

Decision Memo

Otter Fire Salvage Project

North Fork John Day Ranger District, Umatilla National Forest Grant County, Oregon

Township 7 South, Range 33 East, Sections 7, 8, 16, 17, 18, 20, 21, 22
Township 7 South, Range 32 East, Section 1, 2, 12
Township 6 South, Range 32 East, Section 35
Willamette Meridian surveyed.

BACKGROUND

The lightning caused Otter Fire began on August 15, 2007 near the North Fork John Day River and Otter Creek east-southeast of Dale, Oregon. The Otter Fire reached a size of 2,922 acres on National Forest System lands before being fully contained.

Fire effects varied widely from a light underburn in some areas to areas of intense fire activity where almost all trees were killed. North Fork John Day Ranger District personnel evaluated the burned landscape and identified approximately 400 acres of potential salvage that would be consistent with direction found in the Umatilla National Forest Land and Resource Management Plan (Forest Plan) and did not include inventoried roadless areas. However, to capture the greatest economic value in a timely manner, and taking into account current budgets, work force, and resources available, only 250 acres of the potential salvage area is being proposed for salvage.

After a tree dies, it begins to deteriorate and lose economic value. Wood deterioration can refer to changes in wood strength or appearance that render wood unsuitable for traditional or general uses such as lumber products and this rate varies by species. Weather is often a major contributor to the rate of deterioration.

There is a need to salvage harvest as rapidly as practicable before decay and other wood deterioration occurs to maximize potential economic benefits. Harvesting dead and dying trees could provide direct and indirect benefits to the local and regional economy. In addition, revenues produced by selling the salvage timber could be available to help finance post-fire restoration and other activities.

During fire suppression efforts, trees that posed an imminent danger were removed, however, additional standing dead, dying, and unsound green trees that represent a threat and danger to public safety have been observed. To provide for safety during operations, there is a need to remove danger trees along haul routes and landings, and open roads for public safety when salvage activities are complete.

DECISION

After careful review and consideration of public comments made, and analyses by resource specialists disclosed in the project record, I have decided to implement the Otter Fire Salvage Project. As part of my decision I will implement project-specific design features, including best management practices (BMPs) listed in the project record, because they are expected to minimize the effects of management activities. The following table summarizes some outcomes of my decision.

Table 1-Summary of Project Activities

| Activities | |
|---|---|
| Total salvage harvest* | 250**acres |
| Harvest-ground based-whole tree yarded | 170** acres |
| Harvest-skyline-cut to length | 80** acres |
| Danger trees removed along haul routes | 9.32** miles |
| Danger trees removed that could affect landings | Yes |
| Danger trees felled in Riparian Habitat Conservation Areas (RHCAs) and left on the ground | Yes |
| Temporary road construction (no more than ½ mile in total): | 2 roads (1530** and 1110** Feet) |
| Additional short spurs | Yes |
| Roads decommissioned after use | Yes |
| Activity Fuel Treatment | Piles at landings to be either burned or chipped later. |
| *Harvest prescriptions will salvage dead trees (trees without green needles) greater than or equal to 21 inches in diameter at breast height (dbh). Dead and dying trees less than 21 inches dbh will also be removed using the probability of survival determined by the protocol described in <i>Factors Affecting Survival of Fire Injured Trees: A Rating System For Determining Relative Probability of Survival of Conifers in the Blue and Wallowa Mountains by Scott et al.</i> , also known as the Scott Guidelines. To provide for habitat needs of cavity dependent species, approximately three large dead trees per acre will be left for future large wood. | |
| **acres, feet, and miles are approximate, but not to exceed 250 acres of harvest. | |

DECISION RATIONALE AND FINDINGS

My decision to implement this project is consistent with the scale of effects disclosed for two categories of actions established by the Chief of the Forest Service which do not individually or cumulatively have a significant effect on the human environment and therefore normally do not require further analysis in either an environmental impact statement (EIS) or an environmental assessment (EA). These two categories are listed in the Forest Service NEPA Handbook (FSH) FSH 1909.15-2006-1, Chapter 30, Section 31.12, Category 4 (*Repair and maintenance of roads, trails, and landline boundaries*) for the removal of danger trees, and Section 31.2, Category 13 (*Salvage of dead and/or dying trees not to exceed 250 acres, requiring no more than ½ mile of temporary road construction*).

