

Chapter 1 - Purpose and Need

INTRODUCTION

The Forest Service has prepared this Environmental Assessment (EA) for the proposed update to the Brock Cattle and Horse Allotment Management Plan, to incorporate and implement the goals and objectives of the Forest Plan and all subsequent Forest Plan amendments. An Allotment Management Plan contains the strategy and actions needed to manage the rangeland resource for livestock grazing in consideration of other forest resources within the range allotment.

This EA addresses: 1) the proposed action (Alternative 1) and two additional alternatives: Current Management, otherwise known as No Action (Alternative 2) and No Grazing (Alternative 3), 2) issues associated with the proposal; and 3) direct, indirect, and cumulative environmental effects that would result from implementation of the proposed action or any of the alternatives. Maps for this document are located in Appendix A.

DOCUMENT ORGANIZATION

This EA has been prepared in compliance with the National Forest Management Act (NMFA), the National Environmental Policy Act (NEPA), other relevant Federal and State laws and regulation, and the Umatilla National Forest Land and Resource Management Plan (Forest Plan).

Chapter 1– Purpose and Need: Includes a brief description of the area, a history of the permitted use on the allotment, purpose of and need for action, the agency’s proposal for achieving the purpose and need, a listing of the regulatory and legal parameters under which the allotment is managed, describes when and how the public was involved in development of the project and describes the decisions to be made.

Chapter 2 – Alternatives: Describes in more detail the agency’s proposed action as well as alternative methods of achieving the purpose and need, describes measures used to mitigate and monitor environmental effects and a description of “key” issues and criteria employed to distinguish effects on the key issue, to help the Responsible Official come to an informed decision .

Chapter 3 - Affected Environment: This chapter describes the affected environment, the current condition of resources involved. The chapter is organized by resource.

Chapter 4 - Environmental Consequences: This chapter describes the environmental effects of implementing the proposed action and other alternatives on key issues and resources of concern. This chapter is organized by resource.

Appendices - Provides more detailed information and maps used to support the analysis presented in the EA. Also contains a list of those who helped prepare this document, and a list of individuals, organizations, and agencies receiving this document. It also provides a glossary of terms and a list of literature cited.

LOCATION AND OVERVIEW OF PROJECT AREA

The Brock allotment is located in the northeastern portion of the Walla Walla Ranger District (T4N, R40E, Sections 29 & 32). The allotment totals 1,222 acres of intermingled private (295 acres) and national forest system lands (927 acres) in Union County, in Oregon. The vicinity map (Appendix) displays the general vicinity of the Brock allotment, which is located within the Grande Ronde River basin. More detailed information on allotment character is provided in Chapter 3.

The Walla Walla Ranger District is proposing to update the Brock Cattle and Horse (C&H) Allotment Management Plan to incorporate and implement the goals and objectives of the Forest Plan and all subsequent Forest Plan amendments. The Brock C&H Allotment averages 4,000 feet in elevation and is mostly forested, with only 4-6 percent naturally non-forested dry and moist meadows. The allotment is located on a relatively level, geomorphic bench above the Grande Ronde River and includes portions of the headwaters of two perennial stream systems: Jarboe and Sheep Creeks.

ALLOTMENT MANAGEMENT HISTORY

The Brock allotment as it exists today, consists of 1,222 acres which are divided among two pastures; Transitory and Pearson. The allotment consists of intermingled private and National Forest System lands. The owner of the private land has waived management of their land to the Forest Service, to be managed in conjunction with Forest land and according to Forest management requirements and allotment objectives, as negotiated with the landowner. ”. Table 1-1 shows the distribution of private and federal ownership with respect to the two pastures.

The allotment is located in Union County within the Umatilla National Forest with one permittee. The most recent Allotment Management Plan (AMP) was completed in 1978 and the allotment operates under functional Annual Operating Instructions (AOI).

Records indicate that grazing by domestic livestock in the area began in the 1880's. Early livestock use included both sheep and cattle with sheep using the high country and the cattle using the fringes of what is now National Forest. One of the earliest users was Bill Jarboe who gathered cattle from settlers in the Elgin area and grazed them during the summer in the vicinity of Jarboe Meadow.

The 1906 Forest Homestead Act opened up agricultural lands within the Forest Reserves to homestead entry. After settlement of the Grouse Flat and Eden bench areas, the Troy/Eden road was built which opened up the area for additional settlement in areas such as Brock and Fry Meadows. Many claims were returned unimproved to the Forest Service, but attempts at agriculture contributed to the depletion of forage.

In 1908, the boundaries of the current Brock C& H Allotment were then part of the Pedro/Johnson & Pearson Sheep Allotment. By 1937 it had become part of the Jarboe Sheep Allotment, which consisted of 7,789 acres. Permitted numbers of sheep ranged from 3,300 in 1920 to 850 in 1950. Records indicate that the permit for the Jarboe Sheep Allotment was relinquished to the government at the close of the 1966 grazing season.

