

**DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

1900 Flood Repair Project

**USDA Forest Service
Okanogan-Wenatchee National Forest Service
Naches Ranger District
Yakima County, WA**

HISTORY OF THE PROPOSED ACTION

The 1900 Flood Repair Project area is located on the Naches Ranger District in Yakima County, Washington. Forest Service Road 1900 adjoins with State Highway 410 at the confluence of the Bumping River and the Little Naches River. The Forest Service Road (FSR) 1900 follows the Little Naches River and the two proposed construction sites are at mile post 2.0 and mile post 5.1. The project area at mile post 2.0 is located in Section 32, T17N, R14E W.M. and mile post 5.1 is located in Section 24, T17N, R13E W.M.

A proposed action was developed and sent to the public in August 2011. As knowledge of the project area increased, the Inter-Disciplinary Team (IDT) decided to adjust the original proposed action. The Refined Proposed Action was formulated from interagency coordination and public scoping. Field trips and detailed site assessments with U.S. Fish and Wildlife and National Marine Fisheries Services enabled the IDT to create road designs that met the District objectives and conservation standards. The District also received feedback on the design at the Forest and Regional level. Site assessment information and public scoping letters and responses are located in the project file. Because this project was prepared under the most current Forest Service National Environmental Policy Act (NEPA) regulations, and there are no unresolved conflicts concerning alternative uses of available resources, therefore no alternatives to the proposed action are required (36 CFR Part 220, Section 220.7 (b)(2)(i)).

This decision incorporates the completed 1900 Flood Repair Project Environmental Assessment (EA) by reference. The EA documents the development of the Refined Proposed Action and disclose known environmental impacts. The EA is available at the Naches Ranger District or can be obtained from the Okanogan-Wenatchee National Forest's projects and plans website: <http://www.fs.usda.gov/projects/okawen/landmanagement/projects>.

PURPOSE AND NEED

The IDT compared the existing condition to the desired condition to develop the project's purpose and need (Table 1). Chapter I of the EA outlines the existing condition of the project area and the desired future condition. The difference between the two conditions created the purpose and need for the Naches District to take action.

Table 1: Need of the project area and subsequent purpose of the proposed action (EA page I-14).

Need	Purpose
Allow safe motorized access to the variety of recreational, administrative, vegetation management, and fire personnel vehicles that frequent FSR 1900	The project will restore FSR 1900 to the full two-lane capacity
Repair flood damaged areas in a manner that will meet the long-term riparian habitat objectives and contribute LWD to the river ecosystem.	The project will include dissipation structures and integrated large tree and wood components to enhance aquatic organism habitat.
Protect the road area, to a reasonable extent, from future predicted flood events and additional erosion into the river.	The project will rebuild the fill slope with a rip rap foundation and it will expand the width of the existing floodplain.

DECISION AND RATIONALE

Decision

This Decision Notice and FONSI document my decision regarding the implementation of the 1900 Flood Repair Project. I have decided to implement the Refined Proposed Action as presented in the 1900 Flood Repair Project EA with the included Terms and Conditions from National Marine Fisheries Service (see Appendix B).

I have decided that management action is needed to accomplish the purpose and need for the project areas. Pages I-14 and II-8 of the EA states the Purpose and Need for the 1900 Flood Repair Project. Based on the information in the project record and the analysis in the EA, it is my decision to approve and implement the Refined Proposed Action that entails road and road shoulder repairs at mile post 2.0 and 5.1.

Management Actions

Repair for Mile Post 2.0

To meet the project's purpose and need, the Naches Ranger district will repair the damaged road shoulder, re-grade the floodplain, add vegetation to the site, and create a structure in the stream to dissipate flow energy. The objective of this design is to decrease channel interaction with the road by creating floodplain relief. The design will decrease velocity associated energy by both rolling water away from the bank and road margin and creating a pool. The pool functions as both energy dissipation and habitat for fish. See page II-3 in the EA. Aspects of the design are outlined below:

1. Repair damaged road shoulder
 - a. Road surface would remain at same location
 - b. Road fill would be used to restore shoulder width and angle
 - c. Rip-rap would be added to the road shoulder for armoring
2. Re-grade floodplain
 - a. At the level as bank full width, a floodplain would be created next to the road shoulder
 - b. Rock footers would line the bottom
 - c. Fill would make the surface flat
3. Add vegetation to exposed floodplain
 - a. Establish vegetation through seeding, planting and placing woody debris
4. Dissipation structure
 - a. Vein boulder structure
 - i. Large boulders strategically place in stream (in a row) to turn stream flow and decrease velocity
 - ii. Footed in to the bank with buried rocks and boulders

Repair Design for Mile Post 5.1

To meet the project's purpose and need, the Naches Ranger district will repair the damaged road surface, repair damaged road shoulder, establish a new floodplain, and create a riverbank projection structure using wood material and boulders. The objective of this design would be to take velocity associated energy away from the road by creating a wood jam along the damaged road shoulder. This design would also create a potential for localized fish habitat improvement with cover and pool formation. See pages II-4 through II-5 of the EA. Aspects of the design are outlined below:

1. Repair road surface
 - a. Road surface would be restored to its original location and full width
2. Repair damaged road shoulder and create riverbank protection structure
 - a. Along the extent of the damaged area wood and boulder structure would be engineered into the bank and floodplain
 - i. Whole trees, large wood pieces and root wads would be placed throughout the rock slope
 - ii. Wood would be below and above water level

- iii. Boulders, rip rap, and other rock fill would complete road shoulder and slope
- b. Enhance pool habitat and vegetation growth along bank
- 3. Re-establish a flood plain
 - a. Reshape river bed (gravel bar) on opposite bank to accommodate adequate flood plain width
 - b. Vegetate where floodplain is exposed during reconstruction
 - c. Establish vegetation through seeding, planting and placing woody debris
 - d. Would reside on top of foundation logs

For mitigation measures relevant to the project's implementation, see the EA pages II-5 to II-7.