I selected Category 13 because the Forest Service did a post-implementation review of similar projects along with past, present, and reasonably foreseeable future actions, and the responsible officials found that the individual and cumulative effects of the projects reviewed were not significant in the NEPA context. The Forest Service, therefore, concluded that the activities described in categories (12, 13, and 14) do not individually or cumulatively have a significant

effect on the human environment (see Federal register, July 29, 2003, Vol. 68, No. 145, page 44599).

In making my decision I considered the following conditions:

1. The project is consistent with the Umatilla Land and Resource Management Plan (Forest Plan) 1990, as amended and all applicable federal and state laws for protection of the environment.
2. There are no extraordinary circumstances that would preclude the use of the category exclusions listed above.

I address each of these conditions below:

Forest Plan Consistency and Other Applicable Laws

The units proposed for project activity include three Forest Plan management areas as shown in Table 2. All allow timber harvest on a scheduled basis.

Table 2-Land allocations within project activity units

| Management Area | Area (acres) | Forest Plan Page Number |
|---------------------------------|---------------------|--------------------------------|
| A3-Viewshed 1 | 76 | 4-99 |
| C3-Big Game Winter Range | 7 | 4-151 |
| C7-Special Fish Management Area | 167 | 4-167 |

This project has been designed to be consistent with the Forest Plan and applicable federal and state laws. The following resource narratives demonstrate consistency with Forest Plan direction described for both Management Area and Forest-wide standards and guidelines and applicable federal and state laws.

- **Hydrology**-Implementation of this project would be consistent with Forest-wide and management area-specific standards for the protection of water resources.

The Forest Service's responsibilities under the Clean Water Act are defined in 2002 Memorandum of Understanding (MOU) between Oregon Department of Environmental Quality and the Forest Service. The MOU designates the Forest Service as the management agency responsible for meeting the Clean Water Act on National Forest System lands and recognizing best management practices (BMP's) as the primary mechanism to control nonpoint source pollution on National Forest System lands. It further recognizes that they are developed by the Forest Service to meet or exceed standards. This project incorporates site-specific BMPs for water and soil resources and a process to monitor their implementation and effectiveness has been established.

Project activities would not detrimentally affect beneficial uses and the proposed salvage harvest has been designed to prevent damage to RHCAs. Riparian and channel components that protect water quality would be maintained and recovery would proceed at natural rates. Other project design criteria and BMPs would control disturbance that could lead to erosion and sedimentation. Effects of the proposed action would not adversely or measurably affect water temperatures or sedimentation, the criteria for which streams in the project area (North Fork John Day River and Desolation Creek) are 303d listed as impaired. The

proposed project is in compliance with the Clean Water Act, the Safe Drinking Water Act, and Forest Plan (Project Record-Hydrology Report).

- **Recreation-** The project area provides a wide range of recreation activities and opportunities, including but not limited to: dispersed camping, sightseeing, off-highway vehicle (OHV) use, and hunting.

Project design criteria and management requirements provide for visitor safety and help protect recreation opportunities. This project would be consistent with Forest-wide standards and management area-specific standards for recreation.

