

**DECISION MEMO
LOWER SAGE WILDLIFE PROJECT**

**USDA Forest Service
Mountain View Ranger District, Wasatch-Cache National Forest
Uinta County, Wyoming**

BACKGROUND

The purpose of and need for the Lower Sage Wildlife project is to regenerate aspen and sagebrush to improve the diversity of wildlife habitat in an area in lower Sage Creek near the Forest Boundary on the Mountain View Ranger District. The proposed treatment area is located in Sections 30, 31, and 32 T13N, R114W and Section 36, T13N, R115W along existing roads in Uinta County, Wyoming. The area is approximately 15 miles south of Mountain View, Wyoming.

A variety of wildlife species are at least seasonally dependent on the age class and species diversity of aspen, mixed aspen and conifer, and intermingled patches of sagebrush found in the project area. Goshawks prefer the mixed aspen and conifer for nest sites. Elk, deer, and moose use the area for winter range, transitional winter range, and calving. Several neo-tropical bird species have a high affinity for this forest type.

Much of the lower elevation in this area has a forest cover of aspen and conifer with occasional patches of pure aspen and sagebrush along the forest fringe. Most of this forest is the result of disturbance (primarily fire) 100 to 150 years ago (Corbin 2006). Aspen is considered a disturbance species perpetuated on site by fire, disease, or other such occurrences. Some of these forces (primarily fire) have been altered by human intervention, which has given shade-tolerant conifers a marked advantage (Bartos 2001). Prescribed burning is a useful tool to increase regeneration and growth of aspen and for regeneration of sagebrush where it can be carried out without much risk of escape or damage to private property. Burning mixed aspen/conifer stands to regenerate aspen brings risks associated with an overabundance of fuels. Sheppard (2001) concluded that one means of mitigating this risk is to use prescribed fire as a secondary or site preparation tool in conjunction with harvest or mechanical manipulation to remove excess biomass. Sheppard (2001) stated that fire meets all of the requirements of the aspen triangle. It stimulates suckering by killing overstory stems and by killing near surface root segments and thereby interrupting the flow of auxin to surviving downstream root segments. Fire removes competing understory vegetation and conifer seedlings, and it allows sunlight to reach the forest floor. The vegetation consumed by the fire provides a nutrient pulse for new suckers and the blackened surface warms soil in the root zone, further stimulating sucker growth.

Aspen is managed to provide wildlife habitat, recreational opportunities, livestock forage, wood products, aesthetic values, and plant and animal diversity (Revised Forest Plan, pp. 4-7 – 4-8). Aspen stands provide more forage and a greater diversity of understory plants than the spruce and fir communities that generally replace them in the absence of fire (USDA 2000). Management direction for the project area states that aspen and mixed aspen conifer stands are

dependent on disturbance to maintain desired future conditions, and that vegetation will be managed for patch sizes, species composition and stand structures similar to what fire historically created. The highest priority for treatment will be the mixed aspen and conifer stands where conifers are gradually replacing the aspen, and in riparian areas where conifers have encroached (Revised Forest Plan, p. 4-194 through 4-195).

The proposed action responds to goals and objectives outlined in the Wasatch-Cache National Forest Revised Forest Plan, and helps move the project area towards desired conditions described in that plan. The project responds to plan Objective 3.b., *stimulate aspen regeneration and reduce other encroaching woody species in aspen by treating (fire use and/or timber harvest) approximately 3,200 acres average annually for a 10 year total of 32, 000 acres* (Revised Forest Plan, p. 4-30).

Sagebrush is dependent on periodic fire for age class and species diversity. Sagebrush in this area has also experienced an extended period of time without disturbance. Although the sagebrush is healthy in this area, it would benefit from increased age class diversity.

The Wyoming Game and Fish Department has reviewed the proposed project on the ground and supports reintroducing disturbance to achieve structural diversity and species composition within the aspen/conifer vegetation component found in the Lower Sage Creek drainage (Jauregui 2005). The Wyoming Game and Fish Department has expressed interest in being potential partners in implementing the prescribed burn portion of the project.

DECISION

I have decided to treat areas with conifer removal and prescribed fire within the lower Sage Creek project area. The attached map displays the locations where treatment needs have been identified.