Decision Rationale

I have determined that this project will serve the public interest by allowing for safe motorized access, repairing the damaged areas in a manner that will meet the long-term riparian habitat objectives, and by improving the resiliency of the road from future predicted flood events.

My rationale for the decision to implement the Refined Proposed Action is based on the projects ability to meet the Purpose and Need for the project area. See Chapter II pages 2-8 for the Refined Proposed Action in the EA. After completing detailed site assessments and an environmental effects analysis, the Refined Proposed Action was determined to best meet the project's purpose and need (See Table 2).

Table 2: Comparison of Purpose and Need to Refined Proposed Action

Need	Purpose	Refined Proposed Action
Allow safe motorized access to the variety of recreational, administrative, vegetation management, and fire personnel vehicles that frequent FSR 1900.	The project will restore FSR 1900 to the full two-lane capacity.	At both sites, the road surface will be at a safe width and surface for level 4 Federal Road standards.
Repair flood damaged areas in a manner that will meet the long-term riparian habitat objectives and contribute LWD to the river ecosystem.	The project will include dissipation structures and integrated large tree and wood components to enhance aquatic organism habitat.	At both sites, structure repairs would dissipate river energy, create pools, and add wood or vegetation to the river area. Structures would provide for fish and wildlife habitat.
Need	Purpose	Refined Proposed Action

Protect the road area, to a reasonable extent, from future predicted flood events and additional erosion into the river.

The project will rebuild the fill slope with a rip rap foundation and it will expand the width of the existing floodplain.

At both sites, structures would take velocity associated energy away from road and create a true floodplain. Structures would assist long term processes of redirecting river energy away from road at site. Armoring of road shoulder would protect from road damage.

OTHER ALTERNATIVES CONSIDERED

Issues identified during scoping are used to generate and analyze the need for alternative development. As this project is prepared under the most current Forest Service National Environmental Policy Act (NEPA) regulations and there are no unresolved conflicts concerning alternative uses of available resources, therefore, no alternatives to the proposed action are required [36 CFR Part 220, Section 220.7 (b)(2)(i)]. The IDT considered all of the comments made during scoping and the official comment period and where applicable adjusted the original proposed action to resolve those concerns. The Refined Proposed Action is a result of specific site knowledge gained through field reconnaissance by IDT specialist, correspondent with other agencies, and comments accrued. The Refine Proposed Action was the only alternative carried forward for consideration in the 1900 Flood Repair Project (EA page II-1).

Alternatives Considered But Eliminated from Detailed Study

No Action Alternative

Under a No Action Alternative, no road shoulder or road construction would occur. This would result in the existence of the concrete barricades at mile post 5.1 and flagging on the edge of the road at mile post 2.0. This alternative was eliminated from detailed study as it would not meet the purpose and need for the project. In summary, taking no action with the existing condition could potentially limit safe travel through the damaged sites, it would allow for the road shoulder to continue sloughing sediment into the stream and aquatic habitat, and it would allow for the river to continue degrading the road. For detailed explanations of the No Action Alternative's inability to meet the project's Purpose and Need, see page II-1 through II-2 of the EA.

PUBLIC INVOLVEMENT AND SCOPING

Public Scoping

After the IDT developed a purpose and need statement and the proposed action, public scoping and consultation began. Government to government consultation letters were mailed to the Yakama Nation on August 11, 2011. On August 12, 2011, approximately 350 scoping letters went out to the Naches Mailing list. Copies of the scoping letter were also displayed at the Ranger Station and were distributed upon request. Team leader Michelle King attended multiple TWIG (Trails and Wilderness Interest Group) meetings to introduce the proposed action and answer public questions. Table 3 below summarizes the comments received during informal scoping.

Table 3: Summary of Comments Received during Scoping

Commenter	Date Received	Comment or Questions
WA State Department of Ecology, Gwen Clear	9/15/2011	May need to obtain Construction Stormwater General Permit.
Public Commenter 1	8/15/2011	Support Project. Sites could be evaluated to be a fire engine/tender fill station.
Public Commenter 2	8/23/2011	Older and handicapped citizens need motorized access, hopes roads are fixed promptly.
Public Commenter 3	9/3/2011	Agrees with repairs.
Public Commenter 4	9/12/2011	Agrees with proposals.
Public Commenter 5	9/14/2011	Site is currently difficult to travel around.

In general, the public showed support for the project and were eager to see the repairs completed as soon as possible. A summary of public involvement can be found in the EA on page IV-1. After speaking with Washington State Department of Ecology, it was determined that as a federal project no Stormwater permit is necessary. The complete comment analysis information can be found in the project file.

