



**DECISION NOTICE AND
FINDING OF NO SIGNIFICANT IMPACT
TO AUTHORIZE A TERM SPECIAL USE PERMIT FOR
OPERATION OF CASCADE CANOPY AND ZIPLINE TOURS
AND APPROVE FOREST PLAN AMENDMENT #26
U.S. FOREST SERVICE
KLAMATH RANGER DISTRICT
FREMONT-WINEMA NATIONAL FORESTS
KLAMATH COUNTY, OREGON**

T. 36 S., R. 6 E., WM., Sec. 10, SW ¼SW ¼ and Sec. 15, NW ¼

DECISION

Based upon my review of the Cascade Canopy and Zipline Tours Environmental Assessment (EA), I have decided to implement the Proposed Action, which authorizes a term special use permit for operation of a zipline and tours on the Fremont-Winema National Forests. The actions permitted with this decision consist of the development of a recreational zipline tour at Tomahawk Hill on the site of the former Tomahawk Ski Bowl downhill ski area. The zipline tour will encompass approximately 76 acres, and will be accessible from Highway 140 near Rocky Point.

The canopy tour is comprised of a series of steel cable lines (zips) suspended between trees which are traversed by participants on pulleys. The zipline course development will include the installation of approximately 8-14 ziplines of various lengths, two walking bridges, and platforms between each zipline. Ziplines will be constructed by selecting trees as platforms, bolting trees to connect the lines, and anchoring trees using buried concrete blocks, helical ground screws, or bolting into adjacent trees. The administrative facilities will include improving the existing parking area, installing a mobile office structure, installing one-two portable generators for emergency power and portable toilets, constructing a pole barn approximately 20ft x 20ft over a concrete pad, two training ziplines, one small pole barn structure at the end of the canopy tour; and installing a fire pit, picnic table and benches. A detailed description of the permitted actions is in the EA, pages 4 – 6.

US Cellular constructed a communication site (tower and shelter) in September, 2007 at the top of Tomahawk Mountain. Conventional power and phone utilities were installed to the top of Tomahawk Mountain as part of that project. Cascade Canopy and Zipline Tours permittee will utilize Forest Service Road 3600-190 as access to their site off Highway 140.

Two unimproved access roads, west and east of the former downhill ski runs, still exist. The primary access road to the top of Tomahawk Mountain, approximately one mile, would need improvements to the road surface and include appropriate drainage features. Motorized use of this road would be for permitted use only and its designation under the Forest's Motor Vehicle Use Map would not change.

DECISION RATIONALE

I have reviewed the Environmental Assessment, project record, and public input and have determined that there is sufficient information to provide a reasoned decision. In making my decision, I considered the Winema National Forest's Land and Resource Management Plan (LRMP) having identified the need to provide for a variety of quality recreation experiences in a range of settings. The EA disclosed the current conditions in the project area, the rationale and need for the proposal, comments received from the public and interdisciplinary team, issues identified and subsequent disclosure of effects specific to this project. Additionally, I considered the National Forest Ski Area Permit Act of 1986 (Ski Area Permit Act) (16 U.S.C. 497b) and Agency guidance for implementing the 2011 amendment to this Act, known as the Ski Area Recreational Opportunity Enhancement Act (SAROE) (Pub. L. 112-46, 125 Stat. 538) which states:

“Summer uses at ski areas (former), both on private and NFS lands; have been increasing in recent years. This increase has been driven in part by new technologies and by the growing number of people seeking recreation activities in more managed settings. Some of these summer uses, such as zip lines, canopy tours (often a combination of zip lines, suspension bridges, and belay points), and mountain bike parks, can be natural resource based, encourage outdoor recreation and enjoyment of nature, and harmonize with the natural environment. The Agency recognizes that additional seasonal and year-round recreation activities and associated facilities are important to the long-term viability of ski areas, and that the more managed outdoor recreation settings at ski areas could introduce urban-based population segments, especially youth, to outdoor recreation. This exposure could build a deeper appreciation for nature that could lead to exploration of NFS lands beyond ski areas.”

The Cascade Canopy and Zipline Tours is located on the site of a former ski area, has facilities that can provide for a year round operating season, and is accessible to an urban-based population. The tour guides will be emphasizing the opportunities and benefits of outdoor recreation and interpreting the cultural and natural history as viewed from the Canopy tour.

The applicant did consider several private locations, but later determined these sites did not meet the required topography and vegetation. A review of the former Tomahawk Ski Bowl site confirmed that the topography, forested stand conditions, and location best met the technical and business plan requirements for the proposed use.

