

Decision Notice and Finding of No Significant Impact
Commander Tract Motorized Access
USDA Forest Service
Grindstone Ranger District, Mendocino National Forest
Glenn County, California

Decision and Reasons for the Decision

Background

This decision concerns a travel management proposal to provide public motorized access to a portion of the lands acquired by the Forest Service in 2003 from private ownership. These lands are popularly known as the Commander Tract. This proposal would provide access into Commander Tract lands in the upper Cold Creek watershed (hereafter 'project area').

Alternatives Considered

I have considered three alternatives that our interdisciplinary team analysed in detail:

- Alternative 1 is the original proposed action for which scoping was done. It would open about 15 miles of road for public motorized vehicle use in the project area [Alternative 1 map, pg 9 of EA]. These roads are currently not open to public motor vehicle use.
- Alternative 2 is the no-action alternative that is required by the regulations to be considered in detail in all cases. Under this alternative the roads under consideration would remain closed to public motorized vehicle use.
- Alternative 3 is agency-preferred alternative. This alternative would open about 14.5 miles of road for public motorized vehicle use in the project area (omitting 0.5 miles of road that was included in the original proposed action [Alternative 3 map, pg 10 of EA]. It would also include the following restoration measure:
 - Decommission about 10.1 miles of NFS¹ roads that are currently closed to public motor vehicle use.
 - Block access and rehabilitate about 8.8 miles of inventoried user-created motor vehicle routes.

Details of the alternatives are on pages 8-11 of the EA. A comparison of the three alternatives can be found in the EA on pages [11-15].

Decision

Based upon my review of the alternatives, I have decided to implement Alternative 3. This alternative is a modification of our original proposed action

¹ National Forest System

(Alternative 1). It responds to the significant issue that was raised during scoping, and also achieves the purpose and need to nearly the same degree as the original proposed action.

Several factors influenced my decision:

- As compared to the no-action alternative (Alternative 2), Alternative 3 better meets the need for public motorized access in this area [EA pg. 12]. The need was identified through public involvement [EA pp. 3-5].
- As compared to Alternative 1, Alternative 3 meets the purpose and need for action nearly as well, and provides for improved resource conditions [EA pp 12-15, 16-18].
- We received comments objecting to the decommissioning of any motor vehicle routes [Appendix Z]. The stated reason for the objection is a desire for access to public lands that these individuals rightly feel entitled to use and enjoy. They see the decommissioning or other closing of motor vehicle routes as an infringement on that entitlement. As a public servant, it is my duty to support the public's use and enjoyment of their national forest. However there are certain limitations on the amount motorized access that the resources can sustain:
 - Physical and biological limitations – while roads and OHV trails help us get to the resources we wish to use and enjoy, each motorized route also destroys or impairs a bit of those very resources. Even well designed and maintained routes have a certain minimum level of effects that cannot be mitigated: lost habitat, lost timber production, increased runoff and erosion, visual impacts, etc. So we have to strike a balance between having easy access and having something worth accessing. I believe Alternative 3 would strike such a balance in this area. Opening 14.5 miles of road would bring an additional 1900 acres of NFS lands within ½ mile of an open road. And, some resource impacts would be eliminated by decommissioning about 10 miles of NFS roads and rehabilitating about 9 miles of user-created routes. [EA pp 12, 16-18]
 - Fiscal limitations – while good route design and location can minimize impacts, all motorized routes require adequate ongoing maintenance to keep that design functioning properly. Otherwise, both resources and the route facility itself suffer damage. Current national funding priorities place a limit on the number of miles of road we can maintain adequately to protect resources. We do not have enough funding to maintain all of our existing roads adequately, so there is nothing to spare for maintaining user-created routes. That is why we have not proposed to add any user-created routes under any of the alternatives. Again, it comes down to striking a balance – in this case we have to balance what we desire with what we can afford. I believe Alternative 3 would do so. Opening 14.5 miles would add to the road maintenance workload; taking 10 miles of NFS roads “off the books” by decommissioning them would reduce the maintenance workload [EA p 13].

- Regulatory limitations – our regulatory framework recognizes the previous two types of limitations. It requires me, as a custodian of the public's national forest resources, to provide motorized access in a responsible way for this and future generations – call it sustainable access. It requires of citizens that they responsibly access those resources, recognizing that what each person does affects other citizens, now and in the future. So, we have shared responsibilities to each other, future generations, and the land we all want to enjoy and sustain. We are once again back to striking a balance – a balance between our rights and responsibilities that is framed in law and regulation. I believe Alternative 3 accommodates the right of public access in a responsible manner within the regulatory framework. [EA pp 12-15]

Public Involvement

The proposed action was developed collaboratively with interested members of the public during 2006. A preliminary proposal was made available for public comment in November 2006, to assist with identifying any need to modify the proposal prior to scoping. No need for modification was identified.

The proposal was scoped in July 2007, without modification from its preliminary version. Six groups submitted scoping comments. In all, two distinct comments were identified, both of which raised issues. I determined that one of those issues was significant, and directed the interdisciplinary team to develop Alternative 3 to address it [EA pp 6, 7; *Scoping Summary and Issue Identification* document].