Collaboration History

- August 4, 2011- First Level 1 ESA consultation occurred to discussed original proposed action
- August 8, 2011- Naches District Ranger meets with National Marine Fisheries Service (NMFS) and United States Fish and Wildlife Service(USFWS) to discuss alternative options and general plans for FSR 1900
- September 2011- IDT incorporates mile post 2.0 into Refined Proposed Action
- October 5, 2011- IDT goes on field trip with NMFS, USFWS, and Forest Fisheries Program Leader to discuss multiple options at each site
- November 7, 2011- IDT, NMFS, USFWS, and Forest Fisheries Program Leader begin detailed site analysis for multiple engineering designs. Discussed in detail how to meet engineering objectives and riparian habitat objectives.

- November 2011- USFS Regional Assistance Team reviewed conceptual project sketches: IDT reviewed and elaborated on site assessment charts and shared charts with NMFS and USFWS.
- January 31, 2012- Fish Biologist initiated consultation with completed Biological Assessment (BA)
- February 2012- NMFS and USFWS asked for specific clarifications on the BA
- April 2, 2012- NMFS issued completed Biological Opinion. Terms and Conditions are later agreed upon.
- April 17, 2012- USFWS issued draft Biological Opinion, stating they have no Terms and Conditions for the project.

Official Comment Period

Three responses were received during the official EA Comment Period. A summary of comments received is below in Table 4.

Table 4: Comments during official EA Comment Period

#	Substantive Comments	How Comments are Addressed
1	A. Meet ACS	EA page III-9
	B. Meet the standards and guidelines for Riparian Reserves and other Aquatic management standards	EA page III-1 through III-10, page I-4, Biological Assessment in Project File
	C. Protect Tribal Treaty and Cultural Resources	EA pages III-12 through III-13, Cultural Field Survey in project file
	D. At 5.1, move road away from the river as much as feasibly possible for safety and fish habitat.	Engineer/Fish/Hydro site assessment worksheets. See Appendix A.
	E. At 2.0, make vein structure as short as possible	Engineer/Fish/Hydro site assessment worksheets, Biological Assessment. See Appendix A.
2	Approve fix	
3	A. Approve fix	
	B. Ask that Road not be shut off before July 15th for recreational activity in area.	Due to wildlife and aquatic construction windows, no construction will occur before July 15th. Commenter has been informed.

The remarks of the Commenter #1 and the Forest Service response is included as an attachment to this Decision Notice/FONSI (Appendix A). None of these comments describe unresolved conflicts concerning alternative uses of available resources (42 USC 4331, Section 102 (2)(E)). The comments do not merit the development of additional action alternatives (36 CFR Part 220, Section 220.7 (b)(2)(i)).

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

My responsibility as the Line Officer with authority to make this decision is to review the EA and determine whether the proposed action may have significant effect on the quality of the human environment. In compliance with 40 CFR 1508.13 and 1501.25, the following findings support my determination that there will not be a significant effect on the human environment and an Environmental Impact Statement (EIS) will not be prepared.

Significance in NEPA

The Forest Service follows the 40 CFR 1508.27 definition of significance:

"Significantly" as used in NEPA requires considerations of both context and intensity:

- (a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interest, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.*
- (b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action.*

Project Significance

Context

This project is a site specific action that by itself does not have international, national, region-wide, or statewide importance. The project area is less than one acre at each project site. This discussion of the significance criteria that follows applies to the intended action and is within the context of local importance in the area associated with the 1900 Flood Repair Project.

Intensity

The following discussion is organized around the 10 Significance Criteria described in NEPA regulations (40 CFR 1508.27):

- 1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial. A thorough effects analysis (direct, indirect, and cumulative) is available in Chapter III of the EA and in the Biological Evaluations in the project file. The beneficial effects of the action as disclosed in the EA do not bias my finding of no significant environmental effects, nor do beneficial effects mask adverse effects.*
- 2) The degree to which the proposed action affects public health or safety. The proposed actions would not have adverse effects to public safety. Pages III-16 through III-18 in the EA discuss*

the effects to the recreating public. This project will not compromise air quality and is consistent with the Clean Air Act of 1965 (EA III-19). Forest Service management and fire fighting personnel access will not change with the selected action.