In 1951, the Brock Meadow C&H Allotment was established. Brock Meadows were then fenced and cattle became the only class of livestock using the allotment. LaVern Pearson of Pendleton, Oregon became the permittee. Permitted cattle numbers were 120 cow/calf pairs for a grazing season of July 1-September 30.

In 1964, the Pearson Unit containing 280 acres of permittee-owned private land was added to the allotment, and it was renamed the Pearson C&H Allotment. The Pearson unit contains the majority of the naturally non-forested acres in the allotment.

In 1969, the term preference was waived back to the Forest Service and granted to Frank C. Tubbs, of Adams, Oregon. The Fry Unit was added to the allotment as a holding pasture and the allotment was renamed Brock C&H. At that time, 160 cow/calf pairs were permitted.

In 1976, the Transitory Unit, consisting of recent timber harvest units was added to the allotment, providing additional early grazing. “Transitory” refers to the naturally forested nature of the Transitory unit and the transitory nature of the forage base in the unit, which is related to the history of timber harvest in that pasture. Forage production by understory herbaceous species generally increases following timber harvest but then typically slowly declines as the forest grows back and the tree canopy slowly closes back in, shading out the understory forage plants, hence the name “Transitory.” The majority of the Transitory unit prior to the timber management activity, would have been forested, with very little available forage.

In 1991, permittee hands changed again when Frank Tubbs, waived his permit to Charles and Teresa Rosenberg, both parties were from Adams, Oregon. Waived numbers were 115 cow/calf pairs for June 10–October 15.

Charles and Teresa Rosenberg kept the permits (Permitted use of 129 cow/calf pairs under Term Grazing Permit and 26 cow/calf pairs under Private Land Grazing Permit) until 1998, however the Rosenbergs were only authorized to graze 75 cow/calf pairs, due to needs for resource protection in the Brock, Upper and Lower Jarboe pastures. Those three pastures were last grazed in 1994 and were eventually dropped from the Brock C&H Allotment in 1997 when the current pastures were established.

In 1998, the Rosenbergs waived the permits in favor of the current permittees, William M. and Sandra L. McGinn from Haines, Oregon. Waived numbers were for 75 cow/calf pairs with the same grazing season of June 10–October 15. In 1998, cattle numbers were readjusted to what is currently permitted (65 cow/calf pairs under Term Grazing Permit, 16 cow/calf pairs under Private Land Grazing Permit).

PURPOSE AND NEED FOR ACTION

The Walla Walla Ranger District provides summer range for local livestock through a permit system based on identified allotments. Forage vegetation is managed by grazing strategies developed over time. Grazing permits require compliance with Terms and Conditions, including permitted numbers of animals and seasons, forage utilization standards, and maintenance of improvements. Fences control allotment and pasture management. Grazing seasons are adjusted to reflect annual variations in range conditions and forage readiness.

The purpose of this action is to implement direction in both the Forest Plan, as amended, and in Acts of Congress (described below) to provide grazing on National Forest System lands. This analysis will facilitate livestock management by providing more control in riparian areas; and provide more flexibility when drought, fire or other natural events occur that would necessitate changes in management.

The needs associated with this purpose are:

- The Rescission Act of 1995 (Public Law 104-19, Section 504) requires the Forest Service to identify all allotments requiring NEPA analysis, and to prepare and adhere to a schedule for conducting such analysis.
- The need to improve control of livestock resulting in better distribution, more controlled utilization of vegetation, and protection of other resources.
- The provision of a sustainable source of forage for livestock in the project area, thereby contributing to the local and regional agricultural economy.
- The Granger-Thye Act of 1950 (Public Law 81-478) created direction for National Forest System allotment management. The purpose of the Act was to establish controls and stewardship of the public land grazing resource. The act included such measures as authorization to issue grazing permits for terms up to 10 years; authorization to use grazing fee receipts for rangeland improvement; and the establishment of grazing advisory boards. The core of stewardship linked the use of public land to an established, local private landowner who would bring economic stability to local communities and create a sustainable level of production for both forage and wildlife habitat.
- Where consistent with other multiple use goals and objectives there is Congressional intent to allow grazing on suitable lands. (Multiple Use Sustained Yield Act of 1960, Wilderness Act of 1964, Forest and Rangeland Renewable Resources Planning Act of 1974, Federal Land Policy and Management Act of 1976, National Forest Management Act of 1976)

PROPOSED ACTION

The proposed action used for scoping was to develop a new Allotment Management Plan for the Brock Cattle and Horse Allotment, which would include the following elements:

1. The proposed action would provide summer pasture for a maximum of 81 cow/calf pairs (65 cow/calf pairs authorized under a Term Grazing Permit; 16 cow/calf pairs authorized under a Private Land Permit), for 77 days between a grazing period of June 10 to October 15 (a total of 208 Head Months). Adaptive management principles would be used with this allotment based on trends observed through monitoring various resource conditions that support a need for changing annual grazing instructions.
2. Based on monitoring, the number of cattle permitted and the dates of allowed use could vary from year to year. The earliest date for turnout would be June 10 and latest date for keeping cattle on allotment would be October 15. Instructions for how a pasture gets grazed or the number of permitted animals or days and timing of use can be adjusted each year. The number of animals or days of use authorized could be reduced in any given year from those authorized in the permit, based on factors such as when the range is ready for turnout, a new species being listed for protection either as a Regional Forester-designated Sensitive species or under the Endangered Species Act, or when the permittee has fewer cattle than permitted.

TRIBAL CONSULTATION

Both the Nez Perce and the Confederated Tribes of the Umatilla Indian Reservation were consulted about this project and neither tribe provided written responses. The tribes are known to have concerns about salmon and steelhead in the Grande Ronde/Snake River systems. There is no spawning or rearing habitat

for these species in the interior of the planning area. There is limited habitat a short distance up several of the tributaries of the Grande Ronde, however, waterfalls are encountered within half to a mile and a half upstream from the Grande Ronde River. These falls are natural barriers to anadromous fish.

PUBLIC INVOLVEMENT

Scoping is used to identify major issues and determine the extent of environmental analysis necessary to make an informed decision. Public scoping began December 01, 2008, by mailing a proposed action to 161 individuals, groups, agencies, organizations, and tribal governments. At the subsequent request of an interested party, the scoping period was extended until February 5, 2009. The District received written responses from three parties.

SIGNIFICANT ISSUES FROM SCOPING

Significant Issues are resource or other values or concerns that drive the development of an alternative, modifies the action, or identifies "unresolved conflicts regarding uses of available resources" [NEPA sec 102(2)(E)]. The Interdisciplinary Team selects indicators for each issue, which are used to evaluate the degree to which each alternative satisfies the issue.

After a study of the public comments and resource concerns identified by the Interdisciplinary Team (IDT), the District Ranger decided the following issues were significant:

Issue 1. Meadow Condition

Meadow vegetation conditions on some areas of the allotment are unstable. That instability is represented by increasing amounts of early grass and forb species, particularly high frequencies of coneflower and false hellebore relative to mid and late seral grass and forb species in tufted hairgrass sites. False hellebore and coneflower are both early seral native species that increase their presence when more palatable forage species decline under heavy grazing use.

Issue 2. Upland Condition

Upland forage production by native species on the allotment is declining. A net loss of forage production on grown-over transitory range has resulted in the allotment being overstocked for the native forage base still available. The overstocking is now putting excessive grazing pressure on the remaining forage base of native species, resulting in loss of plant vigor and loss of productivity.

The following criteria were selected to evaluate the effects of alternatives on both meadow and upland conditions.

Meadow and Upland Condition criteria:

1. Increased frequency of mid-late seral native herbaceous meadow and upland decreaser species (on sites not dominated by meadow foxtail) as well as improved vigor and density for functional non-native introduced meadow grasses (meadow foxtail) where site potential has changed to a foxtail steady state.
2. Reduction in frequency of early-seral native increaser species (false hellebore and coneflower).
3. Improving trend in density and vigor of native upland forage species including shrubs and hardwoods.

4. Species composition trends on the allotment show increasing dominance of native upland and meadow species relative to non-native seeded and invasive species.

Issue 3. Bank Stability

Grazing may prevent stabilization of currently unstable streambanks. Bank instability is very high along the intermittent stream channel in Fry Meadow and along Fry Meadow Creek.

Bank Stability criteria:

1. Increasing streambank stability over time toward-a Forest Plan objective and desired condition of >80 percent stable streambanks in the allotment.
2. Increased vegetative cover on streambanks.

Other concerns were voiced by individuals and organizations who commented on the proposed action. While not all were used to generate alternatives to the proposed action, they were addressed in analyses by various specialists. A summary of those concerns and how they were addressed in the EA, are included in Appendix I .

