# Decision Notice
# And Finding of No Significant Impact
# Deadman Bench Vegetation Treatment Proposal
# Environmental Assessment
# USDA Forest Service
# Clarks Fork Ranger District, Shoshone National Forest
# Park County, Wyoming

## Decision and Reasons for the Decision

### Background

The Deadman Bench Vegetation Treatment Proposal environmental assessment (EA) discloses the environmental effects of implementing vegetative management activities in the Deadman Bench analysis area. In addition to the proposed action, alternatives to the proposed action were developed and analyzed. These activities were proposed to move toward desired forest conditions through enhancing vegetation diversity, restoring forest health, reducing the risk of wildfire, improving wildlife habitat and habitat effectiveness, restoration of properly functioning soil and water conditions, and providing wood products. The Shoshone National Forest is initiating this proposal as part of implementing the Shoshone Land and Resource Management Plan (Forest Plan), as amended.

The vegetation treatment project is located in northwest Wyoming approximately 30 miles northwest of Cody, Wyoming, in Park County. Ownership is entirely National Forest System lands. The project area that was evaluated for treatment can be described, in general, as the area between the Deadman Bench Road (Forest Service Road [FSR] 144) on the north, Reef Creek Road (FSR 115) on the west, and the Camp Creek Road (FSR 114) on the south and east.

#### Purpose for the Action

Based on review of the site-specific conditions, the purpose and need, and project goals (EA Sections 1.5 and 1.6), I chose to focus on the following management direction from the Forest Plan and other directives:

- Enhance vegetative diversity by enhancing the abundance and seral stages of minor vegetative types (aspen, deciduous, riparian, wetland, lodgepole pine, and interior meadows)
- Contribute to forest health relative to insect infestation by removal of remaining host trees and trees having characteristics that make them highly vulnerable to attack, as well as by reducing basal area
- Minimize the risk of wildfire by reducing natural accumulation of fuels and breaking up the continuity of ladder fuels and canopy closure to enhance fire suppression capability
- Enhance habitat value of selected Management Indicator Species (MIS) of wildlife where vegetative conditions are well below biological potential, while maintaining habitat value for other MIS above minimal acceptable conditions
- Enhance habitat effectiveness for grizzly bears and big game by implementing road closures and restrictions where road densities are excessive

- Capitalize upon commercial forest product output opportunities associated with vegetative treatment
- Restore proper soil/water functioning on substandard roads within the project area by restoration to standard, relocation, closure, or decommissioning as appropriate

In summary, the focus of this project is to manage vegetative succession by direct manipulation in order to attain the long-term desired conditions. This is being done to help ensure long-term sustainability of the project area, which is the basis for goals in the Forest Plan (as amended). The primary purpose of this action is to restore, maintain, and/or enhance all ecological processes, functions, and conditions. The intent is to move toward vegetative desired conditions that are sustainable, while capitalizing on the outputs or products that contribute to the social and economic well being of dependent communities. Other Forest Plan direction such as that associated with water quality and transportation management would be met through the implementation of standards and guidelines.

## Decision

Based on my review of the alternatives, the site-specific analysis documented in the EA, and public input received throughout the project planning, I have decided to implement Alternative II, the Proposed Action.

This alternative will harvest, using conventional tractor methods, 336 acres of dead and high-risk commercial coniferous sawtimber-sized products using a sanitation and salvage harvest system. Sanitation harvest includes removal of green trees that are damaged, diseased, decadent, or highly vulnerable to insect attack based on known characteristics. Salvage harvest removes dead trees. This is a means of reducing serious, long lasting hazards and risks from pest organisms and fire using both a prevention and treatment strategy. This action will result in an output of approximately 5.6 MMBF of commercial sawtimber-sized products.

The following is a summary of the actions to be implemented in my decision. An in-depth description of work activities, timing, methods, and discussion of other aspects of Alternative II can be found in Section 2.6.2 of the EA. Project implementation is subject to budget and availability of funds and personnel. Figures for proposed treatments, units, and acreages are approximate and may vary depending on actual ground conditions.

