, or "the relationship of the affected area to the overall planning area," (Forest Service Handbook 1909.12, sec. 5.32(d)). As further discussed in Forest Service Handbook 1909.12, sec. 5.32(d), "the smaller the area affected, the less likely the change is to be a significant change in the Forest Plan." As discussed in the FONSI (page 2, items 2) and the Environmental Assessment (Chapter 2, section 4.3.1), the proposed management direction applies only to proposed and new projects that fall on that portion of the total 8.1 million acres of National Forest System lands on the six affected national forests that are forested and are not within an exemption category. Forested acres affected by future timber harvest or wildland fire projects proposed prior to forest plan revision (projected to be 4 years) that would use the proposed management direction in design and implementation would be a small subset of this total; less than 1% of the acres annually across six national forests, and less than 4% over the next 4 years (Chapter 4, section 4.3.1).

There would be limited effects to current and future grazing permits during the life of this amendment. Changes to permits would only occur in those landscapes where grazing can be attributed as a causal factor to an at-risk condition. Annually, only 1 to 2 landscape assessments (at the 5th to 6th order watershed, or equivalent scale) are completed in sufficient detail on each forest that may identify potential problems associated with grazing. There are several 5th to 6th order watersheds (tens to hundreds of thousand acres each), in part or in whole, on the six affected national forests. As a result, the number of allotments likely to be affected in 4 years is a small percentage of the total 539 active allotments on the six Utah National Forests (Chapter 4, section 4.5.2).

Thus, the size of the area projected to be affected during this time period is very small when compared to the total in the planning area.

The appropriate inquiry when considering the significance of Plan amendments is the change made on each Forest. The areas in the planning unit affected by the proposed management direction is not so large in size as to mandate a significant amendment (Chapter 2, section 2.4; Environmental Assessment, Chapter 4, affects by resource).

3. Goals, Objectives, and Outputs

The goals, objectives, and outputs factor involves the determination of "whether the change alters the long-term relationship between the level of goods and services in the overall planning area" (Forest Service Handbook 1909.12, section 5.32(c)). This criterion concerns analysis of the overall Forest Plan and the various multiple-use resources that may be affected. There is no guarantee under NFMA that output projections will actually be produced. As discussed in the FONSI (page 2, item 2) and the Environmental Assessment (Chapter 1, section 1.5.3 and Chapter 2, section 2.3.2), the proposed management direction would apply prospectively only; that is to proposed or new projects following adoption of this amendment. Thus, the proposed management direction does not significantly alter the long-term relationships between the levels of goods and services projected by the Forest Plans.

This amendment does not alter current planning direction on "why" we need to manage (e.g. provide habitat to support viable populations of sensitive species) or "what" management actions can be taken (e.g. vegetative treatments to manage habitat). This amendment focuses on new information related to the how (e.g. how vegetative treatments will be implemented to achieve habitat conditions) and where (e.g. at-risk habitat) we need to manage.

The analysis in the environmental assessment found that the effects on timber supply and other commodity resources resulting from use of proposed management direction in Alternative F will be small and short term. This effect was concluded primarily because this direction will only be in place until forest plans in Utah are revised. The proposed management direction will likely have short-term beneficial effects upon some resources, such as habitat for the goshawk and its prey.

Relatively small changes would occur in timber harvested and numbers of livestock permitted to graze with adoption of the proposed management direction. The proposed management direction does not involve a demand for any new service or good not discussed in or contemplated by the existing Forest Plans. The guidance in Forest Service Handbook 1909.12, section 5.32(c) explains: "In most cases, changes in outputs are not likely to be a significant change in the Forest Plan unless the change would forego the opportunity to achieve an output in later years." Any short-term temporary reductions in outputs do not foreclose opportunities to achieve such outputs in later years. Thus, the proposed management direction does not foreclose the achievement of existing goals and objectives.

4. Management Prescriptions

The management prescriptions factor involves the determination of (1), "whether the change in a management prescription is only for a specific situation or whether it would apply to future decisions throughout the planning area" and (2), "whether or not the change alters the desired future condition of the land and resources or the anticipated goods and services to be produced" (Forest Service Handbook 1909.12, section 5.32(d)).