LAWS AND POLICY

Forest Plan Direction

Forest-wide goals, standards and guidelines for range are to:

1. Manage forage resources for an upward vegetative trend in areas in less than “fair” condition, and manage for an upward or stable trend for areas in “fair” or better condition, while providing for forage productivity. (FP 4-63).
2. When the current riparian condition is less than that desired, objectives will include a schedule for improvement. Measurable objectives will be set for key parameters such as streambank stability and shrub cover. The allotment management plans will identify management actions needed to meet riparian objectives within the specific timeframe. The plans will address the monitoring needed to determine if the desired rate of improvement is occurring. (FP 4-61)
3. Within 8 years of revision of allotment management plans, recovery of hardwood and shrub vegetation will be at least 75 percent of the expected achievement based on riparian classification and inventory. (FP 4-61).
4. Plans currently not consistent with this direction will be developed or revised (FP 4-61).
5. Identify allotments with riparian areas in unsatisfactory condition, for example riparian areas where basic resource damage or other resource damage may have occurred or may be occurring (FP 4-61; Forest Plan Glossary GL-36).

In addition to Forest-wide general management direction for range, the Forest Plan made land allocations using management areas, each of which emphasizes a particular Desired Future Condition (DFC). Forest Plan standards and guidelines provide direction for achieving the DFC. Table 1-1 below displays management area allocations within the Brock allotment. Management area direction specific to each management area is detailed below as well.

Management Area Direction

Grazing management activities are proposed in the following Forest Plan Management Areas within the Brock allotment.

- **C5 – Riparian (Fish and Wildlife);** Goal: “Maintain or enhance water quality and produce a high level of potential habitat capability for all species of fish and wildlife within the designated riparian habitat areas while providing for a high level of habitat effectiveness for big game.” (*Forest Plan, pages 4-163 through 166*).
- **E2 - Timber and Big Game;** Goal: “Manage Forest Lands to emphasize production of wood fiber (timber), encourage forage production, and maintain a moderate level of big game and other wildlife habitat.” (*Forest Plan, pages 4-182 through 186*)

Management Goals, Standards and Guidelines for these management areas are described below:

Table 1-1. Forest Plan Management allocations and other areas within the Brock C&H Allotment Analysis Area

Management Area	Management Area Abbreviation	Acres	Percent of total allotment acreage
Riparian (Fish and Wildlife)*	C5	116	9
Timber and Big Game	E2	811	66
Total National Forest System lands	C5 and E2	927	75
Private Land (management waived to the Forest Service)	<i>Not Applicable</i>	295	25
Total landbase to be managed	<i>NFS and Pvt</i>	1,222	100

Management Area: E2 Timber and Big Game

Goal

“Manage Forest Lands to emphasize production of wood fiber (timber), encourage forage production, and maintain a moderate level of big game and other wildlife habitat.”

Desired Future Condition

Management of forests for timber production, domestic livestock, big game, and other wildlife habitat will be apparent. Forests will contain a mosaic of even-aged and uneven-aged stands dispersed in a manner creating patterns of tree cover for big game and openings providing forage. Created openings will range from 1-3 acres up to 40 acres, but will often be 20-30 acres in size. A variety of native and seeded grasses, sedges, forbs, and shrubs will be available for big game, other wildlife, and domestic livestock. Range and timber management practices will result in improved range condition and increased amounts of available forage for both big game and domestic livestock.

Standards and Guidelines pertinent to this project

Wildlife: Structural and nonstructural improvement, development, and maintenance for wildlife are permitted. Management activities will not create barriers to impede movement of big game animals.

Range: Seeding of forage species is permitted where tree establishment and growth are not restricted. Prescribed burning may be practiced to improve range forage conditions and trend.

Management Area C5-Riparian

Goal:

Maintain or enhance water quality and produce a high level of potential habitat capability for all species of fish and wildlife within the designated riparian habitat areas while providing for a high level of habitat effectiveness for big game.

Description:

The management area is applicable to all designated riparian areas associated with Class 1, II and III streams, including adjacent floodplains and wetlands as shown on the management area maps.

Desired Future Condition:

A near natural setting will predominate adjacent to the stream, with a wide variety of plant communities of various species, sizes and age classes. In forested riparian zones a continuous high tree canopy layer will be present and the forest will appear denser than in the surrounding land. Upper and mid-level conifer and hardwood canopy structure and lower shrub level will provide desired levels of stream surface shading, streambank stability and satisfactory cover for big game.

Riparian vegetation will be dense and diverse, contributing shade for water temperature control, stable streambanks and controlled sediment, and complex fish habitat along the banks. Evidence of streambank trampling from livestock will be less common. Dispersed recreation activities of all types will be abundant and available for a variety of users.

Standards and Guidelines

Range

Intensive range management including superior grazing systems such as periodic rest will be practiced to protect and improve riparian vegetation and anadromous fish and wildlife habitats. Periods of extended rest may be utilized in some situations where it is necessary to allow re-establishment of desired shrub communities. Meet the forage utilization standards for riparian areas, found in the Range portion of Forest-wide Standards and Guidelines.