The purpose of this project is to authorize a term special use permit for the operation of a canopy tour and Zipline per 7 CFR 2.60; 36 CFR part 200, subpart B, under the authorities of June 4, 1897 (16 U.S.C. 551), *the Organic Act*, and term permits under the Act of March 4, 1915, 38

Stat. 1101, as amended, 70 Stat. 708 (16 U.S.C. 497). The need is to consider the submitted application for a recreational zipline in this area and the Forest's responsibility to review and respond to such proposals (36 CRF 251.50, Subpart B).

Therefore, following a review of current conditions, the proposed actions and disclosure of effects, it is my determination that authorizing the issuance of the term special use permit meets LRMP and Agency guidance and will provide beneficial economic opportunities to the Rocky Point and Klamath Falls communities. The No Action Alternative would not further this goal and was not selected for this reason.

PUBLIC INVOLVEMENT

This action was originally listed as a proposal in the Fremont-Winema National Forest's *Schedule of Proposed Actions* (SOPA) in January 2013. The listing was updated periodically during the analysis.

- On July 28, 2013, a legal notice was posted in the Herald and News requesting public scoping comments about the Fremont-Winema National Forest's consideration to issue a term special use permit to Roe Outfitters, LLC for the purpose of operating Cascade Canopy and Zipline Tours. Letters were also sent to individuals, organizations and agencies on the District's mailing list inviting review and comment on the proposed action.
- Of the 17 comments that were received, many were in favor of the project, because of the economic benefit it would bring to the region. Other commenters were opposed to the project, or had concerns. These concerns included negative economic and liability impacts to the Forest Service, impacts to wildlife species; such as the bald eagle and northern spotted owl, and other clarifying questions about the proposal. These questions were addressed in the wildlife report, the EA and the Finding of No Significant Impact, under Intensity, Item 1. of this Decision Notice. A summary discussion and effects determination on wildlife species can be found on pg. 5. Liability and economic issues associated with the proposal will be addressed through terms and conditions of the Special Use Permit. For more discussion of the scoping comments received, please see EA page 2-3.
- On December 28, 2013, an environmental assessment (listed as the Roe Zipline EA, Public Review) describing the proposed action and effects was made available on the Fremont-Winema National Forest website and mailed to interested parties. This 30-day comment period ended on January 28, 2014. Five comments were received. The comments included a desire for a clear monitoring protocol, protection of wildlife resources, and protection of mature trees. In response, the EA incorporated all of the Mitigation Measures required by resource specialists on pages 6-7, and 8. The comments pertaining to protection of wildlife species and mature trees are included in the discussion of the No-Action and Proposed Action sections of the EA, beginning on pg. 7, and summarized in this Decision Notice, pgs. 5-9. The intent of the Canopy tour is to maintain a forested stand, thus very few trees will be felled and only when necessary; trees utilized for zipline support are protected using wood blocks and through bolting techniques.

- Comments received and the Forest Service's consideration and responses to those comments can be found in the project record. The Klamath Tribes, U.S. Fish and Wildlife Service, and Klamath County Planning Department were consulted during the analysis of this project, (*Environmental Assessment to Authorize a Term Special Use Permit for Operation of Cascade Canopy and Zipline Tours*, p. 18).
- Two 45-days Opportunity to Object periods were provided to the public; one dated May 16, 2014 and the second dated July 10, 2014. On Tuesday, September 2, 2014, I was notified that no electronic, faxed or hard copy objections were received regarding the Draft Decision Notice and Finding of No Significant Impact to authorize a Term Special Use Permit for Operation of the Cascade Canopy and Zipline Tours.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This decision is consistent with the Winema National Forest Land and Resource Management Plan (1990) as amended by the *Record of Decision for Amendments to Forest Service and BLM Planning Documents within the Range of the Northern Spotted Owl, April 1994* (Northwest Forest Plan, NWFP). To approve the special use permit for this activity, this decision includes a non-significant amendment to the Winema LRMP, changing approximately 76 acres of Management Area 9B (Bald Eagle Replacement Habitat) and re-designating those acres as Management Area 2B (Developed Recreation, Moderate Level).

In July of 2010 the record of decision for the *Fremont-Winema National Forests Motorized Travel Management Project* was signed. This decision was implemented to comply with the 2005 *Travel Management Rule*. The 2005 *Travel Management Rule* required the Forest Service to designate where motor vehicle use would be allowed within the National Forest System. The 2005 *Travel Management Rule* provides an exemption for motorized use outside of designated areas for permitted activities in section 36 CFR § 261.13(h). The Cascade Canopy and Zipline Tours Management project proposed action would be a permitted activity.