Project activities associated with Alternative II include:

- Harvest merchantable coniferous sawtimber-sized products using conventional tractor logging with a sanitation/salvage silvicultural harvest system on 336 acres of beetle infested, decadent, and dead timber.
- For aspen enhancement, fell and remove the majority of non-merchantable conifers as appropriate on 28 acres. Fell and remove the majority of conifers on 30 acres of riparian and wetland.
- For aspen clones, regenerate by cutting of mature stems.
- Fell and remove the majority of conifers from two small interior meadows within timbered areas.
- Using mechanical treatment, remove and dispose of excessive amounts of natural fuels within treated stands by piling and burning or firewood sales to reduce the risk of wildfire.
- Using mechanical treatment, break up continuous, dense, late successional tree species contributing to ladder fuels and break the continuity of tree crown density that contributes to crown fire.

- Treat all activity fuels resulting from treatment through yarding unmerchantable material (YUM), whole tree skidding, and piling/burning as appropriate to limit fire intensity and spread for enhanced suppression capability and reduced tree mortality.
- Decommission an additional 0.32 miles of existing non-classified (non-system) road. Decommission all temporary roads used in conjunction with this project. Decommission 0.78 miles of the existing Deadman Bench Road (FSR 144) that is steep, substandard, or eroding at unacceptable levels in conformance with soil and water minimum standards in the Forest Plan
- To provide access to Deadman Bench following the decommissioning of FSR 144, 0.49 miles of old timber access road coming off the Camp Creek Road will be reconstructed, and an additional 0.69 miles will be constructed to link this road to the existing Deadman Bench Road.
- Upon initiation of the project, a permanent yearlong restriction will close 3.86 miles of road on the Deadman Bench to public motorized access. Per informal consultation with the U.S. Fish and Wildlife Service, with the initiation of the Deadman Bench project there will be no motorized activities planned or permitted on the Deadman Bench road system during the Season 1 period (March 1 to July 15) in the future. This includes all public motorized use, all use associated with treatment activity, and all administrative use except emergency purposes such as fire suppression, downed power lines, and search and rescue. Informal consultation between the Forest and the Fish and Wildlife Service will occur on a case-by case basis for any motorized use that is permitted for emergency purposes during this Season 1 period.
- Fell and remove trees within the power line corridor that have the potential to take down the line.
- Outputs of timber will be 5.6 MMBF of sawtimber-sized material.

Additional information on the Alternative II can be found in the EA (section 2.6.2).

My decision requires a non-significant, site-specific amendment to the Forest Plan regarding the vertical diversity of this area. In summary, the amendment relates to the vertical diversity standard to maintain a minimum of 20% of the forested area in a unit in vertical diversity listed on page III-21 of the Forest Plan. The amendment can be found in Appendix A of this Decision Notice.

After careful consideration of applicable laws, regulations, policies, Forest Plan direction, environmental effects, public comments, and other information contained in the EA, my decision also includes adopting monitoring for the project as discussed in Section 2.4, project design in Section 1.4, and the complete Alternative II description in 2.6.2 (to include other requirements and operational and procedural requirements) of the EA. As part of my decision, I have determined that the EA is appropriately tiered to and consistent with the 1986 Shoshone Land and Resource Management Plan and the programmatic EIS, which accompanies it (EA, Section 2.3), with the exception noted above.

#### Other Alternatives Considered

In addition to the selected alternative, I considered the no action alternative and two other action alternatives. The EA described these four alternatives, which were developed from the project proposal, interdisciplinary team input, results of past scoping, and identified issues. A number of alternatives were also considered but eliminated from detailed study (EA, section 2.5).

***Alternative 1 – No Action***

Under the No Action Alternative current, ongoing management such as fire suppression, grazing administration for commercial livestock, road maintenance and closures, dispersed recreation, and weed control would continue at present levels. No silvicultural treatments would occur and no wood products would be offered for sale. The No Action Alternative is not responsive to the purpose and need; most importantly, it does not conform to the direction in the Forest Plan. It does not improve timber stand conditions being impacted by insects and/or disease; it does not maintain aspen sites or improve remnant aspen stands; and it does not produce timber products.

