

**DECISION NOTICE**  
**and**  
**FINDING OF NO SIGNIFICANT IMPACT**

**Kidhaw Wildlife Habitat Improvement Project**  
**Compartments 5 & 6**

US Forest Service  
Sam Houston National Forest, Sam Houston Ranger District  
Montgomery County  
September 2013

**Decision Notice**

**Decision**

Based upon my review of the proposal, the analysis and process described in the Environmental Assessment (EA), public comments, and the project record, I have decided to select Alternative 2 and its associated design criteria for the Kidhaw Wildlife Habitat Improvement Project for implementation. Alternative 2 includes the following activities:

**Commercial thinning** to reduce the current basal areas (BA) to about 70 square feet per acre, on approximately 560 acres to improve wildlife and Red-cockaded woodpecker (RCW) habitat. Stands 1, 12, and 13 of Compartment 5, three 25-year old loblolly stands, totaling 150 acres would be thinned to 50-70 square feet per acre.

**Road management actions** include road improvements, construction, and decommissioning. About 4 miles of existing Forest Service Roads would be improved, restoring road surface, replacing drainage structures, with some clearing of vegetation that has encroached on the road. Approximately 2 miles of temporary roads would be built, used and restored to a natural state after use. All temporary roads would be closed and fertilized with a wildlife seed mixture upon completion of the tree removal phase. One unnamed road (0.6 mile) would be decommissioned by stabilizing and restoring it to a natural state.

**Midstory control**, using a rotary cutting machine or other cutting equipment, on about 545 acres to improve RCW habitat. Up to 10 trees per acre greater than 5" diameter at breast height of site-appropriate hardwoods would be protected on uplands. In treatment areas these species would most often include Southern red oak, post oak, blackjack oak, and hickories. However, larger hardwoods, regardless of species can be retained. Hardwood inclusions would also be protected.

**Prescribed burning** to improve habitat for wildlife (primarily RCW and Eastern wild turkey) and reduce hazardous fuels every 1-5 years on approximately 820 acres. Dormant season and growing season burning would be used to achieve the desired conditions. The Peden Tract (Compt. 5, stand 24) may be burned separately, requiring fireline installation around southern and western boundaries of the area.

Roads, utility rights-of-way, streamside zones, and riparian areas would be used as control lines, where feasible, to minimize the construction of firelines.

**Non-Native Invasive Plant Species (NNIPS) control** of King ranch bluestem (*Bothriochloa ischaemum var. songarica*), Chinese tallow (*Triadica sebifera*), Chinese/European privet (*Ligustrum sinense*), Japanese climbing fern (*Lygodium japonicum*), Chinaberry (*Melia azedarach*), sorghum (*Sorghum halpense*), multiflora rose, (*Rosa multiflora*), Chinese wisteria (*Wisteria sinensis*), golden bamboo (*Phyllostachys aurea*), and Mimosa (*Albizia julibrissin*) would follow the NNIPS EA and Management Plan for the National Forests and Grasslands in Texas (USDA 2008). Treatments would follow the *Plan's* direction for NNIPS as well.

**Peden Tract Wildlife Habitat Improvements** would include thinning, controlling NNIPS, and planting of native grasses. In forested areas the basal area would be reduced to 50-70 square feet per acre. Trees would be removed in rows in order to make to allow planting native grasses. In the open portions NNIPS would be treated as described above. Native grasses, such as little bluestem and Indian grass would then be planted in the openings.

**Creating a parking area** at the intersection of NTG-Taliaferro Road and an un-named road would consist of clearing a ¼-acre area of trees and vegetation, following by installation of gravel, fencing, and a wheelchair accessible gate. Forest users would be able to park and hike in to the Peden Tract.

**Removal of interior barbed wire fences and development of feral hog control efforts** within C-5 would occur, these efforts would be a cooperative program with Texas Parks and Wildlife Department.

**Gates** would be installed at the intersections of the powerline right-of-way and MTG-Taliaferro Road, as well as the powerline right-of-way and NFSR 219. Installing gates would restrict off-highway vehicle use and trash dumping in those areas.

**Powerline erosion control** measures would include construction of sediment traps, stream stabilization structures, or vegetative planting or manipulation where the the powerline in C-5 intersects two unnamed tributaries of Kidhaw Branch.