My decision to authorize this use is also consistent with applicable statutory laws, policies, and regulations (EA, pages 9 – 18) including the National Forest Management Act, National Environmental Policy Act, Environmental Justice, National Historic Preservation Act, and the Endangered Species Act.

FINDING OF NO SIGNIFICANT IMPACT

A Finding of No Significant Impact (FONSI) and the EA were considered. This project is limited in scope and is designed to minimize adverse environmental effects (Project Design Features and Monitoring, EA, pages 6 – 7). The resources affected are described in the EA, starting on page 7. Effects are local in nature and not likely to significantly affect regional or national resources. Based on these factors, I believe the effects of this project will be localized, and will not contribute to significant environmental effects within or beyond the project area.

Context

The significance of environmental impacts must be considered in terms of context and intensity. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human and national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. In the case of a site-specific action, significance usually depends upon the effects in the locale rather than in the world as a whole. Intensity refers to the severity or degree of impact. (40 CFR 1508.27) The overall planning area for the Cascade Canopy and Zipline Tours EA includes approximately 76 acres. Based on the analysis and the extent of potential effects, this project is site specific in scope.

Intensity

The environmental effects of the following actions are documented in the Environmental Consequences section of the Environmental Assessment: Installation of a 8-14 steel cable lines suspended between trees; installation of 2 walking bridges; bolting of platforms to trees to connect the lines; anchoring of trees with concrete blocks, helical ground screws, or by bolting into adjacent trees; the administrative facilities will include improving the existing parking area, installing a mobile office structure, installing one-two portable generators for emergency power and portable toilets, constructing a pole barn approximately 20ft x 20ft over a concrete pad, two training ziplines, one small pole barn structure at the end of the canopy tour; and installing a fire pit, picnic table and benches.

The beneficial, adverse, direct, indirect, and cumulative impacts discussed in the EA have been disclosed within the appropriate context and effects are expected to be low in intensity because of project design, including project design features developed to protect or reduce impacts to resources. Significant effects to the human environment are not expected. The rationale for the determination of significance is based on the environmental assessment in light of the factors listed below.

The intensity of effects was considered in terms of the following:

1. **Impacts 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 (40 CFR 1508.27(b)(1)).**

Consideration of the intensity of environmental effects is not biased by beneficial effects of the action. The interdisciplinary team analyzed and disclosed the direct, indirect, and cumulative effects of the actions on various resources (EA pages 9 – 18). The EA discloses short-term adverse effects and beneficial effects. Adverse effects will be minimized or eliminated through application of Project Design Features and Mitigation Measures listed on pages 6 and 7 of the EA.

(b)(2)).

My decision will not adversely affect public health or safety. Appropriate highway signage by the responsible road managing entity will be installed to identify the Cascade Canopy Tours' entrance. The term special use permit issued for the operation of the Cascade Canopy and Zipline Tours will require maintenance of the primary access route to the top of Tomahawk Hill which will improve the road's condition and increase public safety. Trees will be annually assessed within the permit area to provide for safe operations.

A Conditional Permit, Zip Lines, Final Order (FILE NO: CUP 9-13) was ordered Approved (June 21, 2013) subject to all Klamath County Land Development Code and County Ordinances; and subject to the following conditions of approval:

- 1) The applicant shall submit a comprehensive set of plans to the Building Dept. for review prior to construction.
- 2) Prior to operation of the facility, a copy of a contract with a pumping service must be provided to the On-Site Dept.
- 3) No smoking will be allowed in the area of the zip lines as it is in a wildland setting and vulnerable to fires.

The Oregon Dept. of Transportation has granted an access permit to the Fremont Winema National Forest.

The applicant, Roe Outfitters, LLC submitted an initial Scope of Work (Challenge Design Innovations, Inc.) for review by the Forest Service Pacific Northwest Region's Tramway Engineer. The concurrence of that review by the Director of Engineering was completed on March 21, 2014.

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 (40 CFR 1508.27 (b)(3)).**

My decision will not affect any unique areas such as parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. No significant effects are anticipated for riparian reserves or riparian habitat conservation areas because of specific treatment guidelines for protection. Previous experience has shown these treatment guidelines offer effective protection. (*Cascade Zip Lines and Canopy Tours Project, Fisheries Biological Evaluation/Assessment, April 17, 2013*).