***Alternative III***

Project activities associated with this alternative are the same as Alternative II, except for the following:

- There would be no purposeful actions to enhance vegetative diversity, wildlife habitat value, wetlands, riparian areas, or deciduous vegetative species.
- Public motorized use of the Deadman Bench Road would be restricted seasonally (December 15 to July 15) instead of yearlong for resource protection purposes (soil and water, wildlife birthing, and grizzly bears) to coincide with the seasonal closure on the Camp Creek Road. Public motorized access would be restricted during harvest operations for safety purposes. Figure 19 in the EA displays the road system that would result with implementation of Alternative III.
- Outputs of sawtimber-sized products would be approximately 5.1 MMBF.

***Alternative IV***

Project activities associated with this alternative are the same as Alternative II, except for the following:

- More basal area (more merchantable trees and smaller diameter trees) would be removed, canopy cover would be reduced to a much greater degree to allow more sunlight to enter the stand, and commercial timber outputs would be greater.
- There would be no purposeful actions to enhance vegetative diversity, wildlife habitat value, wetlands, riparian areas, or aspen.
- There would be a yearlong restriction on public motorized use on both the Deadman Bench Road as well as the Camp Creek Road by yearlong closure of the existing Camp Creek Road gate starting with implementation of the project. This restriction is a result of the project area's providing only minimal hiding cover and therefore not providing secure habitat for many wildlife species throughout the year, especially when the disturbance is at the top of the reef. Eliminating vehicular intrusions compensates for this loss of secure habitat by enhancing habitat effectiveness. See Figure 20 in the EA for Alternative IV's access management.
- Outputs of sawtimber-sized products would be approximately 6.1 MMBF.

**Rationale For the Decision**

When compared to the other alternatives, Alternative II does the best job of responding to the purpose for action and the key issues. The main purpose for this project is to implement management direction and goals and objectives from the Forest Plan. Based upon my review of all alternatives, I have decided that Alternative II is a balanced decision with multiple resource benefits resulting from a focus on increasing vegetative diversity, improving forest condition, providing forest products, and protecting wildlife habitat and watershed values. Also, based on review of the site-specific conditions and needs, I have selected this alternative because of its

conformance to the Forest Plan (as amended) goals and management direction. It best accomplishes the identified purpose and need and project goals for management of this area.

In my decision making process and in choosing between alternatives, I focused on which alternative best meets the purpose and need, the issues, and the implementation of the Forest Plan goals and objectives. In making my decision, I have reviewed the comments of the prior scopings and the comments from the 30-day EA public comment period. I concur with the responses to the public comments found in Appendix C of the EA. The EA analysis addresses all issues to my satisfaction. Further, I believe the alternatives adequately address the issues raised during the process.

The No Action Alternative is not responsive to the purpose for action. Under Alternative 1, the area's vegetation would be left to follow its current successional path. It does not improve vegetation diversity nor maintain or enhance aspen; it does not address forest health (insects and disease); it does not improve habitat and habitat effectiveness for wildlife; it does not reduce sedimentation from roads; and it does not produce timber products. Disturbance dependent plant communities such as aspen would continue to decline through natural succession, along with a corresponding loss of habitat for dependent wildlife. For these reasons, I chose not to select the No Action Alternative.

The rationale for my decision is grouped according to the five key issues in the EA.

***Issue 1 Vegetation Diversity***

Clear differences exist between Alternatives II, III, and IV in terms of diversity and aspen. In comparing II with III and IV and evaluating trade-offs, the differences concerning aspen are that II would maintain the abundance of aspen stands, promote well-distributed age-class distribution of aspen, and increase the abundance of aspen sprouting. In contrast, III and IV decrease the abundance of aspen stands, promote all mature age-class distribution of aspen, and decrease the abundance of aspen sprouting. As diversity and aspen were a primary focus and project objective, Alternative II best accomplishes diversity needs.