- **Scenery-** Within management area A3-Viewshed 1, salvage operations will occur in units 1-4 affecting approximately 85 acres. Salvage harvesting and subsequent regeneration will lead these affected areas towards a more desirable visual character and rehabilitate the area.
- **Undeveloped Areas-** During the scoping period Oregon Wild identified an area they called an un-inventoried roadless area. Three salvage sale units do lie within the area identified by Oregon Wild and two are outside the area. The area identified by Oregon Wild is less than 5,000 acres and is contiguous to the existing North Fork John Day Wilderness Area (Project File maps). The vast majority of the area referred to by Oregon Wild has been harvested (project file maps). Stumps and other evidence of logging such as skid trails (which are not on the forest road system) are substantially recognizable to the forest visitor. The only portion of the area not impacted by previous logging activity is found within the designated corridor of the North Fork John Day Wild and Scenic River (Project File maps). Based on the above facts the area identified by Oregon Wild is not consistent with the inventory criteria for potential wilderness and would not qualify for, or be placed on, the potential wilderness inventory (FSH 1909.12, Chapter 70). In addition, these areas are not recognized as areas the public uses for solitude, the feeling of remoteness, the spirit of adventure and awareness, or serenity and therefore do not meet the basic characteristics required for recommendation for wilderness potential; natural, undeveloped, opportunities for solitude, special features, and manageability (FSH 1909.12, Chapter 70). Therefore, salvage harvest within the three units would not change the areas potential for future wilderness designation.
- **Soils-** Design of logging system, contractual controls, and erosion control measures, including site-specific BMP's, would limit detrimental levels of soil disturbance and ensure that soil effects would be in compliance with Forest Plan standards and guidelines (Project Record-Soil Report).
- **Fuels-** Activity fuel would be spread throughout the unit or piled at landings and would either be burned or chipped. All planned activity fuel treatments would be consistent with Forest-wide and management area specific standards (Project Record-Fuels Report).
- **Air Quality-** All fuels management burning would adhere to Oregon State and federal air quality regulations. The project would be in compliance with the Clean Air Act and Oregon State's Smoke Management Plan as administered by the Oregon Department of Environmental Quality, and Forest wide standards for air quality (Project Record-Fuel Report).

- **Range-** Approximately 70 acres of the Indian Creek Allotment (Battle Creek pasture) are within a proposed unit. Project activity would be consistent with Forest-wide and management area standards for range.
- **Wildlife-** This project is consistent with Forest Plan standards and guidelines for wildlife with the implementation of specific design criteria for this project. Plant and animal diversity and population viability are not diminished with the implementation of the Otter Salvage project. Effects to Management Indicator Species such as elk, marten, and pileated woodpecker are minimal. An abundance of dead wood habitat will be available for cavity excavator species.

Umatilla National Forest Plan Amendment #11 established interim riparian, ecosystem, and wildlife standards for timber sales (the Eastside Screens) (USDA 1995). The Interim Wildlife Standard (wildlife screen) restricts the harvest of timber in stands classified as late or old structure (LOS), if the amount of LOS in the area is below the historic range. Since this standard applies to live trees, which will not be harvested, this project complies with the wildlife screen.

Based upon the available information and the evaluation of the direct, indirect, and cumulative effects, and interrelated and interdependent actions, it has been determined that the implementation of the proposed project activities will have no effect to gray wolf or Canada lynx, the only ESA listed species that might occur near the project area, and no impact to wolverines.

Activities comply with the Fish and Wildlife Service Directors order #131 related to applicability of the Migratory Bird Treaty Act to federal agencies and requirements for permits for “take”. In addition, the permit is compliant with Executive Order 13186 because the analysis meets our obligation as defined under the January 16, 2001 Memorandum Of Understanding between the USDA Forest Service and USDI Fish and Wildlife Service designed to complement Executive Order 13186. The purpose of this Memorandum of Understanding is to strengthen migratory bird conservation through enhanced collaboration between the Forest Service and the Fish and Wildlife Service, and with state, tribal, and local governments. As required, management practices that could affect high priority species have been identified, and conservation measures to minimize impacts to birds have been considered.

- **Riparian/Fish-** This decision is consistent with PACFISH Riparian Management Objectives and protects riparian and fish resources and habitat with implementation of specific design criteria and management requirements (Project Record-Aquatic species Biological Evaluation).

Extraordinary Circumstances

Based on the project record I find that the project is consistent with agency policy concerning extraordinary circumstances (Forest Service Handbook 1909.15-2006-1, Chapter 30, Section 30.3 (2) (a)-(g).