4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial (40 CFR 1508.27 (b)(4)).**

Effects on the quality of the human environment are not likely to be highly controversial. There is no known credible scientific controversy over the impacts of the project. Council of Environmental Quality (CEQ) guidelines relating to controversy refer not to the amount of public opposition, but to where there is a substantial dispute as to the size, nature, or effect of the action. Given the site-specific conditions and impacts disclosed in the Environmental Consequences section of the EA, the effects of implementation of this

decision on the quality of the human environment are not likely to rise to the level of scientific controversy as defined by CEQ.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks (40 CFR 1508.27 (b)(5)).

The analysis shows the effects are not uncertain, and do not involve unique or unknown risk. The impacts disclosed in the EA are consistent with those expected from implementing the Forest plan. The activities proposed in this decision are well established land management practices, and the risks are well known and understood.

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 (40 CFR 1508.27 (b)(6)).

This project will not establish a precedent for future projects or consideration of future projects. All new proposed projects are evaluated individually on their suitability to the goals established in the Winema LRMP and all applicable laws, regulations, and policies.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27 (b)(7)).

The environmental consequences section of the EA provides descriptions of activities that may contribute to cumulative effects. When the action is considered with other ongoing or reasonably foreseeable future actions, there is no indication of significant cumulative effects. Resources disclosed in the EA (pp. 7-18) either indicate no cumulative effect or an immeasurably minor effect. An evaluation of ongoing, or reasonably foreseeable future actions, has determined there is no indication of significant cumulative effects.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed, or eligible for listing, in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources (40 CFR 1508.27 (b)(8)).

The action will also not cause loss or destruction of districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Place or cause loss or destruction of significant scientific, cultural, or historical resources.

The site had been previously surveyed for the installation of the cellular tower and for the Buggy Salvage Timber Sale. The Forest Archaeologist concluded that an Appendix B report to the State Historic Preservation Office (SHPO) would be sufficient to allow the project to proceed. The Appendix B report documents that there are no effects to cultural resources and is in compliance with the National Historic Preservation Acts, Section 106 (on file with Forest Archeologist).

species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (40 CFR 1508.27 (b)(9)).

The degree to which the action may adversely affect an endangered or threatened species or critical habitat is not significant. Additionally, all Region 6 Sensitive Species were evaluated to determine if individuals or habitat could potentially be affected by the project/activity.

Consultation with the U.S. Fish and Wildlife Service occurred and a Biological Opinion from the U.S. Fish and Wildlife Service was received on May 10, 2012 for impacts to the northern spotted owl. The consultation concluded that project activities outside of designated critical habitat are not likely to jeopardize the continued existence of the northern spotted owl. Because critical habitat for the northern spotted owl is not designated or proposed within the action area, the proposed action is not likely to destroy or adversely modify designated critical habitat (USFWS BO 2012: 61).

Fisher (Candidate & Sensitive species). Fishers have been historically detected within the project area and most recently in the fall of 2013. Habitat conditions in the Canopy Tour project area are open and devoid of denning and resting characteristics preferred by fishers. Fishers may choose alternative day time areas as travel corridors or foraging, but may be less likely to avoid the area at night. The implementation of the Cascade Canopy project has been determined to *may impact individuals or their habitat (MIIH), but would not likely contribute to a trend toward federal listing or loss of viability to the population or species* (Cascade Canopy and Zipline Project, Klamath Ranger District Wildlife Report, January 12, 2013, pg. 7).

Bald Eagles (Sensitive species). Approximately 76 acres would no longer be developed or enhanced as replacement habitat for bald eagle nesting, roosting, and perching needs, however, this is not expected to affect the function of bald eagle habitat or their use on the landscape. The implementation of the Cascade Canopy project has been determined to *may impact individuals or their habitat (MIIH), but would not likely contribute to a trend toward federal listing or loss of viability to the population or species* (Cascade Canopy and Zipline Project, Klamath Ranger District Wildlife Report, January 12, 2013, pg. 14).

The Zone Botanist determined that the project area as a whole does not meet the definition of old growth according to the *Standard and Guidelines for the Amendments to Survey and Manage* (Exhibit C, glossary). Therefore surveys were not required.