In addition, clear differences exist between Alternatives II, III, and IV in terms of riparian/wetland acres enhanced and acres of aspen enhanced. Alternative II was specifically designed with aspen/riparian/wetland enhancements (28 acres aspen and 30 acres riparian/wetlands). In comparing II with III and IV and evaluating trade-offs, the differences concerning these enhancements are that II would have a total of 58 acres of enhancement. In sharp contrast, both III and IV have no enhancement acres. Diversity, aspen, and riparian/wetlands were a primary focus and project objective. Alternative II best accomplishes diversity needs; the other alternatives would do little to improve the abundance, age class distribution, and regeneration of aspen.

***Issue 2 Forest Health (Insects and Fuels)***

Alternative II provides more timber outputs than Alternative III, but less than Alternative IV. In comparing Alternatives III and IV, there is very little difference between them. The greatest difference is that under Alternative IV the primary emphasis would be on timber production. As a result, the silvicultural prescription would require the removal of most of the large trees and the area would not meet the Forest Plan standard for thermal cover. The miles of road that would be necessary to close to meet hiding cover and habitat effectiveness requirements would be unacceptable to many members of the public. These concerns were the primary reason I did not choose Alternative IV.

Alternatives II, III, and IV would have a beneficial effect on forest health, but to differing degrees. Alternative II would have the most beneficial effects on forest health relative to affecting the largest number of forest types (aspen, meadow, wetland, riparian, conifers, etc.). Alternative

III would be beneficial relative to reducing the hazards due to insects and wildfire in the coniferous forest, but would have little effect on the health of other vegetative types. Alternative IV would have the greatest beneficial effects on forest health of the coniferous forest type relative to insect infestation and wildfire, as it reduces the basal area the greatest amount.

With all treatment alternatives, within the treated stands merchantable trees obviously infested with insects and high-risk trees would be removed, enhancing the health of that immediate area. Silvicultural treatment as proposed in Alternative IV would reduce the basal area below 80% of normal (live trees). This treatment would reduce susceptibility of Douglas-fir stands to Douglas-fir beetle attack, and would limit tree mortality and infestation size in the event of future increases in beetle populations. The level of risk from insect infestation is proportional to the amount of mature stems and the live basal area. Therefore, Alternative IV removes the most mature trees and provides the highest degree of protection from infestation. Silviculturally, treatment under Alternatives II and III are the same. The treatment under these alternatives would provide a more balanced approach to the multiple resource values in the area. Alternative II is better in that it proposes to treat 58 additional acres of riparian/wetland areas to provide for more vegetation diversity.

In my review of the alternatives, I was looking to see which alternative would reduce the horizontal continuity of both aerial and ground fuels to reduce fire intensity and improve suppression capability. Alternatives II, III, and IV improve suppression capability with Alternative IV being slightly better than Alternatives II and III, but would compromise the Forest Plan guideline for thermal cover. I am comfortable with the suppression capability provided by either Alternative II or III, so the tradeoff I considered was between habitat effectiveness for wildlife and suppression capability. I chose to go with Alternative II, which would not only provide for adequate suppression capability but multiple resource benefits through the treatment of aspen and riparian/wetland areas.

***Issue 3 Wildlife***

Consistent with the purpose and need for action in the EA, I chose to emphasize Forest Plan goals and direction related to restoring, maintaining, or enhancing diversity, forest health, wildlife habitat, and road management in the long term.

For wildlife needs, Alternative II and Alternative III maintain the standard for thermal cover. Alternative IV would drop below the Forest Standard for thermal cover. Alternative II enhances habitat effectiveness and secure habitat in the project area yearlong; Alternative III enhances it during spring/winter within the project area. Although Alternative IV enhances habitat effectiveness yearlong in the diversity unit, I feel the road closures required to accomplish this would be unacceptable to the majority of the public. The trade-off is between access and habitat effectiveness/security for wildlife. Alternative II is the best compromise.