## Design Criteria Associated with Alternative 2

In addition to the applicable Standards from the *1996 Revised Land and Resource Management Plan for the National Forests and Grasslands in Texas* (the *Plan*), the management requirements described below, as well as monitoring detailed on pages 2-3 and 2-4 in the EA, are part of my decision, and will be implemented to lessen adverse effects of Alternative 2.

1. Wet sites, such as bogs and seepage zones will be identified and protected (the *Plan*, p. 83 and 152). No trees will be removed from these areas, no equipment will be allowed in these areas, and no stream crossings will be designated in these areas.
2. Tree removal will be restricted in wet weather. The district timber sale administrator will monitor conditions and promptly shut down timber sales when erosion and soil compaction will be unacceptable.
3. Temporary haul roads and skid trails will only cross streamside zones at designated points, with prior approval of the sale administrator. The *Plan's* standards and guidelines, and Texas' Best Management Practices (BMPs, Texas Forestry Association, August, 2004) will be followed in all stages of sale implementation (the *Plan*, page 158).
4. All temporary roads, skid trails, and landings will be closed following use, and revegetated with a seed mixture beneficial to wildlife. Within one growing season, ground cover will be established on 70 percent of the area of all log landings, temporary roads, and skid trails (the *Plan*, page 106).
5. If previously undiscovered archaeological or historical resources are encountered during the implementation of this project, work in that area will cease immediately until the resources can be assessed and evaluated by a member of the Heritage Management Team, and the State Historic Preservation Office (SHPO) has been afforded the opportunity to review the findings. The site area will be excluded from all treatments until this review can be completed. Known archaeological and historical sites which are considered eligible for listing on the National Register of Historic Places (NRHP), and those which have not been fully evaluated in order to determine their eligibility for the NRHP, will be removed from the area of potential effect by adjusting the appropriate boundaries of the proposed actions.
6. If previously undocumented RCW activity is discovered during implementation of this project, the project will be stopped. The district wildlife biologist will evaluate the situation and determine appropriate management actions to take that would be consistent with US Fish and Wildlife Service guidelines.
7. Marking will follow the *Plan's* guidelines for thinning in RCW habitat, leaving the largest, oldest trees available while still meeting the average spacing guidelines. Shortleaf pine would be favored as a residual tree over loblolly pine where possible.
8. Timber markers, those involved in all phases of prescribed burning and other activities will monitor for RCW cavity trees when implementing projects within the project area. If cavity

trees are found and burning is to take place within a RCW cluster, each cavity tree will be protected as directed in the Plan.

9. Mitigation measures to prevent or reduce siltation problems at stream crossings to protect aquatic habitat for the aquatic species will be used. Stream crossings will be kept to a minimum to prevent disturbances within mesic habitats to sensitive flora and fauna. Mechanical equipment use in streamside zones will be kept to the minimum to accomplish the project tasks.
10. To protect water quality, ephemeral streams in MA-2 have been identified and included on maps. These streams will have a minimum 33-foot equipment exclusion zone delineated on the ground. No equipment will be allowed in the zone unless approved by the Forest Service. If other ephemeral streams that require protection are discovered during on-the-ground implementation of project activities, they will be protected according to FW-218.
11. Spring burns will not be conducted on unburned blocks directly adjacent to areas that have just been burned previously in the winter to protect nesting turkeys.
12. Prescribed fire will only be applied under an approved burning plan to meet specific resource objectives, and under the supervision of a qualified burning boss. The burning plan will plot the trajectory of the smoke plume, identify smoke-sensitive areas, predict fire behavior, and set parameters for burning conditions to minimize risk of resource damage or fire escape. Burns will be conducted within weather and fuel moisture parameters established for the NFGT.
13. Notify the Forest Supervisor's Office, Texas Forest Service, County Sheriff's Office, Volunteer Fire Departments, and adjacent landowners prior to ignition of any prescribed burn.
14. Scenic mitigation measures will be implemented in C-5, stands 10 and 11 and C-6, stands 1 and 16, which border FM 149, as well as C-5, stand 6, which borders MTG-Bays Chapel Road; C-5, stands 4, 5, 7, and 18, which border MTG-Taliaferro Road in the Kidhaw Project. In these areas, log decks will be located out of sight of the roads, marking paint will be applied so that it is not visible from the roads, and thinning densities will be varied along the highway. Within 200 feet of these roads, felling of trees will be directed away from the edges; visible slash within this 200-foot zone along the roads will be removed, chipped, or lopped to lie within two feet of the ground.
15. Scenic mitigation measures will also be implemented in C-6, stand 1, bordering NFSR 219. In this area, log landings will be located at least 300 feet from the edge of the road except where terrain and/or other resources dictate, and marking paint will be applied so that it is not visible from the road. Within 200 feet of NFSR 219, felling of trees will be directed away from the edges and visible slash within 100 feet along the road will be lopped to lie within two feet of the ground.