- 3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* There will be no significant effects on the unique characteristics of the area. No parklands, prime farmlands, prime rangelands, prime Forest, historic or cultural resources, wild and scenic rivers, Inventoried Roadless Areas, Potential Wilderness Areas, or Wilderness Areas are found within or adjacent to the project area. I base my determination on the effects discussion found in the EA Chapter III. Project design criteria and mitigations address and minimize possible effects to wetlands. Best Management Practices and Mitigation Measures listed in the EA pages II-5 to II-8 will limit or eliminate damage to affected aquatic and riparian resources.
- 4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* The nature of potential effects on the human environment from the Refined Proposed Action is well established and not likely to be highly controversial. The Forest Service has used best available science in guiding and assessing the effects of this project. Public scoping for this project did not give any indication of controversy around the 1900 Flood Repair Project.
- 5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risk.* The Forest Service has considerable experience with this type of action. The effects analysis in the EA as well as science and monitoring shows the effects are not uncertain. Effects do not involve unique or unknown risks.
- 6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The Refined Proposed Action does not establish a precedent for future actions. This decision and analysis is site and temporally specific. The purpose and need are only relevant to the specific affected environment. This project is overall consistent with the Amended Wenatchee Forest Plan standards and guidelines. The Forest Service has implemented these types of actions for many years.
- 7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.* The effects of implementing the actions included in the Refined Proposed Action would not be significant, individually or cumulatively, when considered with the effects of other past and reasonably foreseeable future actions. See the cumulative effects analysis for each resource area in Chapter III of the EA.
- 8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.* I have determined that the actions described in the Refined Proposed Action do not adversely affect or cause loss or destruction of significant scientific, cultural, or historical resources. Pages III-12 through III-13 of the EA describes the effects of the actions on heritage and cultural resources. No scientific resources are located within the project area.

- 9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act.*

Biological Assessments for threatened and endangered wildlife and aquatic species were completed and discussed in detail in Chapter III of the EA. A summary of effects to wildlife and aquatic species is below:

a) Wildlife:

- i) "May affect, not likely to adversely affect" the northern spotted owl due to direct effects from disturbance only. Unsurveyed spotted owl habitat occurs within 0.25 miles of both project sites. Project would occur outside of nesting period and fledglings would be highly mobile during project implementation period. Potential negative effects resulting from disturbance would be of short term, low intensity and limited in extent.
- ii) Potential for disturbance to harlequin ducks. No disturbance to nesting harlequin ducks but a low potential to disturb ducklings. Potential for disturbance would be minimal since ducklings are highly mobile by July 15th & able to avoid project sites. Potential negative effects from disturbance would be short term, low intensity and limited in extent.
- iii) Potential for disturbance to beaver in the Little Naches River. Because of the small scale of project, potential for disturbance would be limited to a few individuals near the site. Potential negative effects from disturbance would be short term, low intensity and limited in extent.

b) Aquatic Species

- i) "May affect, and is likely to adversely affect" Middle Columbia River steelhead and Middle Columbia River steelhead Designated Critical Habitat in the Little Naches River watershed. The project "may affect, and is likely to adversely affect" Columbia River bull trout and Columbia River bull trout Designated Critical Habitat in the Little Naches River watershed. The project will adversely affect Essential Fish Habitat for Chinook and Coho salmon in the Little Naches River watershed.
- ii) Overall, the project will meet Forest Service direction in Riparian Reserves and will maintain or improve the nine Aquatic Strategy Objectives. Although there will be short term effects to the aquatic and riparian ecosystem, this project will maintain objectives in the long term at the site and watershed scale by stabilizing the eroding road and road shoulder with large woody debris and boulders.

The Forest Service submitted Biological Assessments to the USFWS and NMFS. On April 2, 2012, the NMFS submitted their Biological Opinion to the Forest Service. The agreed upon Terms and Conditions can be found in Appendix B. On April 17th, the USFWS submitted a draft Biological Opinion showing concurrence with the Biological Assessment and Refined Proposed Action.

- 10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.* The actions described in the Refined Proposed Action do not threaten any violation of Federal, State, or local law or requirements imposed for the protection of the environment (see sections on other laws below).

I find that implementing the Refined Proposed Action does not constitute a major federal action that would significantly affect the quality of the human environment in either context or intensity. I have made this determination after considering both positive and negative effects as well as direct, indirect, and cumulative effects of this action. I have found that the context of the environmental impacts of this decision is limited to the local area and is not significant. I have also determined that the severity of these impacts is not significant based on the above.

I base my conclusion on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement that there is not incomplete or unavailable information, scientific uncertainty, or risk associated with the Refined Proposed Action. My basis includes the effects analysis contained in the EA in Chapter II, public comment, and consultation with interested environmental groups and government agencies (EA Chapter IV).

FINDINGS REQUIRED BY OTHER LAWS

National Forest Management Act and the Wenatchee National Land and Resource Management Plan as Amended by the Northwest Forest Plan

This decision is consistent with the National Forest Management Act (NFMA) and the intent of the Forest Plan's Goals and Objectives listed in the Amended Forest Plan. The project design is in conformance with Amended Forest Plan management areas standards and guidelines. The applicable management areas for this project include Riparian Reserve, Matrix, and Scenic Travel-Partial Retention (ST-2). Riparian Reserves are portions of the watersheds where riparian-dependent resources receive primary emphasis and where special standards and guidelines apply. All management activities tier to the most constricting designation, in this project this is the Riparian Reserve. The project, as mentioned before, is consistent with the Aquatic Conservation Strategy objectives seen in the EA pages III-8 through III-10. In order to meet ST-2, all development and permitted uses must meet partial retention visual quality objectives in the foreground and middle ground viewed from the developed recreational sites and designated roads and trails. Page III-16 of the EA elaborates on how the 1900 Flood Repair Project will meet these scenic objectives. The project will not threaten viability of any management indicator species, it will not impact snag density, it will not impact forage and cover habitat, and it will have no impact on the species within the Migratory Bird Treaty Act (EA Chapter III).