- ***Federally listed threatened or endangered species or designated critical habitat, species proposed for federal listings, or Forest Service sensitive species***

As required by the Endangered Species Act (ESA), potential effects of this project on listed species have been analyzed and documented in Biological Evaluations for wildlife, aquatic, and plant species. In accordance with Section 7(c) of the Endangered Species Act, the wildlife biologist, fish biologist, and botanist checked for the presence of listed and proposed threatened and endangered species or their habitats, and species on the Regional Forester's (Region 6) sensitive species list that may be present. Cumulative effects were analyzed when making ESA determinations.

Based upon available information, evaluation of direct, indirect, and cumulative effects, and interrelated and interdependent actions, it has been determined that the implementation of the project will have no effect to gray wolves.

Implementation of the project may affect but is not likely to adversely affect Columbia River bull trout and Mid-Columbia steelhead, its designated critical habitat and essential fish habitat for Chinook salmon. The project may impact redband trout but is not likely to contribute to a trend towards federal listings or cause a loss of viability to the population or species.

Examination of the Umatilla National Forest sensitive plant coverage in GIS shows no known threatened, endangered or sensitive plant populations in or adjacent to the project area.

See the following table for a list of threatened, endangered and sensitive species and biological determinations for these species.

Table 3-Effect Determination for Listed and Sensitive Species and Their Habitat

| Species | Status | Determination |
|--|------------|---------------|
| Gray Wolf | Endangered | NE |
| Canada lynx | Threatened | NE |
| California Wolverine | Sensitive | NI |
| Townsend's big-eared bat | Sensitive | NI |
| Bald eagle | Sensitive | NI |
| Peregrine falcon | Sensitive | NI |
| Upland sandpiper | Sensitive | NI |
| White-headed woodpecker | Sensitive | MIH |
| Lewis' woodpecker | Sensitive | MIH |
| Inland tailed frog | Sensitive | NI |
| Columbia spotted frog | Sensitive | NI |
| Painted turtle | Sensitive | NI |
| Northern leopard frog | Sensitive | NI |
| Middle Columbia steelhead trout | Threatened | NLAA |
| Redband trout | Sensitive | NLAA |
| Spring Chinook salmon | Sensitive | NI |
| Columbia river bull trout | Threatened | NLAA |
| Westslope cutthroat trout | Sensitive | NI |
| Margined sculpin | Sensitive | NI |
| Pacific lamprey | Sensitive | NI |
| <i>Silene spaldingii</i> | Threatened | NE |
| NE-No effect on a proposed or listed species or critical habitat. | | |
| NI-No impact to Region 6 sensitive or proposed sensitive species individuals, populations, or their habitat. | | |

NLAA-May effect, but not likely to adversely affect a listed species or critical habitat.

MIIH-May impact individuals or habitat, but will not likely contribute to a trend toward federal listing or loss of viability of the species.

- **Floodplains, Wetlands, Or Municipal Watersheds**

The project will avoid all floodplains and wetlands and will be consistent with Executive Order (EO) 11988 and Executive Order 11990. There are no de-facto or designated municipal watersheds in project activity units (Project Record-Hydrology Report).

- **Congressionally Designated Areas, Such As Wilderness, Wilderness Study Areas, Or National Recreation Areas.**

Project activity units are not located within any congressionally designated wilderness, wilderness study areas, or national recreation areas (Final EIS, Umatilla Forest Land and Resource Management Plan, Appendix C).

- **Inventoried Roadless Areas**

Project activities are not located within and will not impact an inventoried roadless area.

- **Research Natural Areas**

Project activity units are not located within any research natural areas (Final EIS, Umatilla National Forest Land and Resource Management Plan, p. 4-31).

- **American Indians And Alaska Native Religious Or Cultural Sites**

Project activity units are within American Indian's ceded lands. Consultation with appropriate tribes has occurred. No religious or cultural sites will be affected by the project.

- **Archeological Sites, Or Historic Properties Or Areas**

All known sites will be avoided. Should any additional sites be identified during ground disturbance activities, contract provisions will provide protection and the Zone archeologist will immediately be notified.