16. If herbicides are applied to control NNIPS, scenic mitigation measures will be implemented along FM 149, MTG-Bays Chapel Road, and MTG-Taliaferro Road. In these stands, NNIPS would be cut with a chainsaw and herbicide would be sprayed on the cut surfaces.
17. No herbicides will be applied within MA-4 or within 33 feet of ephemeral streams.
18. Ponds, such as those located in C-5, stand 24 will be treated and protected as MA-4.

### **Reasons for the Decision**

My decision to implement Alternative 2 is based on its effectiveness in improving habitat for various species of wildlife, as well as the federally endangered RCW, correcting road-related drainage and erosion problems, and controlling NNIPS.

I have considered the best available science in making this decision. The project record demonstrates a thorough review of relevant scientific information, consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. I considered the need to take action and the issues identified during scoping in making my decision. I weighed the effects of thinning, road improvements, prescribed burning, midstory control, NNIPS control, planting of native grasses, creation of a parking lot, gate installation, barbed wire removal, and powerline erosion control on the vegetation, soil and water, air, wildlife, and recreational use of the area, and the key issues associated with the project, against taking no action. I am not willing to accept the potential effects on wildlife and RCW habitat associated with the no action alternative. The Selected Alternative would have acceptable effects on the environmental components and provide the benefits of improving wildlife and RCW habitat.

### **Alternatives Considered**

The following alternatives were considered in detail. They are fully described and contrasted on pages 2-1 to 2-2 of the EA, and a description summary in table form is also given on page 2-7 of the EA.

**Alternative 1** -- This is the No Action Alternative. The Proposed Action would not be implemented. This alternative responds to at least one of the issues, but does not meet the purpose and need for the project.

**Alternative 2** -- This alternative is the Proposed Action, Selected Alternative, and is described on pages 2-1 and 2-2 of the EA.

### **Public Involvement**

Public scoping began March 10, 2011, in a letter mailed to the Sam Houston District mailing list describing the Proposed Action and inviting comments on the proposal. The Forest Service received two responses during scoping. The 30-day Notice and Comment Period began on August 23, 2013 after publication of the legal notice in the Conroe Courier. The Forest Service received two responses during the 30-day Notice and Comment Period.

### **Finding of No Significant Impact**

After thorough consideration of the EA, Appendices, the *Plan*, specialist reports, and comments received, I have determined that implementation of the Selected Alternative is not a major federal action, individually or cumulatively, and will not significantly affect the quality of the human environment. In a local context, the short and long term effects of the site-specific actions of the Selected Alternative (Alternative 2) are not significant. Therefore, an environmental impact statement is not needed. This determination was based on the following factors:

1. Both beneficial and adverse effects have been considered and this action will not have a significant effect on the quality of the environment (EA, pages 3-1 to 3-31).
2. The Selected Alternative will not adversely affect public health or safety (EA, page 3-31).
3. The prescribed actions will not adversely affect any unique characteristics of the geographical area. No wild and scenic rivers or wilderness exist in the area. Floodplains associated with the major streams in the project would not be adversely affected. Heritage resources would be protected. No wetlands have been delineated in the area; if they exist, they would be associated with floodplains along major streams. Project activities would not significantly affect wetlands.
4. I do not expect the effects of the proposed actions on the quality of the human environment to be highly controversial in a scientific context. Some respondents disagree with the actions proposed to manage vegetation that would improve wildlife habitat, improve RCW habitat. However, the opinions they expressed during scoping, and considered within the EA, did not disclose any significant adverse effects that would result from the project, on the quality of the human environment. Page 1-8 of the EA summarizes the public contacts made in the course of the environmental analysis, and documents the issues identified from these contacts. Broad-level public disputes with forest policy are beyond the scope of this decision.
5. The Selected Alternative does not involve highly uncertain, unique, or unknown environmental risks. The Sam Houston Ranger District has successfully carried out all prescribed activities in similar situations in the past.