For projects with signed Records of Decision, Decision Notices, or Decision Memoranda from December 17, 2009, through September 30, 2012, the Agencies will use either of the following Survey and Manage Species lists: a) The list of Survey and Manage species in the 2001 ROD or b) the list of Survey and Manage species and associated species mitigation, Attachment 1 to the Settlement Agreement. The Forest Road 1900 Flood Repair Project applies the Survey and manage species list in the 2001 ROD (Table 1-1, Standards and Guidelines, pages 41-51) and thus meets the provisions of the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*, as modified by the 2011 Settlement Agreement.

This project is consistent with the Forest Plan Standards Record of Decision for Invasive Plant Management (2005) and the Okanogan Wenatchee Weed Prevention Best Management Practices (2002) would be implemented as part of the Refined Proposed action. Detailed mitigation measures are present on page II-7 of the EA and within the project file.

Roadless Area Conservation Rule

No management activities are proposed within or adjacent to any Inventoried Roadless Areas.

Endangered Species Act

Element # 9 on pages 9-10 of this document discloses the effects to Threatened, Endangered, or proposed wildlife, fish, or plant species or their critical habitats protected under the Endangered Species Act of 1973. A complete Biological Assessment and Evaluation for species protected within the Act is included in the Project File. The Refined Proposed Action will not jeopardize the existence of any of the outlined species or critical habitats. The National Marine Fisheries Service (Biological Opinion dated April 2, 2012) and the U.S. Fish and Wildlife Service (draft Biological Opinion letter dated April 17, 2012) concurred with these determinations. Concurrence letters are within the project file.

Magnuson-Stevens Fishery Conservation and Management Act

Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires federal agencies to consult with National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS) on activities that may adversely affect Essential Fish Habitat (EFH) (MSA section 305(b)(2)). The effects summary can be found within Element 9 of the Significance finding. This project is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and Consultation has been completed (NMFS April 2, 2012).

Clean Air Act

The Refined Proposed Action will not include any burning or more than incidental dust. The project will not compromise air quality and is therefore consistent with the Clean Air Act of 1963 as amended.

Clean Water Act

The Refined Proposed Action includes design features for vegetating disturbed areas and is in compliance with floodplain management and wetland protection. This project is in compliance with the Clean Water Act. For more information see page III-15 of the EA or the Hydrology report in the project file.

National Historic Preservation Act

The Forest Service program for compliance with the National Historic Preservation Act includes locating, inventorying, and nominating all cultural sites that may be directly or indirectly

affected by scheduled activities. There are no known historic properties within the project area. Furthermore, there are no anticipated effects to tribal customs and practices. The Yakama Nation was consulted about the 1900 Flood Repair Project and a government-to-government letter was sent to the tribe describing the project and soliciting concerns and information regarding resources of interest to the tribe. The Confederated Tribes and Bands of the Yakama Nation commented on the project, however, there were no concerns with cultural or historic sites within the project area.

Alaska Native Religions or Cultural Sites

The Forest Cultural Specialist has determined that there are no direct, indirect, or cumulative effects to tribal customs, including Alaska Native Religious or Cultural Sites. There are no known Alaska Native Religious or Cultural Sites on the Naches Ranger District. The Forest Service will continue to fulfill its trust responsibility through consultation with tribes.

Floodplain Management (E.O. 11988), Protection of Wetlands (E.O. 11990), municipal watersheds

Implementation of design features for Riparian Reserves will ensure compliance with E.O. 11988 and E.O. 11990. Design features are expected to improve and restore the floodplain and wetland function of this area and will meet the intent of these executive orders. No municipal watersheds are within the project area or will be affected by the 1900 Flood Repair Project. For more information, see the Hydrology Report within the project file.

Environmental Justice (E.O. 12898)

I have determined that in accordance with Executive Order 12898 this project does not have disproportionately high or adverse human health or environmental effects on minority populations or low-income populations. Refer to the EA page III-20. The Refined Proposed Action would not have any disparate effects on any consumers, minority groups, women, civil rights, or social/ethnic groups. All contracts would meet Equal Employment Opportunity requirements.

ADMINISTRATIVE REVIEW AND APPEAL OPPORTUNITIES

This Decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer.

Send appeals to:
Appeal Deciding Officer
ATTN: 1570 Appeals
US Forest Service
Okanogan-Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98801

The Fax number is (509) 664-928

The business hours for those submitting hand-delivered appeals are: 7:45am to 4:30pm PDT, Monday through Friday, excluding holidays. Appeals may also be filed electronically and must be submitted in one of the following formats; as part of an email message; rich text format (.rtf); portable document format (.pdf); or Word (.doc or .docx) to appeals-pacificnorthwest-regional-office@fs.fed.us. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, **must be filed within 45 days from the publication date of the legal notice for this decision** in the Wenatchee World, the newspaper of record. The publication date in said newspaper of record is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by another source. It is the responsibility of all individuals and organizations to ensure their appeals are received in a timely manner. For electronically mailed appeals, the sender should normally receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgement of the receipt of the appeal, it is the sender's responsibility to ensure timely receipt by other means.

