

DECISION MEMO
Hilltop Fuels Reduction Project

USDA Forest Service
Huron-Manistee National Forests
Mio Ranger District
Oscoda County, MI
T 26N, R3 East, Sections 5, 8, 9 and 17

I. DECISION TO BE IMPLEMENTED

A. Background

The Huron National Forest has a long history of wildland fire. The dry sandy soils prevalent throughout the Huron National Forest support a variety of native vegetation. Jack and red pine dominate much of this landscape. Jack pine and red pine are extremely flammable and are considered one of the more volatile fuel types in the United States. The Au Sable Heights subdivision is surrounded by these fuel types.

Recent fire history on and around the Mio Ranger district has consistently shown the extreme fire behavior these fuel types can exhibit, sometimes with catastrophic results. Examples of this include:

- Stephan Bridge Road Wildfire (May 8, 1990, 76 homes and 125 outbuildings lost, 37 vehicles destroyed, 5,916 acres burned west of Mio)
- No Pablo Fire Wildfire (April 30, 2000, 5,200 acres SE of Mio)
- ATV Wildfire (May 1, 1999, 800 acres south of Mio)
- Sunrise Wildfire (May 24, 2002, 160 acres west of Mio)
- Kinsey Hunt Wildfire (April 29, 2004, 440 acres SW of Mio)
- Perry Creek Wildfire (1988, 20+ acres immediately adjacent to the Au Sable Heights subdivision)
- Roscommon County Wildfire (spring 2005, 1,500 acres south of Mio)

B. Description of Decision

My decision is to implement a portion of the Hilltop Fuels Reduction Project located on the Mio Ranger District. The project area is located on the north side of the Au Sable River approximately 1.5 miles east of Mio, Michigan. The project was originally signed on 12/28/2005 and authorized the following actions under Categorical Exclusions 31.12 (4) and (5) and Categorical Exclusion 31.2 (10).

My original decision included the following actions:

1. Mechanical treatment of approximately 138 acres. Mechanical treatments include thinning four red pine plantations; removal of jack pine, thinning white and red pine and fir trees, and limbing mature pine and fir trees to a height of 8 feet within fuelbreaks; and mowing of fuelbreaks and existing openings within the area;

2. Prescribed burning approximately 119 acres, to reduce surface fuels, reduce ladder fuels, and minimize crown contact between trees in order to reduce fire hazard near private property;
3. Improvement of existing facilities at Au Sable Loop Campground and Overlook; and
4. Repairs of Forest Roads 4366 and 4442

Recent court action through the Ninth District Court in California has caused the Forest Service to not move forward with implementing activities that were authorized under 31.2 (10) at this time. Since the prescribed burning of approximately 119 acres authorized under the original decision can also be authorized under Category 31.2 (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," I am withdrawing the portion of the original decision that included the prescribed burning, and issuing a new decision for this activity under Category 31.2 (6) to move forward with implementation.

The project area for this new decision is located in Oscoda County, Michigan approximately 1.5 miles east of Mio (Township 26 North, Range 3 East, Sections 5, 8, 9 and 17). The project area is in Oscoda County, Michigan.

My decision includes prescribed burning approximately 119 acres to reduce surface fuels, reduce ladder fuels, and to reintroduce fire into a fire-adapted ecosystem. The proposed actions for the Hilltop Fuels Reduction Project are similar to other projects that have been successfully completed on the Forest.

Mitigation Measures:

General

- Slash from the thinning and limbing operations will be removed or treated prior to prescribed burning to ensure prescribed fire intensity and rate of spread remains within prescription to meet resource objectives and avoid tree mortality.
- Prescribed burning of the area will be implemented on a 2-10 year interval after thinning.
- The established road system will be utilized as a fire line during prescribed burning.

Plants

- To minimize impacts to Hill's thistle (*Cirsium hillii*), known locations would be avoided by operators of heavy equipment.
- To minimize the spread of non-native invasive plant species which may negatively impact rare species, off-road equipment would be inspected and cleaned if necessary prior to entering project area. Earth moving equipment (e.g. fireline construction) would be restricted from pushing vegetation and earth from known infested areas (often roadsides) into uninfested areas (usually stand interiors).