This proposal includes:

- A small timber sale would be used to remove conifers in part of the treatment area prior to prescribed burning. Approximately 30 large dead trees per 10 acres would be retained. The total area proposed for conifer removal is estimated to be about 196 acres.
- Several short temporary roads totaling less than 1 mile would be needed. Any temporary roads that are constructed would be scarified, seeded, covered with woody debris, and closed following completion of use.
- Logging slash would be distributed in a manner to facilitate prescribed burning.
- Less than 1,000 feet of fireline would need to be constructed in several perimeter locations where there is no good existing burning boundary. Fireline would be constructed by hand or machine, depending on terrain and vegetation conditions.
- Prescribed burning would be done on a total of about 456 acres of aspen, mixed aspen/conifer, and sagebrush including the acres pre-treated with conifer removal. The project would be expected to result in a mosaic of mixed aspen, lodgepole pine and spruce regeneration (with aspen regeneration dominating) and unburned patches of mature aspen within the project area.
- Hand felling of aspen along burn edges would be done following the burn to reduce

browsing of aspen shoots by wildlife and livestock by limiting their access to the burn areas.

Mitigation measures:

- Locate temporary harvest access roads to avoid steep slope areas adjacent to any ponded depressions.
- No felling, skidding or temporary road construction operations will be allowed in Unit 1 between March 1 and September 1.
- No felling or skidding operations will be allowed southeast of the temporary road in Unit 1 between September 1 and September 30.

CATEGORY OF EXCLUSION AND FINDING OF NO EXTRAORDINARY CIRCUMSTANCES

The proposed action falls under Forest Service Handbook 1909.15 - Environmental Policy and Procedures Handbook, Chapter 30, Section 31.2, Category 6 – Timber stand and/or wildlife habitat improvement activities which do not include the use of herbicides or do not require more than one mile of low standard road construction (Service level D, FSH 7709.56). The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects, which may significantly affect the environment. Based on an environmental analysis and past experience, the effects of implementing this action will be of limited context and intensity and will result in little or no environmental effects to either the physical or biological components of the environment. The action does not affect any extraordinary circumstances.

Extraordinary circumstances include, but are not limited to: Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species; flood plains, wetlands, or municipal watersheds; congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas; inventoried roadless areas; research natural areas; American Indian and Alaska Native religious or cultural sites; archeological sites, or historic properties or areas. The mere presence of one or more of these resource conditions does not preclude the use of a categorical exclusion. It is (1) the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and (2) if such a relationship exists, determines whether extraordinary circumstances exist (FSH 1909.15 Chapter 30.3).

I have determined this based on the following analysis:

1. Federally Listed Threatened or Endangered Species or Designated Critical Habitat, Species Proposed for Federal Listing or Proposed Critical Habitat, or Forest Service Sensitive Species.

The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. As required by this Act,

potential effects of this decision on listed species have been analyzed and documented in a Biological Evaluation/Assessment (see project record).

The District wildlife biologist completed a Biological Assessment for the effects of this project to threatened or endangered wildlife species. A “*may affect but is not likely to adversely affect*” conclusion was determined for the Bald eagle and Canada lynx (Jauregui 2006). The Fish and Wildlife Service concurred with the “may affect, but not likely to adversely affect” determination on June 15, 2006.

The District wildlife biologist also completed a Biological Evaluation for sensitive species. A “*may impact individuals or habitat, but will not likely result in a trend toward Federal listing or loss of viability for the population or species*” was made for the Northern goshawk, Northern Three-toed Woodpecker and Great-gray owl (Jauregui 2006).

The Forest fisheries biologist reviewed the project and determined a “*no impact*” conclusion for the genetically pure sensitive fish species Colorado River cutthroat (Cowley 2006). There are no threatened, endangered or candidate aquatic species on the forest.

The Forest ecologist reviewed the project and determined a “*no effect*” conclusion for threatened or endangered plant species and also determined a “*no impact*” conclusion for sensitive plant species (Corbin 2005).

2. Floodplains, Wetlands, or Municipal Watersheds.

Floodplains: Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, “. . . the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent [100-year recurrence] or greater chance of flooding in any one year.”

No significant effects to floodplains from this project are expected because no floodplains are within or near the project area (Condrat 2005).

Wetlands: Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “. . . areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.”

No wetlands are located in the project area. Three small wetlands of 0.5 to 1.5 acres in size are located to the east of the project. An 8.5-acre wetland area with beaver dams in it is located to the north of the project area. No significant effects to wetlands from this project are expected because the wetlands that are along the east edge of the project area will have a buffer between the project area and the wetlands (Condrat 2005).

Municipal Watersheds: Municipal watersheds are managed under multiple use prescriptions in land and resource management plans.

