



United States
Department of
Agriculture

Forest
Service

July 2, 2004



Decision Notice and Finding of No Significant Impact

Duck Creek Basin Transportation Plan

Humboldt-Toiyabe National Forest

Ely Ranger District
White Pine County, Nevada

T17N, R64E; T17N, R65E; T17N, R66E;
T18N, R64E; T18N, R65E; T18N, R66E;
T19N, R64E; T19N, R65E; T19N, R66E;
T20N, R65E.

Nine miles northeast of Ely, Nevada

For information, contact: Patricia N. Irwin, District Ranger
Ely Ranger District, 825 Avenue E, Ely, Nevada 89301
775-289-5100

<http://www.fs.fed.us/r4/htnf/projects>

Decision

I have decided to implement Alternative A of the Duck Creek Transportation Plan Environmental Assessment (EA), with modifications. I have chosen some options from Alternatives B and C to create my final decision.

This decision closes 53,700 acres of National Forest System Lands to motorized use with the following exceptions: 95 miles of open road to all motorized use, three miles of motorized trails, and four miles of roads for administrative use. Based on the most recent inventory, this decision closes 88 miles of motorized travelways.

This closure will allow federal, state, or local officers of a firefighting force or organized rescue force to use motorized travel in the area, when they are performing their official duties. It will also allow motorized travel for persons with a permit specifically for that purpose.

The attached map is the best representation of the decision. I cannot describe every road or road segment in this document; where there is a difference between the written description of roads in this document and the map, the map is the final decision.

Public involvement

The White Pine County Coordinated Resource Management Steering Committee created a Technical Review Team to recommend a solution to the increase in new road development from off-road vehicles in the Duck Creek Basin. In December of 1999, this team formed, composed of a wide range of users and agencies. The Team met monthly for two years to evaluate the road system, discuss options, and recommend a solution. This Team held two public meetings to garner additional comments and concerns. In July 2002, the Steering Committee forwarded those recommendations reached by consensus to the Bureau of Land Management and the Forest Service, and asked the agencies to take actions.

In May 2003, the Forest Service and the BLM formed an interagency interdisciplinary team to complete an environmental assessment. The agencies again solicited public comments, sending letters to over one hundred individuals, agencies, and organizations. The twenty-two responses favored regulating off-road use in some fashion. The interdisciplinary team created Alternative C in the Environmental Assessment to address the request for additional road closures; generally, these are located in the higher elevations of the Basin.

In March 2004, Forest Service released the Pre-Decisional Environmental Assessment for a thirty-day comment period. The agency received thirty-four letters, emails, or phone calls. Six oppose the travel plan and road closures. Only a few suggested one alternative in its entirety; most indicated individual roads that they wanted open or closed. Four supported Alternative A, though some wanted some additional closures described in Alternatives B and C. Two supported Alternative B. Two liked Alternative B if we could provide an alternative motorized trail to the Ranger Trail. Seventeen wanted Alternative C with some additions or modifications. Three supported the general concept of a non-motorized area with no preferred alternative. The majority indicated they wanted the Ranger Trail to be non-motorized. Two suggested that we should not create an area closure, but stop recreationists from creating new two-tracks. Several routes created interest from many commenters: upper East Creek, Snake Canyon, North Fork Timber Creek, North Fork and main Berry Creek, east segment of loop

from McDonald Creek to Gilford Creek, and Water Canyon (the trail to Cleve Creek/Baldy). Many also stated that the District must provide law enforcement and public education to ensure successful management of an area closure.

In November 2003, the Bureau of Land Management, while continuing to participate in the preparation of the Environmental Assessment, prepared a Notice of Temporary Off-Road Vehicle Limitations order, and proceeded to implement the Technical Review Team recommendations on BLM-administered lands. The joint Environmental Assessment addressed all federal land; however, this Decision Notice covers only those lands managed by the Forest Service.