Wildlife

- To minimize impacts to wood turtles, prescribed burning will not be allowed between May 1 and September 1. Pre-burn activities will be allowed during the May 1 - September 1 period, using caution to avoid any wood turtles that may be present in the area. The district's wildlife biologist should be notified prior to conducting the burn, to allow a search of and to remove any wood turtles (if present) from the burn area.
- If Kirtland's warblers are found to be actively nesting in any stand within ¼ mile of an area proposed for timber harvest, harvest activities would only be permitted between August 16 and April 30.

- Prescribed burning will not be conducted when wind conditions would carry smoke and/or fire into occupied Kirtland's warbler nesting habitat (May 1 to August 15).

Silviculture

- To minimize tree mortality, burning should be conducted September 30 to May 1 and at low intensity using narrow stripping or spot firing techniques. Refer to stand prescriptions for additional details.

Heritage Resources

- Each cultural resource site will be designated a Reserve Area. The Reserve Area includes a buffer zone at least 30 meters (100 feet) from the site boundary, or such distance determined by the District Archaeologist that is needed to protect the site. If the project manager or timber sale administrator needs assistance in locating the flagging, contact the District Archaeologist..
- Low intensity prescribed fire is not allowed within the Reserve Area. The area should be excluded from the prescribed burn by use of foam or other means. Do not create plowed/dozer/tractor-built fuel breaks. Fuel breaks built by hand are acceptable, but consult with the District Archaeologist for details.
- Hand tools to fell trees are permitted within the Reserve Area, but in no case, may a tree be dragged across any portion of the reserve area. Felled trees must be cut up and carried off the site.
- No parking in the Reserve Area.
- No brush piling in the Reserve Area.
- Obliterating all temporary roads used for project implementation would help preserve the historic sites from looting and bottle collectors.
- Dens or snags for wildlife may be designated within the site buffer zone.
- The potential exists for unidentified cultural resource sites to be encountered as the project proceeds. If any archaeological or historic evidence is found during the project, work must stop in the area and the District Archaeologist (or Forest Archaeologist, if the District Archaeologist is not available) must be notified within 48 hours.

C. Purpose and Need for the Decision

The 2006 Huron-Manistee Land and Resource Management Plan (Forest Plan) guides all natural resource management activities on the Huron-Manistee National Forests. It delineates forest-wide goals and objectives, as well as desired future resource conditions, management practices and availability of suitable land and resource management.

Forest-wide natural resource associated goals and objectives in the Forest Plan (Chapter II- page 4) include:

- Meeting species viability needs,
- Managing wildlife habitats and communities to maintain viable populations of existing native and desired non-native species and maintaining or improving populations of endangered, threatened, or sensitive species,
- Achieving fire hazard reduction, and
- Utilizing prescribed fire to meet management direction as appropriate for the ecosystems involved.

This project will contribute to achieving these goals and objectives in several ways. This project will provide early successional and/or shrub/grassland habitat required and utilized by numerous species

on the forest, thereby contributing to the maintenance of viable wildlife populations. The project will reduce fuel loading and decrease the risk of fire hazards through the use of prescribed fire. The project area has a history of wildfires and the involved ecosystems are suitable for treatment with prescribed fire.

Private parcels of land are intermixed with the Huron National Forest. These private parcels are becoming increasingly developed for both seasonal and year-round homes. This area of development adjacent to and within the forest is referred to as the Wildland Urban Interface (WUI). The Au Sable Heights subdivision and other private property within the project area are located within an area that has a high potential for wildfires. The subdivision poses a significant ignition source due to human habitation. McKinley Road and the Au Sable Loop Campground are also potential ignition sources.

The objective of this project is to promote healthy timber stand conditions and reintroduce fire into fire dependant ecosystems. Reducing the fuels on these lands will also:

1. Improve timber stand condition
2. Improve public and firefighter safety.
3. Lower the risk of a wildfire destroying structures or damaging private timber lands.
4. Reduce the risk of National Forest lands being consumed by wildfire.

Prescribed burning will reduce surface fuels, ladder fuels, and reduce crown contact between trees. The reduction in surface fuels and competing ladder vegetation will improve available water and nutrients to the timber stand, improving plant vigor and resistance to stand replacing crown fire and insect/disease outbreaks.