Range management techniques that control livestock distribution and timing of use will be used to meet riparian habitat goals. Range improvements that maintain or enhance riparian habitat goals will be permitted. Improvements should be located to encourage livestock use away from the riparian areas. Grazing system utilizing riparian pastures may be required to maintain water quality and protect riparian vegetation. Riparian corridor fencing should be considered on a limited basis for special applications.

Soils

Within 250 feet of all streams and wet areas associated with streams, limit the mineral soil exposed by ground-disturbing activities to 10 percent of the project area.

Water

Meet Forest-wide Standards and Guidelines.

PACFISH (FP amendment #10; approved 2/24/1995)

“PACFISH” is the commonly used acronym for the Environmental Assessment on Interim Strategies for Managing Anadromous Fish-Producing Watersheds on Federal Lands in Eastern Oregon and Washington, Idaho, and Portions of California. This policy established an interagency ecosystem management approach for maintaining and restoring healthy, functioning watersheds, riparian areas and aquatic habitats within the range of Pacific anadromous fish on Federal lands managed by the USDI-Bureau of Land Management and the USDA-Forest Service, established management direction designed to arrest and reverse declines in anadromous fish habitat (USDA Forest Service and USDI Bureau of Land Management 1995) and amended the Umatilla and other Forest Land and Management Plans within the range described.

PACFISH direction replaced conflicting Forest Plan direction that provided less protection for anadromous fisheries within the range described, except where existing Forest Plan direction provides more protection for anadromous fish habitat (USDA-FS and USDI-BLM, 1995a; USDA-FS and USDI-BLM 1995b). For example, Riparian Management Objectives for bank stability are intended to be applied on non-forested lands at watershed-scale preferentially, and at reach-scale at minimum, whereas existing Forest Plan direction defined Satisfactory Range Condition to include criteria for livestock-related bank stability conditions at the allotment scale. Whichever scale and set of management direction is more protective of watershed, riparian and fish habitat conditions, would apply in such cases.

PACFISH *Standards and Guides* potentially applicable to Brock Allotment management:

GM-1. Modify grazing practices (e.g., accessibility of riparian areas to livestock, length of grazing season, stocking levels, timing of grazing, etc.) that retard or prevent attainment of Riparian Management Objectives or are likely to adversely affect listed anadromous fish. Suspend grazing if adjusting practices is not effective in meeting Riparian Management Objectives and avoiding adverse effects on listed anadromous fish.

PACFISH *Riparian Management Objectives (RMOs)* applicable at watershed or reach-scale.

Bank Stability (sf) (non-forested systems). >80% stable

Lower Bank Angle (sf) (non-forested systems) >75% of banks with <90 degree angle (i.e., undercut)

Note: The team has determined that in this particular case, Forest Plan criteria defining Satisfactory Range Condition are more protective than PACFISH RMOs due to the relative scales at which the objectives would be applied. Satisfactory Range Condition as defined in the Forest Plan is contingent in part on an evaluation of management-related streambank stability determined at the allotment scale, which in this case is a scale substantially smaller than the reach or watershed-scales where PACFISH RMOs are normally applied. Because Forest Plan definitions for Satisfactory Range Condition apply streambank stability objectives at a finer scale in this particular case, the more protective objective and associated standards would be applied to the project as anticipated in the Environmental Assessment (p. 17) and Finding of No Significant Impact (FONSI, p. 14) for PACFISH (USDA, 1995).

Forest Plan Amendment, (approved 10/11/05). Pacific Northwest Region Invasive Plant Program Final Environmental Impact Statement, Record of Decision, October 2005, Standards for Invasive Species Prevention

Prevention Standard #1:

Prevention of invasive plant introduction, establishment and spread will be addressed in watershed analysis; roads analysis; fire and fuels management plans, Burned Area Emergency Recovery Plans; emergency wildland fire situation analysis; wildland fire implementation plans; **grazing allotment management plans** (*emphasis added*), recreation management plans, vegetation management plans, and other land management assessments. This standard will apply to all assessments and analysis documents started or underway as of March 1, 2006.

Prevention Standard #3:

Use weed-free straw and mulch for all projects conducted or authorized by the Forest Service on National Forest System Lands. If State certified straw and/or mulch is not available, individual forests should require sources certified to be weed free using the North American Weed Free Forage Program standards, or a similar certification process.

Prevention Standard #4:

Use only pelletized or certified weed free feed on **all National Forest System lands**. If state certified weed free feed is not available, individual Forests should require feed certified to be weed free using North American Weed Free Forage Program standards or a similar certification process. Choose weed-free project staging areas, livestock and packhorse corrals, and trailheads.

Prevention Standard #6:

Use available administrative mechanisms to incorporate invasive plant prevention practices into rangeland management. Examples of administrative mechanisms include, but are not limited to, revising permits and grazing allotment management plans, providing annual operating instructions, and adaptive management. Plan and implement practices in cooperation with the grazing permit holder. This standard will apply to grazing permits beginning March 1, 2006.