Issues considered

The public, the Technical Review Team, and agencies raised several issues. Initially, non-motorized recreationists expressed concern for a diminished quality of experience when encountering motorized users, coupled with disturbance to wildlife and increased soil erosion. Additionally, issues included the potential for increased invasive plant introductions, the degradation of riparian habitat and water quality, and vehicular impacts to cultural sites. When the interdisciplinary team met, they also considered effects from the implementation of the closures, including mechanical use on cultural resources, mechanical closure and noise effects on wildlife, and access for grazing and other permittees.

In exploring cumulative effects, the interdisciplinary team identified some additional concerns. Residential development on nearby private land is increasing, and will bring additional users, creating the likelihood of additional conflicts between motorized and non-motorized users. The Duck Creek closure will only reduce the conflict in Duck Creek, and will move the conflict and use onto other areas, increasing the problem elsewhere. Both agencies are increasing restoration efforts in areas encroached with pinyon pine and juniper and in areas with diseased white fir. These treatments can increase the potential for weed invasions, and lack of treatments will increase the potential for catastrophic fires. Finally, there is the potential for much of the Schell Creek Range to become a Congressionally-designated wilderness, with the Ranger Trail as the western boundary; a motorized trail would create a difficult boundary to limit motorized incursions into wilderness.

Some issues did not generate appreciable differences in effects among action alternatives. While cultural resources are protected from vehicular travel in these alternatives, building berms, waterbars, and dips could disturb new sites. Because of the large number of roads that may be closed, these areas have not been surveyed for cultural sites. Prior to any ground disturbance, the district archeologist will survey the areas to determine location of sites to avoid.

The situation is similar with sensitive plant species and neo-tropical migratory birds. Reduction in vehicular travel will benefit these species; however, the district biologist will survey to determine their presence prior to any ground-disturbing activities.

The invasion and spread of noxious and invasive weeds will be reduced with the reduction in vehicles. The Forest Service will seed mechanically closed areas with native seed.

Alternatives considered

The interdisciplinary team determined the effects of the issues above by exploring four options: No Action; Alternative A, the Technical Review Team recommendation; Alternative B, which has additional road closures to address natural resource issues; and Alternative C, which addressed additional closures proposed during public scoping. In the No Action Alternative and Alternative A, the Ranger Trail remained motorized. In Alternatives B and C, it is non-motorized. Readers can find a comparison of these alternatives in the Environmental Assessment.

In the EA, the interdisciplinary team intended Alternative A as a presentation of the Technical Review Team's recommendation; there were some misunderstandings in describing the Team's recommendation. First, the Team did not reach a consensus on the Ranger Trail; the interdisciplinary team, in forming alternatives, had to identify the Trail as either motorized or non-motorized. They chose to display it as motorized, with the Alternatives B and C offering the Trail as non-motorized. Secondly, we received two comments from Team members that stated that the Environmental Assessment displayed some roads as motorized in Alternative A, the Technical Review Team recommendation, when the Team had recommended they be closed. These roads are some or all of East Creek, Snake Canyon, Timber, Berry, and Cleve Creek/Baldy.

How the decision was made

The No Action Alternative denotes no area closure. Recreationists would continue to travel anywhere in the Basin and road density would continue to increase. Due to the weight of public support for some kind of regulatory action in the Duck Creek Basin, and after reviewing the effects analysis, I did not choose the No Action Alternative. I recognize that the selection of the one of the action alternatives will challenge our law enforcement capabilities.

After reaching that conclusion, I then reviewed the action alternatives, and analyzed the major differences, and the issues that drove them. Among the action alternatives, one major distinction is the use on the Ranger Trail. The other substantial difference is the status of several of the upper elevation roads. The Technical Review Team recommended many of these roads to remain open. In reviewing the natural resource effects, especially on wildlife habitat, riparian habitats, and soil erosion, I determined that some of these roads should be closed. In some cases, I decided that some higher elevation roads dissect the non-motorized closure to such an extent that the conflict between motorized and non-motorized users would continue. For the Ranger Trail and the several other roads, I made my decision considering each road individually as follows.