II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2 as, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

I have concluded that this decision is appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment as it is a routine activity within a category of exclusion, and the extraordinary circumstances related to the decision will not result in a significant individual or cumulative effect on the quality of the human environment. My conclusion is based on information presented in this document and the entirety of the Record.

A. Category of Exclusion

The decision is within the following category:

Categorical Exclusion 31.2- 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.”

B. Relationship to Extraordinary Circumstances

1. Threatened and Endangered Species or Their Critical Habitat - 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. In accordance with Section 7(c) of this Act, a list of the listed and proposed, threatened or endangered species that may be present in the project area was requested from the U.S. Fish and Wildlife Service. The information indicated that bald eagle and Kirtland’s warbler likely occur within the area. As required by this Act, potential effects of this decision on listed species have been analyzed and documented in a Biological Assessment.

It was determined that this decision will have ‘no effect’ on bald eagle and Kirtland’s warbler.

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.”

The project is immediately adjacent to the floodplain of the Au Sable River. However, the project area is located in the upland completely out of the 100-year floodplain, which is 4 feet above normal water level of the Au Sable below Mio Dam. This has been validated by map and site-review. The distance to the floodplain and drainage patterns of the affected area preclude overland effects of this project to the identified floodplain. This decision should not result in significant floodplain-related impacts. Field review (monitoring) of similar projects validates acceptable resource effects from similar activities. To further ensure that floodplains-related impacts are minimized, Best Management Practices are incorporated.

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 will 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.”

The project is not located in or near wetlands. This has been validated by map and site-review. This decision will not affect wetlands. To further ensure that wetlands-related impacts are minimized, Best Management Practices are incorporated.

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

There are no municipal watersheds on the Forest. This decision will not affect municipal watersheds.

3. Congressionally Designated Areas - National Wild and Scenic River Corridor: This decision includes activity partially within the Au Sable National Scenic River corridor. The activity within this area is consistent with direction for management of this corridor, according to the Wild and Scenic Rivers Act Section 10 report that was prepared for reviewing and determining the effects of the project on the Scenic River's outstandingly remarkable values. The report indicates this project will have "no effect" on the outstanding remarkable values of the Au Sable National Scenic River Corridor.
4. Inventoried Roadless Areas - There are no inventoried roadless areas (RARE II or Forest Plan) in the decision area. This decision will not affect inventoried roadless areas.
5. Research Natural Areas - There are no Research Natural Areas in the project area. This decision does not affect Research Natural Areas.
6. American Indian and Alaska native religious or cultural sites - The Federal government has trust responsibilities to Tribes under a government-to-government relationship to insure that the Tribes reserved rights are protected. Consultation with tribes helps insure that these trust responsibilities are met. The Forest consulted with potentially affected tribes. The intent of this consultation has been to remain informed about Tribal concerns.

No tribal concerns were identified for this project.

7. 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. Surveys were conducted for Native American religious or cultural sites, archaeological sites, and historic properties or areas that may be affected by this decision. A 'no properties affected' determination was made. Consultation on this finding occurred with the State Historic Preservation Office.

8. No other extraordinary circumstances related to the project were identified.

III. PUBLIC INVOLVEMENT

Public involvement for the original project included listing in the Forest's Schedule of Proposed Actions, mailings, and newspaper articles. A scoping letter was mailed to 140 interested and affected publics on April 15, 2005 and was posted to the Huron-Manistee National Forests' website. A newspaper legal notice was published in the Oscoda County Herald on April 17, 2005. A complete discussion of the responses received can be found in the project record. A field meeting with one of the families owning property within the area was held on May 16, 2005 to discuss the specifics of the project as it related to their property.

A newspaper legal notice for this version of the project was published in the Oscoda County Herald on February 6, 2008. Letters were mailed to interested parties on February 11, 2008. This project was listed on the Forest's *Schedule of Proposed Actions* (SOPA) <http://www.fs.fed.us/sopa/forest-level.php?110904> and posted to the Huron-Manistee National Forests' website: <http://www.fs.fed.us/r9/hmnf/pages/PlanningandProjects/mio.htm>
Two comments were received during the comment period.

A. Response to Comments

Several issues were brought up through the two public comments that were received.