The Graham et al. 1999 assessment found that habitat in Utah is of sufficient quality, quantity and distribution to continue to support the currently viable population of goshawks. The analysis of alternatives in the environmental assessment found that none of the alternatives, including the No Action Alternative, will result in the loss of goshawk population viability in the short time frame of this amendment.

This project was initiated not because the agency was concerned that we would lose a viable population of goshawks prior to revision of Forest Plans in Utah (projected to be 4 years), but in response to identified concerns that current management strategies permitted actions that could degrade habitat and did not emphasize some actions needed to maintain or restore goshawk habitat. New direction was needed to provide greater consistency in management of habitat for the goshawk. Current direction is not sufficient to provide consistency, resulting in a variety of interpretations on how to manage goshawk habitat. For a far-ranging species such as the goshawk that spans multiple national forests and other jurisdictional boundaries, consistency in habitat management is an essential component of actions needed to provide reasonable assurances that habitat to support a viable population of goshawks in Utah can be sustained in the future.

Implementation of direction in Alternative F will provide for consistency in management of habitat on NFS lands of the affected national forests and eliminates concerns on how and where actions allowed under current forest plans are applied that could degrade habitat below that needed to

support a viable population of goshawks (36 CFR §219.19). The desired future conditions and long-term levels of goods and services projected in current plans would not be substantially changed by the proposed management direction. The proposed management direction will work to accomplish an element of the multiple-use desired future condition currently described in Forest Plans by providing habitat needed to support viable populations of goshawks, a sensitive species.

As noted above, the proposed management direction is temporary and applies only to a portion of the overall planning area. Thus, the "anticipated goods and services" will not be greatly affected by proposed management direction. The proposed management direction only affects a limited area where selected projects may be proposed and does not alter the management framework for the vast majority of lands within the overall planning area because it will not supercede direction for most resources already in place (Chapter 4, sections 4.2 through 4.5.7). In adopting the proposed management direction (essentially mitigation measures) until forest plans for the six Utah National Forests are revised, the Plan amendments retain or improve the environmental status quo on a portion of the affected national forests.

Other Factors

The handbook guidance allows for the consideration of other factors. It is crucial that the agency be able to respond to scientific information and changing environmental conditions. By responding to changing circumstances, the Forest Service will be better able to manage the national forests for multiple-use resources and assure a continuous supply of goods and services from the national forests for the long term.

In the case of the proposed management direction, the other factors include the ability of the Forest Service to adapt to changing conditions and protect sensitive wildlife species for a short period of time until forest plans for the six Utah National Forests are revised. The proposed management direction is merely a temporary attempt to preserve the environmental status quo, thereby maintaining management options, until forest plans are revised. By taking the active step of adopting the proposed management direction now, the Forest Service is better able to achieve its goals of managing the national forests for sustainable multiple uses, and to avoid emergency measures in the future.

Assessment and monitoring prescribed as part of Alternative F are key at the broad scale of this proposal to testing the effectiveness of adopted management strategies and validating estimates of results due to that management. Assessment and monitoring prescribed in Alternative F will, in part, help the agency adapt habitat management strategies in the future (if needed) to continue to provide habitat to support the existing viable population of goshawks in Utah.

Thus, the process of adapting forest management to changing social and environmental conditions is not finished. The environmental impact statements supporting plan revision will analyze similar issues concerning environmental protection and commodity production. The proposed management direction adopted through this action provides a short-term response to complex, changing circumstances. Future scientific research, and monitoring adopted as part of Alternative F, will provide information which will help the agency to continue to refine habitat management strategies over time, as needed.

For a detailed assessment by each affected national forest, refer to the supplemental information reports (SIRS) completed by each national forest in the fall of 1998 and winter 1999 (Exhibit K, section C,

documents 1 through 6); web site <http://www.fs.fed.us/r4/goshawk>). These SIRs contain preliminary NFMA significance findings at the individual forest scale that supports findings in this document.

Finding

On the basis of the information and analysis contained in the Environmental Assessment and all other information available as summarized above, it is my determination that adoption of the proposed management direction (as reflected in Alternative F) until the six affected national forests complete forest plan revision (projected to be 4 years), does *not* result in a significant amendment to these current forest plans.