There are no municipal watersheds within the allotment on the Wasatch-Cache National Forest or in the watersheds that drain the allotment to the Flaming Gorge Reservoir because there are no municipalities in this area. No effects to municipal watersheds are expected from this project (Condrat 2005).

3. Congressionally Designated Areas

Wilderness: This decision does not affect Wilderness. The project is not in or near Wilderness. Wilderness is identified on the Forest as Management Area 1.1, 1.2, and 1.3 (Forest Plan, Eastern Uintas Management Area Prescription Map). The project is located in Management Area 6.1. The closest Wilderness, the High Uintas Wilderness Area, is 11 miles south of the project. This decision, with impacts limited to the immediate area of activity, will not affect the Wilderness Area.

Wilderness Study Areas: There are no Wilderness Study Areas within the project area. This decision will not affect Wilderness Study Areas.

National Recreation Areas: The project is not located in or near a national recreation area. This decision will not affect the National Recreation Area.

4. Inventoried Roadless Areas

This project is not near any inventoried Roadless area (Forest Plan, Chapter 4 Eastern Uintas Management Area Maps). This decision does not affect inventoried Roadless areas.

5. Research Natural Areas

There are no Research Natural Areas in or near the project area. This decision does not affect Research Natural Areas.

6. American Indian and Alaska Native Religious or Cultural Sites, Archaeological Sites, or Historic Properties or Areas

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and

objects that are excavated or discovered in federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items. This decision complies with the cited Acts. It was determined by the Forest Archeologist that due to the lack of newly identified cultural resources, and the fact that this project will not affect any previously recorded cultural resources in the area, the USFS has made the determination of No Historic Properties Affected per 36 CFR800.4 (d) (1) (Flanigan 2006). The Wyoming State Historic Preservation Office concurred with the finding on August 1, 2006.

Additionally, the Federal government has trust responsibilities to Tribes under a government-to-government relationship to ensure that the Tribes reserved rights are protected. The scoping letter was mailed to tribes and no tribal concerns were identified for this project.

Therefore, this action can be categorically excluded from documentation in an environmental assessment or environmental impact statement.

PUBLIC INVOLVEMENT

The proposal was listed in the Schedule of Proposed Actions on July 1, 2006. The proposal was provided to interested and affected agencies, organizations, and individuals for comment during scoping from February 16, to March 17, 2006. In addition, the agency published a legal notice in the Uinta County Herald on July 28, 2006.

The following tribal governments have been contacted for their input (2/16 Mail List in Project Record):

- Ute Indian Tribe
- NW Band of the Shoshone Nation

The following state and local governments have been contacted for their input (2/16 Mail List in Project Record):

- Uinta County and Summit County
- States of Utah and Wyoming

The following agencies have been contacted for their input (2/16 Mail List in Project Record):

- Wyoming State Historic Preservation Office
- Utah Department of Wildlife Resources
- US Fish and Wildlife Service (2/16 and 5/22)
- Wyoming Game and Fish Department

Property owners potentially affected by this decision have been contacted for their input (2/16 Mail List in Project Record):

- Mrs. Wadsworth

Permittees (ranchers, special uses) potentially affected by this decision have been contacted for their input (1/26/07 via phone):

- Jack Hickey

- Jack Lamb
- Hazel Polson
- Dennis Covolo
- Bob and Darlene Eyre

The following potentially interested groups were sent letters requesting their input (2/16 Mail List in Project Record):

- High Uintas Preservation Council
- Utah Environmental Congress
- Biodiversity/Conservation Alliance
- Wild Utah Project
- W.N.T.C/Biodiversity Associates

Comments related to the project included the following and were considered in the preparation of the decision memo and in the project record:

- Concerns about the adequacy of categorically excluding this kind of project rather than an EA or EIS.
- Validity of snag retention within the project area.
- Concerns for the treatment and landscape needs (outside historic range of variability)
- Concerns for the need of and retention of old growth vegetation and characteristics for Northern Goshawks
- Concerns about effects on Canada lynx, migratory birds, Forest Service Sensitive and TEP species.

FINDINGS REQUIRED BY OTHER LAWS

Floodplains, wetlands, prime lands, threatened and endangered species, and cultural resource management implications have been considered and these resources will not be adversely affected (See: Category of Exclusion and Finding of No Extraordinary Circumstances). In addition, my decision will comply with all applicable laws and regulations. I have summarized some of the pertinent laws below.