In my decision, I took into account cover/security needs of grizzly bears and elk. Alternatives II and IV would increase secure grizzly habitat. Alternative III would decrease secure grizzly habitat, primarily due to seasonal closures on roads and open road densities in the area following treatment.

Habitat foraging value for grizzly bears would be enhanced by any of the action alternatives as the understory forb and shrub types that provide food sources would be increased due to the overstory canopy's being reduced, either by natural thinning by insects or by timber harvest. Alternative II would enhance foraging value the greatest amount when compared to other alternatives, as restoration of the wetland and riparian areas to an earlier seral stage would favor many species of succulent vegetation as well as some berry producing species favored by bears.

I considered moose winter range, which overlaps with some stands proposed for treatment. Moose are the only wild ungulate having identified winter range or birthing areas located within

the project area. Per Forest Plan requirements on big game winter ranges, maintain habitat capability to at least 80% of potential capability and habitat effectiveness of at least 90% during the winter period. Through road closures, seasonal restrictions, and design criteria these standards would be maintained for moose, but would best be met by Alternative II that provides for the greatest amount of vegetation diversity.

***Issue 4 Soil and Water***

Soil and water protection were an utmost consideration in the project design and my decision. The Forest Plan also calls for seasonal road restrictions when conditions warrant (III-89, 3.a-f). Seasonal restrictions are warranted when unsafe conditions result due to weather, when use causes unacceptable damage on roads during certain seasons (i.e., soil erosion during snowmelt), or when unacceptable resource conflicts occur due to motorized access (i.e., conflicts with birthing elk).

Existing site-specific concerns would be resolved in the short term under all three action alternatives because a poorly located road would be moved to more suitable terrain and an existing poorly drained road would be repaired. Alternative IV provides the best opportunity to resolve these concerns in the long term because the road network would receive negligible use after the sale and thus have minimal need for maintenance. Alternatives II and III provide the opportunity to resolve the concerns, but not as effectively as Alternative IV because greater use of the roads would occur. Such use, between scheduled maintenance, could result in road damage that results in sediment delivery.

In general, Alternative IV closes the most miles of road and would have the greatest benefit to watershed protection. Alternative III restricts the least amount of road, thus providing the least benefit to watershed values. Alternative II, closing 3.86 miles of road, provides for watershed protection, and provides reasonable access to the area.

***Issue 5 Roads and Access***

Roads and access management played an important role in selection of an alternative. Alternative IV would require the closure of 11.28 miles of road to meet standards for habitat effectiveness for grizzly bear and elk. I have determined that this level of closure, even though it best meets the needs of wildlife, does not serve the recreation user very well. Conversely, Alternative III would only seasonally restrict access on the Deadman Bench Road (FSR 144) from December 15 to July 15. This seasonal closure would enhance habitat effectiveness for elk and grizzly bear in the spring. It would also improve soil and water concerns associated with the roads during the spring. However, it would neither improve nor eliminate resource damage caused by vehicles in the fall, nor enhance nonmotorized recreation opportunities in the area. I feel Alternative II would best meet objectives and resolve soil and water concerns from roads, provide for wildlife needs yearlong, and minimize the road density in the area, while at the same time providing access into the area for hunting and dispersed recreation activities.

Roads and access is a contentious issue and closing roads is something I do not take lightly. However, when I walk the area and look at the roads and access, leaving FSR 144 open would result in having three parallel roads approximately 0.5 miles apart. Granted they are at different elevations, but what will remain open to the public following the implementation of Alternative II are the Chief Joseph highway and the Camp Creek Road (FSR 114). This allows access both below and above the project area. This is reasonable access, yet provides for enhancement of effectiveness/security habitat for wildlife. In considering roads and access, Alternative II includes 3.86 miles of yearlong closures to the public, Alternative III includes 3.86 miles of seasonal closure to the public, and Alternative IV includes 11.28 miles of yearlong closure. With the need to consider road densities, habitat effectiveness for wildlife, and watershed concerns from roads, the most balanced alternative is Alternative II, which provides for wildlife needs while

maintaining motorized access in the area for the recreating public. Road closures were a concern of the County and the public; Alternative II provides for wildlife habitat effectiveness during the critical seasons and for reasonable access for hunting and dispersed recreation.