FINDINGS REQUIRED BY OTHER LAWS

This project in consisted with the Umatilla's Land and Resource Management Plan (Forest Plan) and all subsequent amendments, as required by the National Forest Management Act. The project was designed in conformance with Forest Plan standards and incorporates appropriate Forest Plan guidelines. The is in compliance with the Endangered Species Act of 1973, as amended, Magnuson-Stevens Fishery Conservation and Management Act (MSA) of 2000, Clean Water Act, Safe Drinking Water Act, Clean Air Act, Executive Order 11988, and Executive Order 11990 as discussed in previous sections of this document.

There is no prime farmland, rangeland, or forestland within project activity units. Activities for this project are consistent with the *Managing Competing and Unwanted Vegetation FEIS*, its *Mediated Agreement*, and *1988 Record of Decision* and incorporates the invasive plant prevention measures of the *Pacific Northwest Region FEIS for the Invasive Plant Program*, and *2005 Record of Decision*. This project does not address interim methods of rapid response to invasive plant spread beyond that was analyzed in the *1995 Umatilla Noxious Weed EA*.

Implementation of this project is not expected to have any disproportional effects on consumers, civil rights, minority groups, women, or low income people because there will be no change in the long-term use of the area for these populations (Executive Order 12898). The project will not have unusual energy requirements. The project will improve public health and safety by removing danger trees along haul routes and landings.

PUBLIC INVOLVEMENT

This Proposal was listing the spring 2008 edition of Umatilla National Forest's Schedule of Proposed Actions, and scoping letters were mailed on November 11, 2007 to approximately 110 interested individuals, organizations, tribes, state, local, and federal agencies. Eight letters were received in response to our scoping letter. Letters describing the project and analysis and requesting comments were mailed on May 9, 2008 to approximately 110 interested individuals, organizations, tribes, state, local, and federal agencies. A legal notice requesting comments appeared in the East Oregonian (newspaper of record) on May 9, 2008. Four letters responding to our request for comments during the 30-day comment period were received. I reviewed the comments and considered them before making my final decision.

ADMINISTRATIVE REVIEW AND APPEAL OPPORTUNITIES

This decision is subject to appeal pursuant to Forest Service regulations at 36 CFR Part 215. Only individuals or organizations that submitted comments or expressed an interest in the project may appeal. Any appeal of this decision must be in writing and fully consistent with content requirements described in 36 CFR 215.14.

Send written appeals to:

USDA, Forest Service
Umatilla National Forest,
ATTN: Kevin Martin, Forest Supervisor
2517 S.W. Hailey Avenue
Pendleton, Oregon 97801

The notice of appeal may alternatively be faxed to:

USDA, Forest Service
Umatilla National Forest,
ATTN: Kevin Martin, Forest Supervisor
(541) 278-3730

Or delivered by hand to:

Umatilla Forest Supervisor's Office in Pendleton, Oregon from 8 a.m. to 4:30 p.m., Monday through Friday.

Or by electronic mail at:

appeals-pacificnorthwest-umatilla@fs.fed.us

Electronic appeals must be submitted as part of the actual e-mail message, or as an attachment in Microsoft Word, rich text format or portable document format only. E-mails submitted to e-mail addresses other than the one listed above or in other formats than those listed or containing viruses will be rejected. It is the responsibility of persons providing comments by electronic means to ensure that their comments have been received.

Any written appeal, including attachments, must be postmarked or received (via regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) within 45 days of the date of publication of the notice of decision in the *East Oregonian*, newspaper of record. The publication date in the *East Oregonian* is the exclusive means for calculating the time to file an appeal. Those wishing to appeal should not rely upon dates or timeframe information provided by any other source.

For further information regarding these appeal procedures, contact the Forest Environmental Coordinator, Janel McCurdy at (541) 278-3869.

IMPLEMENTATION

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the closed of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

CONTACT PERSON

This Decision Memo and associated project file may be reviewed at the North Fork John Day Ranger District, 401 West Main Street, Ukiah, Oregon. For further information contact:

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CRAIG SMITH-DIXON
District Ranger

7/14/08
Date

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