Prevention Standard # 11:

Prioritize infestations of invasive plants for treatment at the landscape, watershed or larger multiple forest/multiple owner scale.

Prevention Standard #12:

Develop a long-term site strategy for restoring/revegetating invasive plant sites prior to treatment.

Prevention Standard #13:

Native plant materials are the first choice in revegetation for restoration and rehabilitation where timely regeneration of the native plant community is not likely to occur.

Federal Laws

Many federal and state laws, including the Endangered Species Act, Clean Air Act, and Clean Water Act also guide this analysis. Following is a brief description of the laws and policies applicable to this analysis:

American Antiquities Act of 1906

This Act makes it illegal to appropriate, excavate, injure, or destroy any historic, prehistoric ruin or monument, or any object of antiquity, situated on lands owned by the Government of the United States, without permission of the Secretary of the Department of the Agency having jurisdiction over the lands on which said antiquities are situated.

Clean Water Act, as amended in 1977 and 1982

Primary objective of this Act is to restore and maintain the integrity of the Nation's waters. This objective translates into two fundamental national goals: 1) Eliminate the discharge of pollutants into the nation's waters; and 2) Achieve water quality levels that are fishable and swimmable. This Act established a non-degradation policy for all federally proposed projects. Under Section 303(d) of the Clean Water Act, the State has identified water quality-limited water bodies in Washington.

Endangered Species Act of 1973, as amended

The purposes of this Act are to “provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such tests as may be appropriate to achieve the purpose of the treaties and conventions set forth in subsection (a) of this section.” The Act also states “It is further declared to be the policy of congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.”

Migratory Bird Treaty Act of 1918

This Act is to establish an international framework for the protection and conservation of migratory birds. The Act makes it illegal, unless permitted by regulation, to *pursue, hunt, take, capture, deliver for shipment, ship, cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, including in this Convention...for the protection of migratory birds...or any part, nest, or egg of any such bird*” (16 USC 703). The original 1918 statute implemented the 1916 Convention between the United States and Great Britain (for Canada). Later amendments implemented treaties between the United States and Mexico, Japan, and the Soviet Union (now Russia).

Multiple-Use Sustained-Yield Act of 1960

This Act requires the Forest Service to manage National Forest System lands for multiple uses (including timber, recreation, fish and wildlife, range, and watershed). All renewable resources are to be managed in such a way that they are available for future generations. The harvesting and use of standing timber can be considered a short-term use of a renewable resource. As a renewable resource, trees can be re-established and grown again if the productivity of the land is not impaired.

National Environmental Policy Act (NEPA) of 1969 as amended

Purposes of this Act are “To declare a national policy which will encourage productive and enjoyable harmony between man and his environment, to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding

of the ecological systems and natural resources important to the Nations; and to establish a Council on Environmental Quality” (42 USC Sec. 4321). The law further states “*it is the continuing policy of the Federal Government, in cooperation, to use all practical means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of the present and future generation of Americans.*” This law essentially pertains to public disclosure and participation, environmental analysis, and documentation.

National Forest Management Act (NFMA) of 1976

This act guides development and revision of National Forest Land Management Plans. The Land and Resource Management Plan for Umatilla National Forest (referred to as the Forest Plan) (USDA Forest Service 1990), provides most of the management direction applicable to the Brock allotment management plan.

National Historic Preservation Act of 1966, as amended

This Act requires Federal agencies to consult with American Indian Tribes, State and local groups before nonrenewable cultural resources, such as archaeological and historic structures, are damaged or destroyed. Section 106 of this Act requires Federal agencies to review the effect project proposals may have on cultural resources in the project area..

Executive Order 12898 (Environmental Justice)

As of 1994, this order directs each Federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The President also signed a memorandum in 1994 emphasizing the need to consider these types of effects during NEPA analysis. On March 24, 1995, the Department of Agriculture completed an implementation strategy for the executive order. Where Forest Service proposals have the potential to disproportionately and adversely affect minority or low-income populations these effects must be considered and disclosed (and mitigated to the degree possible) through the NEPA analysis and documented.

Executive Orders 11988 and 11990 (Floodplains and Wetlands)

These 1977 orders are to “...*avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development...*” and similarly “...*avoid to the extent possible the long and short-term adverse impact associated with the destruction or modification of wetlands.*”

Executive Order 12875 (Government-to-Government Consultation)

Executive Order 12875 clarifies government-to-government relations with American Indian governments. In accordance with this order, scoping letters asking for comment were sent to the Tribal Chairmen of the Confederated Tribes of the Umatilla Indian Reservation and of the Nez Perce Tribe. The Brock Allotment planning area is within ceded lands of both tribes, as determined by the Indian Claims Commission. No other Indian tribes have legal standing for consultation. Therefore, technical consultation occurred only with these two Tribes. Neither the Nez Perce Tribe nor the Confederated Tribes of the Umatilla Indian Reservation commented on the project at this time, but will review the project again after the Brock Allotment EA is issued.