I want to spend some time discussing the benefits of the treatments for this area. One of the most important benefits in my mind is the increased diversity that the treatments create. The aspen treatments will help to maintain and expand this limited habitat condition. Elk, moose, and ruffed grouse, among other species, use these stands. The treatment of the conifer stands in the area will create other stand structures that are limited in a landscape that is increasingly dominated by older stands. This diversity helps to increase the resilience of the watershed to large-scale disturbances from insects and fire. This is more and more important as larger portions of the Shoshone are being impacted by large-scale disturbances, such as the spruce beetle epidemic that is occurring on Carter Mountain, killing spruce over hundreds of acres.

Another benefit of the treatment is the production of timber products. This is important in that it supports the multiple use objectives of the Forest Plan that many of the surrounding communities depend on to contribute to economic diversity. Some contend that I will be forgoing the benefits of an unmanaged forest with this decision. They are correct. I feel that this decision needs to be placed in the context of the whole Shoshone National Forest. The Forest Plan directs that the Forest (approximately 2.5 million acres) be managed for multiple uses. Approximately 86,000 acres are designated as suitable for timber harvest (3.5%). Of that, I am proposing treatment on 336 acres. By making this decision I will be achieving the benefits of a managed forest that are not realized on the vast majority of the Shoshone National Forest where unmanaged benefits are the main emphasis.

One other area that I want to highlight is soil/water. Some of the roadwork conducted in conjunction with this project will correct problems with the existing road system that is inputting sediment into streams.

## Public Involvement

Scoping is a process that involves anyone with an interest in voicing their thoughts and concerns to help identify the significant or relevant issues relating to a proposed action.

This proposal was originally scoped in 1990 during the original NEPA process. In January 1996, scoping was reinitiated in a letter that was sent to interested and potentially affected members of the public. This 1996 scoping letter indicated that a timber sale was again proposed for the Ellsbury/Sugarloaf area of the Clarks Fork Ranger District. Letter recipients were asked to provide comments on the proposal. Other federal, state, and local agencies were also consulted during this process.

In the 1996 scoping correspondence, the project was described as being a timber sale proposed for the Ellsbury area and tentatively scheduled for FY 1997. The people contacted were informed that the project would involve harvest of timber, road construction/reconstruction, and construction of temporary roads.

The Forest IDT reviewed forest planning documents and other available literature on similar projects. Based on this information and on public comments, a list of preliminary issues was developed. Through analysis of these preliminary issues, the significant issues associated with the proposed action were determined (40 CFR 1501.7(a)(3)).

As an integral part of this new analysis, all preliminary scoping, including that associated with the 1991 as well as the 1996 proposals, was reviewed, in addition to all responses relating to the release of the 1998 EA. All issues, concerns, and responses contained in the appeal record, as

well as the issues and concerns identified in the 1994 ASQ EIS relative to this area, were also reviewed.

Since no new issues were identified, it was determined additional scoping was not necessary following this in-depth review.

On June 5, 2002, a letter was sent to the American Indian tribes to notify them that a new EA with additional analysis was near completion. The letter explained that this project was the former Ellsbury Timber Sale, but had been renamed the Deadman Bench Vegetation Treatment Proposal to avoid confusion with previous proposals. The letter alerted them to the fact that a 30-day public comment period would be conducted once the predecisional EA was released.

A legal notice for the availability of the predecisional EA was published in the *Cody Enterprise* on August 26, 2002. During on the 30-day public comment period for the EA, seven letters were received. The comments are summarized in Appendix C of the EA, along with the Forest Service responses to the comments. Letters received within the 30-day comment period were from the Park County Commissioners, the State of Wyoming Office of Federal Land Policy (Wyoming Game and Fish, State Historic Preservation Office, State Engineer's Office), Chuck Neal, Cody Lumber, and a joint letter from Greater Yellowstone Coalition (GYC) and American Wildlands (AW). Two letters were received past the 30-day comment period, one from the Wyoming Outdoor Council (WOC) and one from the USFWS. WOC submitted the same comments as GYC/AW.