Issue #1: Potential for loss of control of the prescribed fire and necessity of this level of fuels treatment

Response: The prescribed fire has been planned and designed for the greatest degree of control. The prescribed burn is generally shaped in a triangle, requiring three sides of control features. The fire is bounded on two sides by a road, with a secondary barrier of a 100' wide fuelbreak, a third control feature of the Au Sable River, and a partial fourth control feature of a 342 acre prescribed burn conducted in 2007. The third side (north side) of the controlled burn is bounded by a paved two lane road, with an additional 300' fuelbreak. The control features for this burn have multiple redundancies and alone are considered very strong control features. In combination, these control features make this controlled burn extremely well defended from any potential for loss of control of the prescribed burn. The recent Grayling wildfire and the numerous examples of wildfires listed at the beginning of this document clearly show the need for fuels treatments that can withstand high intensity crown fire which a spotting as much as a quarter mile ahead of the flamefront. The level of treatment in this project will not guarantee the protection of private property in the area, but will provide defensible space for evacuation and for firefighters to attempt to protect these areas during a major wildfire.

Issue #2: Reduced visual aesthetics from the prescribed burn and previous fuelbreak creation

Response: It is recognized that visual aesthetics is a subjective valuation for each person and consensus is not possible for many management actions. It is also recognized that fuels and forest management treatments change the existing visual condition in a positive or negative way for some people. This is weighed against the need for those treatments from a public safety (fire protection) and natural resource management need. The use of prescribed fire will cause small amounts of tree mortality within the burn area and will create some char on the boles of trees and logs. However, the recent prescribed burns immediately south of the project site and at the Mio Ranger Station in 2007 and 2008 have shown the prescribed burns leave only minor visual impacts while reducing fuels loadings and bringing a natural process back into the ecosystem. These beneficial effects to the public safety and the natural resources outweigh the concern for the minor impacts to visual aesthetics in this instance.

Issue #3: The project has not had the required environmental analysis as required by the National Environmental Policy Act.

Response: This decision memo and the supporting project file documents all aspects of the NEPA process, the level of environmental analysis, and resulting decision for this project. Members of the public are welcome and invited to review the entire project record and converse with staff on any questions they may have in regards to the project.

Issue #4: Littering and ORV use along Perry Creek Road and the newly constructed fuelbreaks

Response: This issue is not directly related to the decision and is not within the scope of this decision. However, larger “no dumping” signs will be ordered and posted along Perry Creek Road in the near future. ORV use will be carefully monitored in this area. The proximity of this project to the Mio Ranger Station (1 mile) will allow continuous inspection of the area. It is expected that the residual slash and new growth of vegetation in the fuelbreak will discourage ORV abuse. If this type of illegal activity is detected, proper signage, and physical blockage of illegal routes will be undertaken.

Issue #5: Visual aesthetics along the north side of the private property T26N, R3E, Section 8, SE1/4 NE1/4

Response: This issue is not directly related to the prescribed burn and is not within the scope of this decision. However, the District is working with landowners to address this issue, with possible reforestation of fire resistant tree species at this site.

IV. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below.

Forest Plan Consistency (National Forest Management Act) - This Act requires the development of long-range land and resource management plans (Plans). The Huron-Manistee National Forests Land and Resource Management Plan was approved in 2006. The Act requires all projects and activities be consistent with the Plan. The Plan has been reviewed in consideration of this project. This decision is responsive to guiding direction contained in the Plan, as summarized in Section I of this document. This decision is consistent with the standards and guidelines contained in the Plan.

Endangered Species Act - See Section II, Item B1 of this document.

Sensitive Species (Forest Service Manual 2670) - This Manual direction requires analysis of potential impacts to sensitive species, those species for which the Regional Forester has identified population viability is a concern. On October 20, 2003, the Regional Forester approved the sensitive species list. Potential effects of this decision on sensitive species have been analyzed and documented in a Biological Evaluation. Mitigation measures have been incorporated to minimize impacts to sensitive species, such as the wood turtle, which received a determination of “may impact, but not likely to trend toward federal listing.” The project will have “no impact” on other sensitive species.

Clean Water Act - This Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through the use of Best Management Practices. This decision incorporates Best Management Practices to ensure protection of soil and water resources.

Wetlands (Executive Order 11990) - See Section II, Item B2 of this document.