National Forest Management Act (NFMA). This decision is consistent with the Wasatch-Cache National Forest Revised Land Management Plan (USFS 2003) as required by the National Forest Management Act. The project was designed in conformance with Forest Plan standards and incorporates appropriate forestwide and management prescriptions guidelines. The project is consistent with the desired future conditions relevant to the Eastern Uintas Management Area. (Forest Plan, pages 4-194 to 4-202).

This project is within Management Prescription Area 6.1 under the Revised Wasatch-Cache National Forest Plan. Emphasis under the 6.1 prescription is on maintaining or restoring non-forested ecosystem integrity while meeting multiple resource objectives. The recreation opportunity spectrums (ROS) class for this area is “Semi-primitive Motorized. The Landscape Character is “Natural Appearing” and the Scenic Integrity Objective is “High” under the scenery management system (SMS).

The National Environmental Policy Act (NEPA). This Act requires public disclosure of environmental effects from the proposed project. Based on the analysis conducted for this proposal, I conclude that my decision meets the intent of this Act.

The Endangered Species Act (ESA). According to Section 7 of the ESA, Federal agencies must ensure that authorized actions are not likely to jeopardize the continued existence of any threatened or endangered species. Biological assessments and biological evaluations were conducted for all Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, as well as Forest Service sensitive animal, plant, and fish species found on the Wasatch-Cache National Forest. The Biological Assessment/Evaluations contained in the project record reveals that the circumstances and potential effects of this proposal are not considered a threat to threatened, endangered, or proposed animals and plants, or to their habitat. The Fish and Wildlife Service concurred with the “may affect, but not likely to adversely affect” determination on June 15, 2006). Based on these findings, I conclude that my decision is consistent with the ESA.

The Migratory Bird Treaty Act and Executive Order 13186 of January 10, 2001. Based on information in the project file concerning migratory birds (Jauregui 2006a), my decision meets the intent of the Migratory Bird Treaty Act and Executive Order for the Conservation of Migratory Birds.

The Clean Water Act and Executive Order 11990. Based on the analysis conducted for this proposal, I conclude that my decision meets the intent of the Clean Water Act and the Executive Order 11990.

The National Historic Preservation Act; The American Indian Religious Freedom Act; and The Native American Graves Protection and Repatriation Act. According to these acts, Federal agencies are required to conduct adequate reviews to assess the possible effects of project decisions upon heritage resources. It was determined by the Forest Archeologist that no historic properties, as defined in 36 CFR 800.16 (1)(1), will be affected by the project as planned. The Wyoming State Historic Preservation Office concurred with the finding on August 1, 2006.

Executive Order 12898 - Environmental Justice. I have considered the effects of my decision on low income and minority populations and concluded that this project is consistent with the intent of this order. My decision will not cause a significant change in local employment or revenue sharing with local communities. It should not disproportionately affect low income and minority populations.

APPEAL OPPORTUNITIES

Pursuant to *Earth Island Institute v. Ruthenbeck*, No. CIV F-03-6386 JKS (E.D. Cal., October 19, 2005), this decision is subject to appeal pursuant to Forest Service regulations at 36 CFR 215. Appeals must meet the content requirements of 36 CFR 215.14. Only individuals or organizations who submitted comments or otherwise expressed interest in the project during the comment period may appeal. Appeals must be postmarked or received by the Appeal Deciding Officer within 45 days of the publication of this notice in *Uinta County Herald*. This date is the

exclusive means for calculating the time to file an appeal. Timeframe information from other sources should not be relied on. Incorporation of documents by reference is not allowed. The Appeal Deciding Officer is Faye L. Krueger, Forest Supervisor. Appeals must be sent to: Appeal Deciding Officer, Intermountain Region USFS, 324 25th Street, Ogden, Utah 84401; or by fax to 801-625-5277; or by email to: appeals-intermtn-regional-office@fs.fed.us. Emailed appeals must be submitted in rich text (rtf), Word (doc) or portable document format (pdf) and must include the project name in the subject line. Appeals may also be hand delivered to the above address, during regular business hours of 8:00 a.m. to 4:30 p.m. Monday through Friday.

IMPLEMENTATION DATE

If no appeals are received, this decision may be implemented no sooner than five days following the close of the appeal-filing period. If an appeal is received, implementation may begin 15 days following the disposition of all appeals.

For further information contact Amy Barker, Environmental Coordinator or Daniel Jauregui, District Wildlife Biologist at 1565 Highway 150, Suite A, Evanston, Wyoming 82930 or by phone at 307-789-3194.

/s/ Stephen M. Ryberg
STEPHEN M. RYBERG
District Ranger
Evanston/Mountain View Ranger District

February 6, 2007
Date

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