Boletus pulcherrimus and *Hygrophorus caeruleus* (Sensitive species) are mycorrhizal fungi and can associate with white fir, but are not exclusive to white fir as a host. They could be affected detrimentally by the loss of host trees, removal of potential host trees, and ground disturbance. Because there is suitable habitat for these fungi outside the project area, this project *may impact individuals, but would not likely contribute to a trend towards Federal listing or loss of viability to the population or species* (Roe Outfitters Zipline Project, Klamath Ranger District, Botany BE, April 23, 2013).

One noxious weed, scotch broom was observed in the project area. No other known sites of invasive plants/noxious weeds are present. Mitigation measures will include:

1. Actions conducted or authorized by written permit by the Forest Service that will operate outside the limits of the road prism (including public works and service contracts), require the cleaning of all heavy equipment (bulldozers, skidders, graders, backhoes, dump trucks, etc.) prior to entering National Forest System Lands.
2. Inspect active gravel, fill, sand stockpiles, quarry sites, and borrow material for invasive plants before use and transport. Use only gravel, fill, sand, and rock that are judged to be weed free by District or Forest weed specialists.
3. If noxious weed sites are discovered within the project area, report the sighting to the West Zone Botanist. The site will be reviewed on the ground and invasive plant prevention practices will be developed as appropriate. This area will be monitored for noxious weeds as part of the Forest's invasive plant detection and monitoring program.
4. Consider adding re-vegetation measures to the site management plan. Where needed, areas could be seeded or planted with native species to reduce bare ground - lowering the risk of introduction of noxious weeds and reducing erosion.
5. To limit impacts to sensitive fungi, as much as possible, limit removal of mature trees from the site. If a tree is deemed a hazard and must be felled, leave it on site as downed woody debris, if possible.

The Fisheries Biological Evaluation disclosed that listed sucker species do not occur within the project area although proposed critical habitat does occur within the project area. Implementation of the actions will have *No Effect* on shortnose and Lost River suckers. It was determined that implementation of the actions is not likely to *adversely modify proposed critical habitat for listed suckers*.

10. Whether the action threatens to violate Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)).

The action will not violate Federal, State, and local laws or requirements for the protection of the environment. The action is consistent with the Winema Land and Resource Management Plan, as amended.

Protection of soil and water resources will be consistent with the Forest Plan and other regulatory direction including Clean Water Act, Water Quality Management Plan appropriate BMP direction, Executive Order 11990 for conservation of wetlands and Executive Order 11988 for management of floodplains.

After considering the effects of the actions analyzed, in terms of context and intensity, I have determined that these actions will not have a significant effect on the quality of the human environment. Therefore, an environmental impact statement will not be prepared.

Given the analysis disclosed in the Cascade Canopy and Zipline Tours EA, I have determined that my decision to adopt the described Forest Plan Amendment #26 constitutes a non-significant amendment to the Winema National Forest Land and Resource Management Plan (1990), as amended in accordance with regulations. This Forest Plan amendment is limited to only the actions authorized under this decision.

Amendment #26 will designate approximately 76 acres of Bald Eagle Replacement Habitat (Management Area 9B) as Management Area 2B Developed Recreation, Moderate Level Development. This Amendment will more accurately reflect the existing use and recreation facilities on site.

Finding: On the basis of the information and analysis contained in the EA and all other information available, it is my determination that adoption of the management direction reflected in my decision does not result in a significant amendment to the Forest Plan.

ADMINISTRATIVE REVIEW

Analysis was completed and the Cascade Canopy and Zipline Tours Environmental Assessment was subject to pre-decisional administrative review pursuant to 36 CFR 218 subparts A and B (Objection).

A legal notice published in the Herald and News on July 10, 2014 initiated a 45-day “Opportunity to Object” period. On Tuesday, September 2, 2014, I was notified that no electronic, faxed or hard copy objections were received regarding the Draft Decision Notice and Finding of No Significant Impact to authorize a Term Special Use Permit for Operation of the Cascade Canopy and Zipline Tours. I am making my final decision in accordance with the regulation at 36 CFR 218.12(c).

Following signature of this decision, I will notify interested and affected persons in accordance with 36 CFR 220.7(d).

IMPLEMENTATION

Implementation of this project will begin late summer/early fall 2014.

CONTACT

For additional information concerning this decision, contact: Mike DeSmit, Special Uses Permit Administrator, Klamath Ranger District, 2819 Dahlia Street, Klamath Falls, OR, 541-885-3404; or by emailing Mike DeSmit at mdesmit@fs.fed.us.



Constance Cummins

CONSTANCE CUMMINS
Forest Supervisor
Fremont-Winema National Forests

9/11/14
Date

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