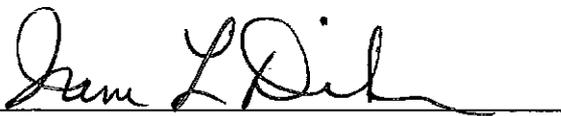
Individuals or organizations who submitted comments by the close or the comment period on the EA, specified in 36 CFR 215.6, are the only groups which may appeal this Decision. The notice of appeal must meet the appeal content requirements at 36 CFR215.14.

IMPLEMENTATION OF DECISION

This project may begin implementation in the summer of 2012. If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before five business days from the close 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, should my decision be upheld.

INFORMATION CONTACT PERSON

For additional information concerning this decision or the Forest Service appeal process, contact Michelle King, Interdisciplinary Team Leader, 10237 U.S. Highway 12, Naches, WA 98937, at 509-653-1420, or via email at mdking02@fs.fed.us.



IRENE L. DAVIDSON
District Ranger
Naches Ranger District
Okanogan-Wenatchee National forest

4/17/2012
Date

APPENDIX A: COMMENTER #1 AND FOREST SERVICE RESPONSE
APPENDIX B: NMFS TERMS AND CONDITIONS

APPENDIX A: PUBLIC COMMENT #1 AND FOREST SERVICE RESPONSE

Commenter 1: Confederated Tribes and Bands of the Yakama Nation

Comment A: Repair work needs to meet Aquatic Conservation Strategy objectives.

Response A: Page III-9 of the EA outlines how the project meets the nine Aquatic Conservation Strategy Objectives.

Comment B: Repair work must achieve standards and guidelines for Riparian Reserves.

Response B: Pages III-1 through III-10 of the EA discusses the direct, indirect, and cumulative effects of the project on aquatic resources. The project will be consistent with management guidelines in the Riparian Reserves as per the Northwest Forest Plan (USDA 1994). More information on the effects to the aquatic ecosystem can be found in the Aquatic Biological Assessment found in the project file.

Comment C: Project must protect Tribal Treaty and cultural resources.

Response C: The Heritage Resources effects analysis can be found in the EA on page III-12. An Appendix A was completed for this project and can be found within the project file. No direct, indirect, or cumulative effects to tribal customs or practices are anticipated.

Comment D: At mile post 5.1, the repair should move the road away from the river as much as feasibly possible for safety and fish habitat.

Response D: In October 2011, the Naches Interdisciplinary Team, the Forest Fisheries Biologist, U.S. Fish and Wildlife, and National Marine Fisheries Service re-evaluated the original proposed action at both mile post 2.0 and 5.1. The group completed a site assessment outlining the objectives, equipment, potential fish impacts, potential aquatic habitat impacts, and potential road integrity and maintenance impacts for multiple options at each location (full site assessments can be found in the project file). At mile post 5.1, road relocation/shifting road was considered. After the engineers evaluated Forest Service Road 1900, it was found that shifting the road away from the river at the 5.1 location would tighten the curve radius below recommended design standards. At the current location, with the vehicle traveling speed of 45mph, tightening the curve has the potential to increase vehicle sliding on the curve. In order to re-construct the road to meet road safety standards, over 1500ft of the road would need to be relocated. The new road location would also encroach on a wetland area to the east of Forest Service Road 1900 and several hundred feet of rock would need to be blasted. The elaborate construction needed to make the road adjustment meet safety standards was outside the scope of the project and not necessary to meet the project's purpose and need.

Comment E: At mile post 2.0, vein structure should be as short as possible and include woody debris.

Response E: While working through the site assessments, the Inter-disciplinary Team also evaluated multiple repairs for the mile post 2.0 site. The option to include a boulder vein structure was selected to roll river energy away from the road. The vein will be visibly 6ft to 10ft into the river from its intersection with the road shoulder. Unlike the repair at mile post 5.1, the road shoulder and vein will not contain large wood pieces built into the structure. Incorporating wood at this location would undermine the integrity of the repair structure in this high velocity

location at the river. It is not feasible to properly anchor large woody debris into the road shoulder. The vein and new floodplain would allow for vegetation and woody debris to be placed along the shoulder, eventually creating a vegetated floodplain and wood input into the river.

APPENDIX B: NATIONAL MARINE FISHERIES SERVICES TERMS AND CONDITIONS

2.8.3 Reasonable and Prudent Measures and Terms and Conditions

Reasonable and prudent measures are nondiscretionary measures to minimize the amount or extent of incidental take (50 CFR 402.02). Terms and conditions implement the reasonable and prudent measures (50 CFR 402.14). These must be carried out for the exemption in section 7(o)(2) to apply.

The NMFS believes that full application of conservation measures included as part of the proposed action, together with use of the reasonable and prudent measures and terms and conditions described below, are necessary and appropriate to minimize the likelihood of incidental take of listed species due to completion of the proposed action.

The Forest Service shall:

1. Ensure that construction activities are conducted in a manner to minimize direct take.
2. Track and monitor the project to ensure that the minimization measures are meeting the objective of minimizing take.

To be exempt from the prohibitions of section 9 of the ESA, the Forest Service and its cooperators, including the contractor must fully comply with conservation measures described as part of the proposed action and the following terms and conditions that implement the reasonable and prudent measures described above. Partial compliance with these terms and conditions may invalidate this take exemption, result in more take than anticipated, and lead NMFS to a different conclusion regarding whether the proposed action will result in jeopardy or the destruction or adverse modification of designated critical habitats.