The Ranger Trail – I determined that this route will be non-motorized. This is a historic horse trail used by Forest Service rangers since the establishment of the National Forest. I also believe that it is highly likely that a new wilderness will be established in the Schell Creek Range, and that this trail will be the western boundary. Future management of this wilderness will be considerably more effective if the boundary is non-motorized. Three segments of the Ranger Trail remain motorized, as they are part of well-used and established roads. These are on the Kalamazoo Road, near Berry Creek, and the segment connecting Bird Creek and East Creek roads. I have also decided to seek out a good location for an alternative motorized trail west of the Ranger Trail. Until that location is determined, the closure order will be written to

designate the area west of the Ranger Trail as non-motorized. When the trail is located, the order will be changed to permit that motorized trail.

I decided to close or retain open other roads for the following reasons. There are additional roads or segments of roads I have not identified below; it is difficult to locate and accurately describe every road. If there is a discrepancy between the following descriptions and the map, the map overrides. In this decision, a closed road means that the route is closed to motorized use, and will be reclaimed to protect natural resources and to deter unauthorized use. Non-motorized use can continue.

Upper East Creek – Closed. The stream has several trout species and the road is located in a drainage. In addition, one commenter stated that the Technical Review Team proposed this road be closed, though it is not presented as part of Alternative A.

Middle Creek – Closed. This road leads through elk calving and deer fawning areas, and is located in steep, erosive terrain. In addition, there is an alternative open road to the north that accesses much of the same area.

Upper Snake Canyon – Closed. The upper one mile of road was incorrectly displayed as an open road in Alternative A, according to a comment we received. This steep and erosive road travels through aspen, and elk calving and deer fawning habitat.

Snake Canyon – Closed. This road just south of the Snake Canyon road is no longer accessible to motorized users if the Ranger Trail is non-motorized. There is an alternative open road just to the south of this road.

Snake Canyon – Open. This open road extends from lower Snake Canyon to near the east end of Section 10. It will provide a motorized travel route, and does not have distinct effects on natural resources.

Paine Gulch – This road is closed to the public, as it is located in a drainage. It will be open to the water tank for administrative use only. There is public access on an open road about ¼ mile south.

Two roads south of Paine Gulch – The road immediately south is one mile long, is located on a ridge, and will remain open. The road even farther south (½ mile) lies in a drainage, is highly erosive, and is closed before it reaches the Ranger Trail. These are parallel roads and only one is needed for motorized access.

Road north of Timber Creek – This road will remain open for the first ¾ mile, and then closed for the remainder. This closure prevents motorized travel where the road becomes very steep, and provides for a good turn-around area.

North Fork of Timber Creek – This road will remain open until 1/8th mile past the fork. This closure will protect exceptional riparian habitat, stream crossings, and elk habitat.

South Fork of Timber Creek – This one-mile road will remain open as an ATV trail. This continues the prevalent use and allows use consistent with the roadbed width. Eliminating wider track vehicles will reduce erosion and provide some protection for riparian habitat and water quality.

Brennen Mine road (in Miller drainage) – This will remain open to provide a mid-elevation access for motorized users.

Brennen Mine loop road – ATV trail. This continues existing use, and provides a good loop trail for off-road vehicles.

North Fork of Berry Creek – Closed. According to two comments, the Technical Review Team recommended closing this road, although the EA displayed the road as open in Alternative A. This closure protects riparian and wildlife habitats.

South Fork of Berry Creek – The Technical Review Team did not reach a consensus on this road. It leads to a permittee cabin and a SNOTEL (snow measuring) site, is used regularly by the grazing permittee and by the Forest Service to check range utilization. This road leads into the highest roaded area in the Basin, and traverses aspen stands, riparian habitat, and elk calving and deer fawning areas. It will be closed to the public with a gate about ¼ mile above the fork with the North Fork of Berry Creek; permittees and agencies will be allowed to use it.

Brennen Mine (south of Berry Creek) – Open from the Brennen Mine to the Worthington Canyon Road.

Roads from Brennen Mine to Worthington – Open to allow a large loop road.

Ostergard – Open for ¾ mile.

Worthington Canyon – Closed above the water tank. This steep road crosses through elk calving and deer fawning areas, follows the bottom of a drainage, and accesses high elevation, sensitive terrain. For similar reasons, the inner loop is also closed.