Executive Order 13112 (Invasive Species)

This 1999 order requires Federal agencies whose actions may affect the status of invasive species to identify those actions and within budgetary limits, “(i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species... (iii) monitor invasive species populations... (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded, ... (v) promote public education on invasive species... and not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species... unless, pursuant to guidelines that it has prescribed, the agency had determined and made public... that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.”

Executive Order 13186 (Migratory Birds)

On January 10, 2001, President Clinton signed an Executive Order (EO 13186) titled “Responsibilities of Federal Agencies to Protect Migratory Birds.” This EO required the “*environmental analysis of Federal actions, required by NEPA or other established environmental review processes, evaluated the effects of actions and agency plans on migratory birds, with emphasis on species of concern.*”

Executive Order 13287 (Preserve America)

This 2003 order’s intent is to preserve America’s heritage through “*actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government... The Federal Government shall recognize and manage the historic properties in its ownership as assets that can support department and agency missions while contributing to the vitality and economic well-being of the Nation’s communities and fostering a broader appreciation for the development of the United States and its underlying values...*”

Prime Farmland, Rangeland, and Forestland Memorandum

All alternatives are in accordance with the Secretary of Agriculture’s Memorandum 1827 for prime farmland, rangeland, and forestland. “Prime” forestland is a term used only for non-Federal land.

Consumers, Civil Rights, Minorities, and Women

All Forest Service actions have potential to produce some form of impacts, positive or negative, on the civil rights of individuals or groups, including minorities and women. An analysis of this potential impact is required by Forest Service Manual and Forest Service Handbook direction.

TIERING TO AND INCORPORATING BY REFERENCE

To eliminate repetition and focus on site-specific analysis, this EA is tiered to the following documents as permitted by 40 CFR 1502.20.

- ◆ The *Umatilla National Forest Land and Resource Management Plan (Forest Plan) FEIS* and Record of Decision (ROD) dated June 11, 1990 and all subsequent NEPA analysis for amendments, and the accompanying *Land and Resource Management Plan (LRMP) as amended (Forest Plan)*. The Forest Plan guides all natural resource management activities and establishes management standards and guidelines for the Umatilla National Forest. It describes resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management.

- ◆ This EA is tiered to a broader scale analysis (**the Pacific Northwest Region Final Environmental Impact Statement for the Invasive Plant Program, 2005**, hereby referred to as the **R6 2005**

FEIS). The R6 2005 FEIS culminated in a Record of Decision (R6 2005 ROD) that amended the Umatilla National Forest Plan by adding management direction relative to invasive plants. This project is intended to comply with the new management direction.

This EA also incorporates by reference the following documents:

- ◆ The **Biological Opinion for the Implementation of Interim Strategies for Managing Anadromous Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California (PACFISH)** from National Marine Fisheries Service dated January 23, 1995. PACFISH itself does not propose any ground-disturbing actions, but sets in place certain riparian management goals and management direction with the intent of arresting the degradation and beginning the restoration of riparian and stream habitats.
- ◆ The **Biological Opinion on the Land and Resource Management Plans for the Boise, Challis, Nez Perce, Payette, Sawtooth, Umatilla and Wallowa-Whitman National Forests** from National Marine Fisheries Service, dated March 1, 1995. National Marine Fisheries has identified a set of goals, objectives, and guidelines that will apply to watershed and site-specific consultations until Land and Resource Management Plans are amended. Conformance with the provisions of this Opinion, in combination with implementation of PACFISH, should provide reasonable certainty that site-specific actions will not result in jeopardy to listed salmon or adverse modification of critical habitat.
- ◆ The **Biological Opinion for the Effects to Bull Trout from Continued Implementation of Land and Resource Management Plans and Resource Management Plans as Amended by the Interim Strategy for Managing Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, Western Montana, and Portions of Nevada (INFISH), and the Interim Strategy for Managing Anadromous Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California (PACFISH)** from U.S. Fish and Wildlife Service dated August 14, 1998. This BO addresses the effects of continued implementation of LRMPs as amended by PACFISH standards and guidelines where listed distinct population segments of bull trout occur in Idaho, Montana, Oregon, and Washington.
- ◆ The **Biological Opinion - Land and Resource Management Plans for National Forests and Bureau of Land and Management Resource Areas in the Upper Columbia River Basin and Snake River Basin Evolutionarily Significant Units** by National Marine Fisheries Service dated June 22, 1998. This BO addresses the effects of continued implementation of the 18 LRMPs as amended by PACFISH standards and guidelines on Snake River salmon and steelhead.
- ◆ **Environmental Assessment for the Management of Noxious Weeds**, Umatilla National Forest, May 1995. Implements a long-term integrated weed management program on 773 specific noxious weed management projects beginning in 1995.
- ◆ **USDA Forest Service Guide to Noxious Weed Prevention Practices** Version 1.0, July 5, 2001. A comprehensive directory of weed prevention practices for use in Forest Service planning and wildland resource management activities and operations. Identified weed prevention practices that mitigate identified risks of weed introduction and spread for a project or program.

