

**Decision Notice
And
Finding of No Significant Impact**

Watershed and Fisheries Conservation Treatments

**SAN LUIS VALLEY
PUBLIC LANDS CENTER**

**USDA Forest Service
Rocky Mountain Region
Public Lands Center
Rio Grande National Forest and
San Luis Resource Area, BLM, Colorado**

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Introduction

This Decision Notice documents my decision for the Watershed and Fisheries Conservation Treatments. This Decision Notice contains a brief summary of the environmental analysis completed for the treatments as well as my decision regarding which alternative to implement and the rationale for my decision. It also contains certain findings required by various laws, and information concerning the rights to administrative review of this decision. The Final Environmental Assessment for the Watershed and Fisheries Conservation Treatments is incorporated by reference to this decision document.

The Watershed and Fisheries Conservation Treatments EA analyzes and implements watershed and fishery conservation treatments in a more expedient manner while meeting all legal and regulatory requirements. It would require a watershed checklist to be completed by specialists once a specific project is proposed. Watershed and fisheries treatments could be done on lands managed by the Rio Grande National Forest and the San Luis Resource Area, BLM, in south-central Colorado. Both BLM lands and National Forest lands are now managed under a joint partnership, and are collectively referred to as San Luis Valley Public Lands.

There are good reasons why applying watershed and fisheries treatments makes sense for both agencies. Certainly, an important fishery on BLM lands in the lower elevations of a watershed would be benefited by watershed improvement treatments in the upper watershed on National Forest lands. Watershed and fisheries issues do not recognize agency boundaries and it makes sense to evaluate them from a watershed perspective.

The Environmental Assessment (EA) For Comment for the Watershed and Fisheries Conservation Treatments was made available for public review and comment in January 2005. The EA describes the alternatives and the effects those alternatives may have on the environment.

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Decision

Based on the Final Environmental Assessment for Watershed and Fisheries Conservation Treatments (Final EA), as well as comments received from scoping and the 30-day public review of the EA For Comment, it is my decision to select Alternative 2, the Proposed Action.

Rationale for the Decision

In making this decision, I considered applicable laws, regulations, and policy, and the information disclosed in the Final EA, the planning record, and the Forest Plan. I considered how the alternatives meet the Purpose of and Need for Action and address the issues. I also carefully considered public and agency comments.

I made my decision based upon the best science and information available.

I considered the alternatives presented in the Final EA, and the potential environmental, social, and economic effects of the alternatives. I selected Alternative 2 because it implements an approach that is generally beneficial to resource protection and stewardship while incorporating public and interdisciplinary team issues.

The Final EA describes that both the Forest Service and BLM in this south-central part of Colorado are moving toward a single unit management system. Both agencies have similar goals toward soil, water and fisheries protections and it makes sense that this decision would implement the watershed treatments for both agencies.

The Final EA also tells me that impacts to watersheds and riparian areas would be protected by implementing Forest Plan standards and guidelines, BLM standards for public lands health and conformance with the Army Corp of Engineers 404 permits.

The Final EA describes that effects to soil, plants and fisheries would be beneficial since a more efficient implementation of conservation treatments would protect soil and fisheries resources.

The Final EA describes that the selected alternative best provides for wildlife by providing improved site-specific options for applying soil and water techniques to damaged sites.

A programmatic biological assessment and biological evaluation was completed for both FS and BLM listed species. It determined that the selected action will have No Effect on Uncompahgre Fritillary Butterfly, and May Effect, But Not Likely to Adversely Affect Bald eagle, Canada Lynx, Mexican Spotted owl, and Southwestern Willow Flycatcher. A wildlife Biological Evaluation determined that the selected alternative would have No Impact on the majority of the Forest's sensitive species and May Impact individuals of some species but are not likely to cause a trend towards Federal listing or a loss in viability.

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A Management Indicator Species (MIS) Forest Plan amendment determined that the selected alternative is not expected to affect the viability of the species and that the selected alternative would result in habitat improvements that would improve or stabilize population trends.

The Final EA describes that the selected alternative would use the Watershed Checklist to analyze and protect any cultural resources. It also states that specific watershed and fisheries projects would be scoped through the Rio Grande National Forest Tribal Consultation Bulletin.

The Final EA describes that the selected alternative would minimize visual impacts through mitigation identified during the Watershed Checklist review for a specific project.

The Final EA describes that the selected alternative would create a narrow opportunity for noxious weed establishment during ground-disturbing actions. However, use of certified weed-free seeds, mulches and materials would minimize this risk, and that long-term establishment of desired native species would reduce the likelihood of noxious weed establishment.

One of the public responders stated that they were concerned about having a chance to comment when specific watershed and fisheries projects were being proposed. The Final EA describes that a legal notice would be placed in the Valley Courier newspaper inviting public comment when projects are proposed.

The fact that both the watershed and wildlife checklists would be completed by specialists on proposed watershed and fisheries treatments assures me that a comprehensive review will occur on specific projects and that appropriate resource protection measures would be identified.