Loop road west of Brennen – Closed. This road contains steep, erosive soils, and travels through aspen stands and deer and elk habitat.

McDonald to Gilford – The southeast road connecting these two roads is closed due to erosive soils.

McDonald – Closed. This is essentially a fence line road, and there are parallel roads to the north and south.

Gilford – Open to the spring.

Cleve Creek/Baldy (1½ mile) – Closed. One comment stated that this road was proposed as closed by the Technical Review Team. Currently, this is a single-track trail in a steep, rocky area. It leads to high elevations, with access to the crest of the Schell Creek Range.

South Duck Creek Basin – Closed. These two routes are located on steep sidehills, in erosive soils, and deadend with no good turnaround locations.

FONSI – Finding Of No Significant Impact

I have determined that these actions will not significantly affect the quality of the human environment. Therefore, an Environmental Impact Statement is not needed. I have based this determination on the effects analysis in the Duck Creek Transportation Plan Environmental Assessment, in light of the following factors listed in 40 CFR 1508.27.

1. I have considered both beneficial and adverse effects; I have not used beneficial effects to offset or compensate potential adverse effects.

2. Public health and safety will be improved over the long term by the installation of signs, providing the public with access maps and kiosks, and by eliminating off-highway use on steep, rocky trail locations.
3. There are no significant effects on the unique characteristics of the area. This decision will protect the special nature of the Duck Creek Basin.
4. I do not consider the effects of this decision highly uncertain, and there is not substantial controversy over the potential for significant effects. The effects do not represent unique or unknown risks. This decision does not necessarily set a precedent for future decisions. Any future decisions must consider all current relevant scientific and site-specific information.
5. Based on the analysis in the Environmental Assessment, this action does not represent potential cumulative adverse impacts when considered in combination with other past or reasonably foreseeable actions.
6. I have not inventoried the area for cultural resources; however, the district archeologist will survey before any ground disturbing actions occur, and we will avoid sites to ensure there are no adverse effects. The decision to retain open roads is an administrative decision. It is not an undertaking as defined in 36 CFR 800.16.
7. The area contains no known threatened, endangered, or sensitive plants or animals. The district biologist will conduct additional surveys before disturbing ground to ensure no sensitive plants or neo-tropical migrants are affected. There is no critical habitat for threatened or endangered species.
8. There are no significant irreversible resource commitments or irreversible loss to historic or cultural resources, parklands, prime rangelands, wetlands, floodplains, or wild and scenic rivers.
9. This action does not violate any federal, state, or local environmental protection law.

Findings required by other laws and regulations

This decision is consistent with the Humboldt National Forest Land and Resource Management Plan and the National Forest Management Act. It complies with the Endangered Species Act of 1973, Migratory Bird Treaty Act of 1918, Clean Water Act, and the National Historic Preservation Act of 1966.

Administrative review or appeal opportunities

This decision is subject to appeal pursuant to 36 CFR 215. A written notice of appeal must be postmarked or received no later than forty-five days after the publication date of the Notice of Decision in the Ely Times. This notice was published on July 2; the appeal deadline is August 16. The notice of appeal must be sent to USDA-Forest Service, Intermountain Region, Attn: Appeal Deciding Officer, 324 25th Street, Ogden, Utah 84401. Individuals who submitted substantive comments during the comment period specified in 36 CFR 215.6 may appeal this decision. Appeals must meet the content requirements of 36 CFR 215.14.

Implementation of decision

If we receive no appeals, I can implement this decision five business days from the end of the appeal period. If we do receive an appeal, implementation may not occur for fifteen days following the date of the appeal disposition.

After meeting the appeal requirements above, the closure will be effective with a Closure Order signed by the Forest Supervisor. We will start posting signs and completing erosion control measures such as water bars and seeding as funding allows.

Contact

Patricia N. Irwin, District Ranger, Ely Ranger District, 825 Avenue E, Ely, Nevada 89301; 775-289-5100.

/s/ Patricia N. Irwin

July 2, 2004

PATRICIA N. IRWIN
District Ranger

Date

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the bases of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.