Floodplains (Executive Order 11988) - See Section II, Item B2 of this document.

Clean Air Act - Under this Act, areas of the country were designated as Class I, II, or III airsheds for Prevention of Significant Deterioration purposes. Impacts to air quality have been considered for this decision. Class I areas generally include national parks and wilderness areas. Class I provides the most protection to pristine lands by severely limiting the amount of additional human-caused air pollution that can be added to these areas. There are no Class I airsheds on the Huron-Manistee National Forests. The Forest is classified as a Class II airshed. A greater amount of additional human-caused air pollution may be added to these areas. No areas on the Forest have been designated as Class III at this time. Michigan Department of Environmental Quality regulates prescribed burning in the state in accordance with the State Implementation Plan (SIP). The prescribed burning in this decision will be coordinated with the State and follow the SIP to protect air resources.

National Historic Preservation Act - See Section II, Item B7 of this document.

Archaeological Resources Protection Act - See Section II, Item B7 of this document.

Native American Graves Protection and Repatriation Act - See Section II, Item B6 of this document.

Wild and Scenic Rivers Act - See Section II, Item B3 of this document.

Environmental Justice (Executive Order 12898) - This Order requires consideration of whether projects will disproportionately impact minority or low-income populations. This decision complies with this Act. Public involvement occurred for this project, the results of which I have considered in this decision-making. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations.

National Environmental Policy Act - This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

V. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

This decision is subject to appeal pursuant to Earth Island Institute v. Ruthenbeck, CIV F-03-6386 JKS, by those who supplied comments or otherwise expressed interest in this proposal before the close of the 30-day comment period. Written notice of appeal of this decision must be fully consistent with 36 CFR 215.14 "Content of an appeal":

- a) It is the appellant's responsibility to provide sufficient written evidence and rationale to show why the Responsible Official's decision should be remanded or reversed.
- b) An appeal submitted to the Appeal Deciding Officer becomes a part of the appeal record. It is the appellant's responsibility to provide sufficient project or activity-specific evidence and rationale, focusing on the decision, to demonstrate why the Responsible Official's decision should be reversed. The appeal must be filed in writing with the Responsible Official and at a minimum, must include the following:
 1. State that the document is an appeal filed pursuant to Earth Island Institute v. Ruthenbeck, CIV F-03-6386 JKS;
 2. List the name and address of the appellant and, if possible, a telephone number. When multiple names are listed, identify the lead appellant.
 3. Identify the decision document by title and subject, date of the decision, and name and title of the Responsible Official;
 4. Identify the specific change(s) in the decision that the appellant seeks or portion of the decision to which the appellant objects;
 5. State how the Responsible Official's decision fails to consider comments previously provided, either before or during the comment period specified

in 215.6 and, if applicable, how the appellant believes the decision violates law, regulation, or policy.

The written notice of appeal must be postmarked and submitted to: USDA Forest Service, Eastern Region, attn: Appeals Deciding Officer, 626 East Wisconsin Ave., Suite 800, Milwaukee, WI 53202-4616 or fax to (414) 944-3963, within 45 days of the date of public notification of this decision in the Oscoda County Herald. Electronic appeals should be directed to appeals-eastern-regional-office@fs.fed.us. Electronic appeals should be in TXT, RTF, DOC, PDF, other Microsoft compatible formats.

For further information on this decision, contact Robert Magon at the Mio Ranger Station, 107 McKinley Road, Mio, Michigan 48647, or phone (989) 826-3252.

VI. IMPLEMENTATION DATE

This decision will not be implemented until at least 5 business days after the close of the 45-day appeal period, or 15 days after the disposition of appeal, whichever is later.

VII. CONTACT PERSON

Further information about this decision can be obtained from Robert Magon during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Mio Ranger District office (Address: 107 McKinley Rd., Mio, MI 48647; Phone: voice 989-826-3252, TDD 989-826-3592 (hearing impaired); Fax: 989-826-6073).

Additional information about this decision can be found on the Internet at www.fs.fed.us/r9/hmnf/pages/proposed_projects.

VIII. SIGNATURE AND DATE

/s/ Steven A. Goldman

07/16/2008

STEVEN A. GOLDMAN
Mio District Ranger
Responsible Official

Date

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