- 1) To implement reasonable and prudent measure number 1 (construction activities), the Forest Service shall ensure that:
 - a. A pre-construction meeting with relevant parties (NMFS, USFWS, Washington State Department of Fish and Wildlife, Forest Service, and Contractor) will occur prior to construction to discuss stream isolation, fish salvage, turbidity monitoring, and construction sequencing.
 - b. All work is conducted below the OHWM within as short a period as possible between (July 16 through August 15).
 - c. They use the dewatering and fish salvage protocols as outlined in attachment 1.
- 2) To implement reasonable and prudent measure number 2 (monitoring activities), the Forest Service shall ensure that:
 - a. They provide a fish salvage monitoring report as soon as it becomes available, within 2 weeks after salvage activities. The report can be emailed to NMFS at justin.yeager@noaa.gov. Information in the report should indicate number of fish captured by species and length of fish. Number of fish injured or killed.
 - b. They develop and implement a water quality monitoring program to determine if they

are meeting the Washington State turbidity criteria for aquatic life and will include the following:

- i. The establishment of daily background turbidity levels each day during sediment-generating activities. Levels will be rechecked if river clarity changes.
 - ii. Monitoring turbidity levels 200 feet downstream of sediment-generating activity, as safety permits. Measurements will be taken at 15-minute intervals and then once every 3 hours if no exceedances are noted.
 1. Maximum turbidity levels will not exceed Washington State Code 173-201A-200.
 - a. 5 Nephelometric turbidity units (NTU) over background when the background is 50 NTU or less; or,
 - b. A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
 - iii. If, after a minimum of one full day, the monitoring results verify that turbidity levels from sediment-generating activities are remaining consistent with the above values, turbidity monitoring may be reduced. Monitoring will be resumed during sediment-generating activities, precipitation events, or any other changes that would result in higher or lower project related turbidity.
 - iv. If turbidity levels exceed the above values, activities will cease and actions will be taken to avoid or reduce turbidity levels. Monitoring will then continue every 15 minutes, through construction until measures show three consecutive measurements below the thresholds. Then the Forest Service will continue monitoring as normal.
 - v. The Forest Service will complete a final monitoring report after construction and submit it to NMFS by December 31, 2012.
- c. They submit a vegetation planting report with photographs demonstrating the vegetation has been planted. The report shall be submitted to NMFS by December 31, 2012. The report shall include at a minimum:
 1. Location of mitigation
 2. Species and quantity of riparian trees planted.
 3. Species and quantity of riparian shrubs planted.
 4. Monitor plan to insure the vegetation planted will meet at least an 80 percent survival standard.
 - d. All reports will be sent to National Marine Fisheries Service, Washington State Habitat Office, Attention Justin Yeager, 304 South Water Street, Suite 201, Ellensburg, Washington 98926.

NOTICE: If a sick, injured or dead specimen of a threatened or endangered species is found in the action area, the finder must notify NMFS Law Enforcement at (206) 526-6133 or (800) 853-1964, through the contact person identified in the transmittal letter for this opinion, or through the NMFS Washington State Habitat Office. The finder must take care in handling sick or injured specimens to ensure effective treatment, and in handling dead specimens to preserve biological material in the best possible condition for later analysis of cause of death. The finder should carry out instructions provided by Law Enforcement to ensure evidence intrinsic to the specimen is not disturbed unnecessarily.

6.0 APPENDICES

Appendix 1 - Dewatering Protocol

A. Fish Capture – General Guidelines

1. Fish Capture Methods
 - a. Seining. Required. Use seine with mesh of a size to ensure entrapment of the residing ESA-listed fish and age classes.
 - b. Dip nets. Required. Use in conjunction with other methods as area is dewatered.
 - c. Electrofishing. Required/Optional. Use electrofishing only after other means of fish capture have been exhausted or where other means of fish capture are not feasible. Applicants shall adhere to NMFS Backpack Electrofishing Guidelines (NMFS 2000).
 - d. Minnow traps. Optional. Traps may be left in place prior to dewatering and may be used in conjunction with seining. Once dewatering starts, minnow traps should only be used if there is someone present to check the traps every few hours. Remove the traps once the water level becomes too low.
2. Fish capture operations will be conducted by or under the supervision of a fishery biologist that has the knowledge, skills, and abilities to ensure the safe handling of all ESA-listed fish.
3. The applicant must obtain any other Federal, State and local permits and authorizations necessary for the conduct of fish capture activities.
4. A description of any capture and release effort will be included in a post-project report, including the name and address of the supervisory fish biologist, methods used to isolate the work area and minimize disturbances to ESA-listed species, stream conditions before and following placement and removal of barriers; the means of fish removal; the number of fish removed by species and size class; condition upon release of all fish handled; and any incidence of observed injury or mortality. Fish captured will be reported within 100 mm fork length size classes (0-99mm, 100-199mm, etc.).
5. Storage and Release. ESA-listed fish must be handled with extreme care and kept in water at all times during transfer procedures. Upon capture, ESA-listed fish will be immediately transferred from dip nets or seine nets to large buckets (five gallon minimum). The transfer of ESA-listed fish must be conducted using a large bucket that holds water during transfer, whenever necessary to prevent the added stress of an out-of-water transfer. A healthy environment for non-ESA listed fish shall be provided by large buckets (five gallon minimum to prevent overcrowding) and minimal handling of fish. The water temperature in the transfer buckets shall not exceed the temperature of cold pool water in the subject stream. Retain fish the minimum time possible to ensure that stress is minimized, temperatures do not rise,

and dissolved oxygen remains suitable. Release fish as near as possible to the isolated reach in a pool or area that provides cover and flow refuge.