The Final EA describes that economic benefits are difficult to quantify. There are no standard dollar values for a ton of erosion prevented, and the benefits to water quality and fisheries. However, the selected alternative would result in more acres being accomplished on the ground compared to Alternative 1, No Action. This would help stretch limited program dollars to treating more acres in need. Soil, water, fisheries, and wildlife resources would benefit from the increased accomplishment. One respondent to the EA for Comment suggested that the economic cost section for the treatments be updated. This suggestion was adopted and a new economic analysis was done using current costs.

The selected alternative would cause no irretrievable or irreversible commitment of resources. There would be short term impacts to air quality due to heavy equipment use. The selected alternative does not have a disproportionately high nor adverse effect on minority or low income populations. Some of the watershed projects may create opportunities for minority contractors.

There would be no effect to prime farmlands. There would be no adverse impacts to wetlands or floodplains. There would be no adverse impacts to environmentally-critical areas. There are no hazardous wastes or solids produced by the selected alternative.

Alternatives Considered

Two alternatives were considered in detail in the EA. Alternative 1, the No Action Alternative would result in no change to the current way of implementing necessary conservation treatments. Duplication

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of similar environmental analyses would occur each year. Important watershed and fisheries treatments could be delayed due to duplicative analyses.

Alternative 2 proposes to implement necessary watershed and fisheries conservation treatments by tiering to this programmatic Final EA. Annual watershed and fisheries projects would be announced to the public, analyzed through use of watershed and wildlife checklists, and implemented in a timely manner.

Public Involvement

The Forest Service invited public, tribal government, and other agency comment and participation throughout this planning process. The Watershed and Fisheries analysis was announced periodically in the quarterly Rio Grande National Forest *Schedule of Proposed Actions*. Public notification was provided through a public legal notice in the newspaper of record, public field visits, a scoping letter, and posting on the Rio Grande National Forest website.

A letter inviting review on the EA For Comment was sent out to the entire Forest Plan mailing list in January 2005. The EA for Comment was also posted on the Rio Grande Forest website. A legal notice in the *Valley Courier*, January 20, 2005 announced the availability of the EA for Comment and invited comments. The Forest Service's response to public comments is contained in Appendix E of the Final EA. In many cases, the public comments resulted in additions or revisions to the Final EA document.

Consistency

I find the Selected Alternative is consistent with applicable federal, state, and local laws and requirements for the protection of the environment and with both agency's policy and direction. Applicable laws and regulations were considered in the Final EA. The Selected Alternative is also consistent with the 1996 Revised Land and Resource Management Plan for the Rio Grande National Forest, as amended, and the San Luis Resource Area Resource Management Plan, 1991, as amended.

Finding of No Significant Impact (FONSI)

I have reviewed the environmental effects described in the EA and evaluated whether the Selected Alternative constitutes a significant effect on the quality of the human environment or whether the environmental impacts would be significant based on their context and intensity as defined by the National Environmental Policy Act (NEPA) using the criteria in the implementing regulations (40 CFR 1508.27).

I have determined that the implementation of the Selected Alternative will not result in any anticipated effects that exceed the level at which a significant effect on the human, biological, or physical environment in terms of context or intensity would occur. Both beneficial and adverse effects have been considered. The effects from the Selected Alternative are expected to be minor. The effects are not highly uncertain and do not involve unique and unknown risks. The action will not, in relation with other actions, cause cumulatively significant impacts.

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Context: This project is local and would affect only the public lands in the San Luis Valley, Colorado, consisting of San Luis Resource Area, BLM and Rio Grande National Forest lands. The expected annual project effects would not exceed 300 acres across approximately 1.8 million acres of National Forest and 500,000 acres of BLM lands.

Environmental Effects and Intensity: I find that the Selected Alternative can be implemented without significant effects on economic, cultural, and natural resources as documented in the Final EA. Effects are primarily beneficial and any adverse effects are expected to be minor. Any adverse effects can be mitigated during the checklist process. Soil erosion effects can be reduced by the selected alternative, based on WEPP (Water Erosion Prediction Program) modeling predictions. The expected effects to soil, water, fisheries, plant and MIS resources is expected to be beneficial.

Public Health and Safety: There would be no risks brought about by the selected alternative that would pose a public safety concern.

Unique Characteristics of the Area: I find there are no significant effects on unique characteristics of the Rio Grande National Forest or San Luis Resource Area, BLM, such as historic or cultural resources, parklands, prime farmlands, wetlands, floodplains, wild and scenic rivers, Wilderness areas, inventoried roadless areas, or ecologically critical areas. The Selected Alternative will have no adverse effect on districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic places, and there is no loss of significant scientific, cultural, or historical resources.

Controversy: The Final EA discloses that watershed improvement work is not unexpected or controversial.

Uncertainty: Watershed treatments proposed by the selected alternative are routine in nature, and do not involve unique or unknown risks.