6. This decision does not set precedent for future action with significant effects or represent a decision in principle about a future consideration.
7. These actions do not individually, nor with other activities taken cumulatively within the affected area, reach a level of significance (EA, pages 3-2 to 3-15, 3-17 to 3-31). Where appropriate, design features are proposed which are known to keep effects to vegetation, soils, wildlife, and other resources below a threshold level of significance (EA, pages 2-3 to 2-4). Cumulative effects of the actions in the Selected Alternative and other foreseeable actions have been evaluated throughout the EA.
8. No known sites listed or eligible for the National Register of Historic Places will be affected by the proposed activities. If heritage resource sites are discovered during actual operations, activities will be stopped until the sites can be protected or evaluated for significance. Prescribed activities will not cause loss or destruction of significant scientific, cultural, or historic resources.
9. The Selected Alternative will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act. The Forest Service consulted with the U.S. Fish and Wildlife Service and determined that the actions are not likely to affect any endangered or threatened species (Biological Evaluation, Appendix B).
10. None of the prescribed actions threaten or lead to violations of federal, state, or local environmental laws, or requirements imposed for the protection of the environment. This will be ensured by carrying out the selected actions in a way that is consistent with the standards and guidelines, management requirements and mitigation measures established in the Plan. For water quality management, state-approved Best Management Practices will be used for this project. The project will be monitored to ensure BMPs are implemented and appropriate corrective measures will take place, if implementing the BMPs on a specific site results in effects significantly higher than anticipated, because of unforeseen site factors or events. This project will fully comply with state approved BMPs and the Clean Water Act.

#### **Findings Required by Other Laws and Regulations**

Alternative 2 is consistent with the *Plan*, including the *Plan's* Forest-wide Standards and Guidelines. The actions planned in Alternative 2 are consistent with the Management Objectives, Standards, and Guidelines for MA-2, Red-cockaded Woodpecker Emphasis and MA-4, Streamside Management Zones.

Alternative 2 includes design criteria to avoid or mitigate negative impacts (40 CFR 1505.2(c)) (EA, pages 2-3 to 2-4). The project is feasible and reasonable, and it conforms to the *Plan's* overall direction to manage the forest.

The Kidhaw Wildlife Habitat Improvement Project is consistent with National Forest Management Act (NFMA) requirements [36 CFR 219.27(b)] regarding resource protection, vegetative manipulation, silvicultural practices, even-aged management, riparian areas, soil and water, and diversity.

This alternative meets the requirements of the Endangered Species Act of 1973, the National Historic Preservation Act, the Archaeological Resources Protection Act, and the Clean Water Act.

### **Implementation Date**

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the 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.

### **Administrative Review or Appeal Opportunities**

This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. Based on the April 2006 Federal court decision in *The Wilderness Society v. Rey*, individuals or organizations who submitted comments or otherwise expressed interest in this action by the close of the comment period specified in 36 CFR 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14. The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer, Mark Van Every, Forest Supervisor, 2221 N. Raguet Street, Lufkin, Texas 75904, fax (936) 639-8588.

The office business hours for those submitting hand-delivered appeals are 8 a.m. through 4:30 p.m. Monday through Friday, excluding holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), or Word (.doc) to [appeals-southern-texas@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 this notice in the Conroe Courier, the newspaper of record. Attachments received after the 45 day appeal period will not be considered. The publication date in the Conroe Courier 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 any other source.

### Contact

For further information concerning this decision contact District Ranger Warren Oja at the Sam Houston Ranger District Office, 394 FM 1375 West, New Waverly, TX 77358, or phone (936)-344-6205. For additional information concerning Forest Service appeal process, contact Lynn Jackson, NEPA Coordinator, 2221 N. Raguet Street, Lufkin, Texas 75904, or phone (936)-639-8581.

Responsible Official:

*Warren L Oja*

*9/26/2013*

Warren L. Oja  
District Ranger  
Sam Houston National Forest  
National Forests and Grasslands in Texas

Date

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