The **Integrated Scientific Assessment for Ecosystem Management in the Interior Columbia Basin** released 1996. Links landscape, aquatic, terrestrial, social, and economic characterizations to described biophysical and social systems.

PROJECT RECORD

A Project Record will be maintained at the Walla Walla Ranger District. The Project Record includes: Scoping letters sent to Tribes, other Governmental Organizations, public mailing lists; letters received during the scoping process from concerned citizens; emails from concerned citizens and Forest Service IDT members; minutes of meetings; the project initiation letter and specialist reports. This Project Record may be reviewed at the Walla Walla Ranger District, 1415 West Rose, Walla Walla, Washington 99362.

This EA hereby incorporates by reference the project record (hereafter referred to as the analysis file) [40 CFR 1502.21]. The analysis file contains resource specialist reports and other technical documentation used to support the analysis and conclusions in this EA. Specialists reports are included for the following: soil, water quality, fish, vegetation, invasive species, visuals, heritage, economics, terrestrial wildlife species and habitats, management indicator and focal species, Biological Evaluations for TE&S aquatic, terrestrial, and plant species. Other sources of information, documents, published studies, resource and administrative data in district files, and books referred to in the analysis file and this document are also included.

Relying on specialists reports and analysis file helps implement the CEQ regulations' provision that agencies should reduce NEPA paperwork (40 CFR 1500.4), that environmental documents shall be analytic rather than encyclopedic, and that EAs shall be kept concise and no longer than absolutely necessary (40 CFR 1502.2). The objective is to furnish enough site-specific information to demonstrate a reasoned consideration of the environmental impacts of the alternatives and how these impacts can be mitigated, without repeating detailed analysis and background information available elsewhere.

TREATY RIGHTS

The Forest Service, through the Secretary of Agriculture, is vested with statutory authority and responsibility for managing resources of the National Forests. No sharing of administrative or management decision-making power is held with any other entity. However, commensurate with the authority and responsibility to manage is the obligation to consult, cooperate, and coordinate with Indian Tribes in developing and planning management decisions regarding resources on National Forest system land that may affect tribal rights.

Locally, the Brock C&H Allotment lies within the area ceded to the United States government by the Nez Perce Indians, and partially within the area ceded to the United States by the Confederated Tribes of the Umatilla Indians (CTUIR) as a result of the Treaties of 1855. Both Tribes were contacted during the scoping phase of the project. Elements of respective Indian cultures, such as tribal welfare, land, and resources were entrusted to the United States government as a result of the treaties. Trust responsibilities resulting from the treaties dictate, in part, that the United States government facilitate the execution of treaty rights and traditional cultural practices of the CTUIR and Nez Perce Indians by working with them on a government to government basis in a manner that attempts a reasonable accommodation of their needs, without compromising the legal positions of the respective tribes or the federal government.

Specific treaty rights applicable to that land base managed by the Umatilla National Forest area generally articulated in Article I of the CTUIR Treaty of 1855 and Article III of the 1855 Nez Perce Treaty, include:

“The exclusive right of taking fish in all the streams where running through or bordering said reservation

is further secured to said Indians; as also the right of taking fish at all usual and accustomed places in common with citizens of the Territory; and of erecting temporary buildings for curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land.”

Although the 1855 Treaties do not specifically mandate the federal government to manage habitats, there is an implied assumption that an adequate reserve of water be available for executing treaty related hunting and fishing activities.

No comments were received from the tribes; however it is well known that the tribes have a strong interest in:

- Potential effects to archeological and traditional properties
- Potential effects to water quality
- Potential effects to fish habitat, including federally listed salmonid species

Because tribal trust activities often occur in common with the public, Umatilla National Forest will strive to manage tribal ceded land to enable the execution of tribal rights, as far as practicable, while still providing goods and services to all people.

DECISIONS TO BE MADE

The Environmental Assessment documents the results of the environmental analysis conducted for the proposed action and its alternatives. The District Ranger will be the responsible official. The District Ranger will make the following decisions:

1. Whether livestock grazing should occur, and if so, how much, where and when?
2. What monitoring or mitigation measures should be taken or are needed?