B. Dewater Instream Work Area and Fish Capture

Fish screen. Except for gravity diversions that have gradual and small outfall drops directly into water, all water intake structures must have a fish screen installed, operated, and maintained in accordance with NMFS Guidelines (NMFS 1997; NMFS 2011).

The sequence for stream flow diversion will have the following elements to minimize incidental take of ESA fish:

1. Install block nets at upstream and downstream ends of river segment affected by cofferdam construction. Block nets will be checked every 4 hours, 24 hours a day. If any fish are impinged or killed on the nets they will be checked hourly.
2. Conduct fish capture/removal within cofferdam construction segment, following the specified Fish Capture-General Guidelines (in 6.0, Appendix 1, A-Fish Capture)
3. Begin cofferdam construction work, and trench excavation for diversion into bypass reach. Gradually reduce flows in the de-watering segment for 4-6 hours as the cofferdam is constructed and sealed.
4. Install block net at downstream end of de-watering area. Inspect as discharge is diminishing in dewatering areas for stranded and trapped fish and remove them using seining, electrofishing and dip nets.
5. Continue to reduce flow in the de-watering segment through improvement of the cofferdam seal.
6. Again, inspect dewatered areas for stranded and trapped fish and remove them with seining, electrofishing, and dip nets.
7. Leave the project area in a stable, low flow, seepage condition overnight, allowing any remaining fish to leave the area volitionally, or congregate within pooling areas.
8. In the morning, remove any remaining fish from the de-watering area using seines, electrofishing and/or hand held dip-nets.
9. Install downstream barrier if necessary (only in low gradient, backwatered reaches).
10. If water remains within the work area; seine, dip net, and lastly electrofish (if using this technique), the project area until catch rates have reached no ESA –listed fish for 3 consecutive passes. Move rocks as needed to flush fish and effectively electrofish the work area.
11. If needed, pump water out of isolated pools within the project area to a temporary storage and treatment site or into upland areas and filter through vegetation prior to reentering the stream channel. Continue to seine, dip net and electrofish while pumping.
12. If fish continue to be captured, shut pump off before average water depths reach one foot. Continue to seine, dip net and electrofish until no fish are caught for 3 consecutive passes.
13. Pump dry and check substrate for remaining fish.
14. Continue to pump water from the project area as needed for the duration of the project. After all fish have been removed from the work area, pumping to

continuously dewater the bank stabilization work area would not require fish screening.

The diversion structure is typically a temporary dam built just upstream of the project site with sand bags or super sacks that are filled with clean gravel or stream/floodplain rock and covered with plastic sheeting. A portable bladder dam or other non-erosive diversion technologies may be used to contain stream flow. Mining of stream or floodplain rock can be used for diversion dam construction if it does not result in significant additional floodplain or stream disturbance. Often gravel has to be moved to key in logs in which case it makes sense to use this gravel for the diversion structure.

The trenched segment of the river bypass channel must consist of non-erosive techniques, such as a pipe or a plastic-lined channel, both of which must be sized large enough to accommodate the predicted peak flow rate during construction. In cases of channel rerouting, water can be diverted to one side of the existing channel.

Dissipate flow at the outfall of the bypass system to diffuse erosive energy of the flow. Place the outflow in an area that minimizes or prevents damage to riparian vegetation. If the diversion inlet is a gravity diversion and is not screened to allow for downstream passage of fish, place diversion outlet in a location that facilitates gradual and safe reentry of fish into the stream channel.

C. Re-water Instream Work Area

Conduct fish removal in the bypass channel following the specified Fish Capture-General Guidelines (in 6.0, Appendix I, A-Fish Capture). Remove stream diversion and restore stream flow. Heavy machinery may operate within the de-watered channel to aid in removal of diversion structures. Slowly re-water the construction site to prevent loss of surface water downstream as the construction site streambed absorbs water and to prevent a sudden increase in stream turbidity. Look downstream during re-watering to prevent stranding of aquatic organisms below the construction site. All stream diversion devices, equipment, pipe, and conduits will be removed

References

- NMFS (National Marine Fisheries Service). 1997. Fish Screening Criteria for Anadromous Salmonids. NMFS Southwest Region, (January 1997). 12 p.
<http://swr.nmfs.noaa.gov/hcd/fishsern.pdf>
- NMFS (National Marine Fisheries Service). 2000. Guidelines for Electrofishing Waters Containing Salmonids Listed Under the ESA. <http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/upload/electro2000.pdf>
- NMFS (National Marine Fisheries Service). 2008. Biological Opinion for the Washington State Fish Passage and Habitat Enhancement Restoration Programmatic. NMFS #2008/03598
https://pcts.nmfs.noaa.gov/pls/pcts-pub/pcts_upload.summary_list_biop?p_id=108803

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