Notice of the draft environmental assessment's availability for 30 day review and comment period was published July 7, 2008. Two individuals provided comments. Neither of these had provided scoping comments. No comments were received from any of the individuals that raised the significant issue during scoping.

Both of the commenters expressed opposition to the decommissioning of roads and closure/rehabilitation of user-created routes.

A more detailed account of public involvement is provided in the environmental assessment on pp. 5-7.

Finding of No Significant Impact

After considering the environmental effects described in the environmental assessment, I have determined that Alternative 3, the agency-preferred alternative, will not have a significant effect on the quality of the human environment. Thus, an environmental impact statement will not be prepared. I arrived at this determination by considering the context and intensity of impacts (40 CFR 1508.27):

Beneficial and adverse impacts

My finding of no significant environmental effects is not biased by the beneficial effects of the action.

The degree to which the proposed action affects public health or safety

Neither public comments nor agency analysis have identified any issues regarding public health or safety.

Unique characteristics of the geographic area

Neither public comments nor agency analysis have identified any unique features in the area that would be affected.

The degree to which the effects on the human environment are likely to be highly controversial

Neither public comments nor agency analysis have identified any scientific controversy regarding the nature or magnitude of the effects disclosed in the environmental assessment.

The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks

The environmental effects of Alternative 3 that are disclosed in the environmental assessment are well understood and do not involve any unique risks. The physical and biological effects related to opening the roads to public use are reliably predictable from long experience managing roads for that purpose.

The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration

Alternative 3 is self-contained – it does not commit the agency to any subsequent actions. It relies on changes in public motorized access. Such changes do not commit the FS beyond the next needed change, as determined by the responsible official.

Whether the action is related to other actions with individually insignificant but cumulatively significant impacts

The cumulative impacts would not be significant [EA pp 16-20]

The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible

for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historical resources

Alternative 3 would have no adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. [EA pg 18].

The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973

Alternative 3 would 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 [EA pp 6, 16-18].

Whether the action threatens a violation of Federal, State, or local law or other requirements imposed for the protection of the environment

The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Compliance with applicable laws and regulations is disclosed in the EA [EA pg 18, 19].

The interdisciplinary team reviewed the proposed action for consistency with Mendocino NF Forest Plan. The team concluded that it is compliant with applicable management direction [EA pg 18, 19; Appendix L]. I have reviewed Appendix L, I concur with the team's conclusions, and find that the proposal is consistent with the Forest Plan.

Findings Required by Other Laws and Regulations

National Forest Management Act (NFMA) – The proposed action also complies with NFMA management direction regarding species viability, as provided in FSM 2670.32 [EA pg. 18, 19]. The proposed action would not impact the viability of federally listed threatened, endangered or proposed species, Forest Service sensitive species, or Northwest Forest Plan survey and manage species. Based on the information in the EA and supporting biological analysis documents, I find that the proposal is compliant with the NFMA's species viability requirement.

I also find that the proposed action complies with the Clean Water Act and the National Historic Preservation Act [EA pg 19].

Administrative Review or Appeal Opportunities

(Except as otherwise noted, citations to 36 CFR §215 are to the 4 June 2003 version of the rule)

My decision is subject to appeal [in accordance with the 24 April 2006 order of the United States District Court in Montana in Case No. CV 03-119-M-DWM]. One individual and one organization expressed interest in the proposal by the close of the 30-day comment period. Refer to Appendix Z for a summary of comments received during the comment period that ended August 6, 2008. Appendix Z also documents the determination of the substantive comments and how they were considered, pursuant to 36 CFR §215.2. Persons or non-federal organizations may appeal if they have expressed interest in the proposal during the 30-day comment period.

Notices of appeal must meet the content requirements set forth in 36 CFR §215.14. Pursuant to 36 CFR §215.15, written appeals, including any attachments, must be filed with the Appeal Deciding Officer, Forest Supervisor Thomas A. Contreras, within 45 days following the publication date of the legal notice of this decision in Chico Enterprise Record. Appeals may be filed by any of the following means:

1. By mail or hand delivery to: Forest Supervisor, Mendocino National Forest, 825 North Humboldt Avenue, Willows, CA 95988. Business hours are 8:00 AM to 4:30 PM, Monday through Friday, except federal holidays.
2. By fax to: Forest Supervisor, (530) 934-7384.
3. By email to: appeals-pacificsouthwest-mendocino@fs.fed.us

Implementation Date

Pursuant to 36 CFR §215.9, implementation of this proposal may occur on, but not before, the 5th business day following the close of the appeal filing period if no appeals are filed. If one or more appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Contact

For additional information concerning this decision or the Forest Service appeal process, please contact the interdisciplinary team leader, Mike Van Dame:

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Attn: Mike Van Dame
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s/Eduardo Olmedo

10/01/08

EDUARDO OLMEDO
District Ranger

Date

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