Cumulative Impact: I find that the cumulative impacts are not significant because the Final EA describes how the watershed and fisheries treatments are planned within the wide variety of uses described in the Forest Plan and BLM Resource Management Plan. The Selected Alternative, when considered with other past or reasonably foreseeable actions, is not expected to have a cumulatively significant impact. The Watershed Checklist requires an analysis of cumulative effects based on a specific proposed project.

Threatened, Endangered, Sensitive Species (TES) and Management Indicator Species (MIS): A programmatic biological assessment and biological evaluation was completed for both FS and BLM listed species. It determined that the selected action will have No Effect on Uncompahgre Fritillary Butterfly, and May Effect, But Not Likely to Adversely Affect Bald eagle, Canada Lynx, Mexican Spotted owl, and Southwestern Willow Flycatcher. A wildlife Biological Evaluation determined that the selected alternative would have No Impact on the majority of the Forest's sensitive species and May Impact individuals of some species but are not likely to cause a trend towards Federal listing or a loss in viability.

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A Management Indicator Species (MIS) Forest Plan Amendment determined that the selected alternative is not expected to affect the viability of the species and that the selected alternative would result in habitat improvements that would improve or stabilize population trends.

A BE prepared for plants determined that the selected alternative should have No Impact upon three plant species and May Impact six plant species. Site-specific surveys would be completed prior to specific project implementation to develop any mitigation measures.

I concur with the determinations made within these documents.

Civil Rights: There are no civil rights issues, and none of the alternatives have any civil-rights-related effects because the Selected Alternative actions have no effect on rights protected under civil rights law. Local tribal governments were consulted during the analysis. The project will have no effect on local tribes.

Legal Requirements for Environmental Protection: I find the Selected Alternative is consistent with all applicable federal, state, and local laws and requirements for the protection of the environment. The Selected Alternative is also consistent with the Revised Land and Resource Management Plan for the Rio Grande National Forest, as amended. The selected alternative is also consistent with the Resource Management Plan for the San Luis Resource Area, BLM and Record of Decision 1991 (BLM RMP) as amended.

Finding and Conclusion

Based on the environmental assessment and the above considerations, I find that the Selected Alternative is not a major action that will constitute a significant effect on the human environment. Therefore, it does not require the preparation of an environmental impact statement.

Implementation

Pursuant to 36 CFR 215.9(a), if no appeal is filed, implementation of this decision may occur on, but not before, the fifth day from the close of the appeal filing period.

Right to Appeal or Administrative Review

For appeals pertaining to the Rio Grande National Forest lands, the following applies.

This Decision is subject to administrative review (appeal) pursuant to 36 CFR 215. Pursuant to 36 CFR 215.13 (b), only those individuals or organizations who submitted substantive comments during the comment period may file an appeal.

Any appeal of my Decision must be fully consistent with 36 CFR 215. It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed. Appeals (including attachments) must be in writing and contain, as a minimum, the following information (§ 215.14):

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- (1) Appellant's name and address (§ 215.2), with a telephone number, if available;
- (2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);
- (3) When multiple names are listed on an appeal, identification of the lead appellant (§ 215.2) and verification of the identity of the lead appellant upon request;
- (4) The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
- (5) The regulation under which the appeal is being filed, when there is an option to appeal under either this part or part 251, subpart C (§ 215.11(d));
- (6) Any specific change(s) in the decision that the appellant seeks and rationale for those changes;
- (7) Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
- (8) Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and
- (9) How the appellant believes the decision specifically violates law, regulation, or policy.

Notices of Appeal that do not meet the requirements of 36 CFR 215.14 will be dismissed.

A written notice of appeal must be filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the Appeal Deciding Officer within 45 days following the date of publication of legal notice of this Decision in the *Valley Courier*, published in Alamosa, Colorado. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an appeal (§ 215.15 (a)). Those wishing to appeal should not rely upon dates or timeframe information provided by any other source.

Electronic appeals must be in Microsoft Word or RTF. Other electronic forms of appeals such as Word Perfect and PDF are not acceptable. Electronic appeals should be sent to: appeals-rocky-mountain-regional-office@fs.fed.us. For electronically mailed comments or appeals, the sender should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of the receipt of the comments, it is the sender's responsibility to ensure timely receipt by other means.

Notices of appeal must be filed with:
Attn: Appeal Deciding Officer
USDA, Forest Service, Region 2
P.O. Box 25127
Lakewood, CO 80225-0127

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Fax: 303-275-5134

Email: appeals-rocky-mountain-regional-office@fs.fed.us

For protests that pertain to the BLM portion of this decision, the following applies.

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. Appeal and stay procedures are outlined in Form CO-050-1840-191.

For Additional Information

A copy of the Final EA is available for review at the Public Lands Center, 1803 West Highway 160, Monte Vista, CO 81144. The Final EA and decision document are also posted on the Rio Grande National Forest web site: <http://www.fs.fed.us/r2/riogrande/projects/> under Forest Decisions. For a copy of this Decision Notice and the EA, or for additional information, please contact John J. Rawinski, Project Leader at (719) 852-5941.



PETER L. CLARK

04/28/05
Date

FOREST
SUPERVISOR/CENTER
MANAGER