### Key Issues

Some issues were already addressed in that they were a part of the purpose and need for action and the reason for which the proposal is being made, or they were determined to be outside the scope of this analysis. Others issues were addressed by required disclosure of effects. All comments, issues, and concerns were given in-depth review and consideration; however, only key issues are addressed in detail. Other questions and concerns are clarified or addressed as appropriate in the EA.

There were several issues relevant to this proposal. These key issues and the associated analysis questions that served as the basis for alternative formulation, and which were analyzed in depth, are listed below and described in detail in the EA, Section 1.11. Key issues include: vegetative diversity, forest health, wildlife, soil and water, and roads and access.

## Finding of No Significant Impact

I have reviewed the Council on Environmental Quality Regulations for significance (40 CFR 1509.27) and have determined that this decision is not a major federal action that would significantly affect the quality of the human environment, either individually or cumulatively. Preparation of an Environmental Impact Statement pursuant to Section 102 [2][c] of the National Environmental Policy Act of 1969 is not required. This determination is based on considering the context of the action as discussed in the EA and the ten intensity factors, as outlined in 40 CFR 1508.27.

### Context

The effects of Alternative II are localized, with implications for only the immediate area. The cumulative effects analysis of past and future activities along with the current proposal were considered and analyzed in the EA. These effects were considered in my determination. Alternative II is consistent with the direction, standards, and guidelines outlined in the Shoshone Forest Plan, as amended. None of the effects disclosed in the Deadman Bench EA is different

from those anticipated in the FEIS for the Forest Plan. Site-specific conditions and effects were analyzed and disclosed in the EA.

## Intensity

The intensity of activities in the selected alternative are evaluated below:

***Impacts that may be both beneficial and adverse***

I considered beneficial and adverse impacts associated with the alternatives as presented in Chapter 3 of the EA. These impacts are within the range of effects identified in the Forest Plan. There are no beneficial or adverse effects that are significant. Impacts from Alternative 2 are not unique to the Deadman Bench Vegetation Treatment Proposal. Previous projects involving similar activities have had non-significant effects. On this basis, I conclude that the direct, indirect, and cumulative effects of Alternative II are not significant. See the effects analysis for the selected alternative in the predecisional EA in Chapter 3.

***Degree to which the proposed action affects public health and safety***

I have considered the effects of this project on public safety and health and have determined that Alternative II will have no significant effects. See the effects analysis, Chapter 3, for the selected alternative in the EA. Project design addresses safety, primarily in terms of bear/human conflicts and safety procedures.

***Unique characteristics of the geographic area such as proximity to historic or cultural resources, parkland, prime farmlands, cave resources, wetlands, wild and scenic rivers, inventoried roadless areas, wilderness areas or ecologically critical areas***

Alternative II will not affect any unique characteristics or features of the geographic area, including Swamp Lake.

***Degree to which effects on the quality of the human environment are likely to be highly controversial***

The anticipated effects associated with the implementation of Alternative II are disclosed in the EA, Chapter 3. The basic data and relationships are sufficiently well established in the respective sciences for me to make a reasoned choice between the alternatives, and to adequately assess and disclose the possible adverse environmental consequences. Though there is disagreement by some members of the public over whether treatments should be conducted, the environmental effects from those treatments are well understood. The effects on the quality of the environment are not highly controversial, as described in the EA, Section 1.11. (Disagreement over the decision itself does not constitute controversy for the purpose of determining significance under 40 CFR 1508.27).

The courts have been clear that the controversy factor is not meant to test whether there is public opposition to the proposal, but rather have stated the term "controversial" refers "to cases where a substantial dispute exists as to the size, nature or effect of the major federal action rather than to the existence of opposition to a use[1]." The Forest Service believes that any controversy is focused mainly on opposition to the action of timber harvest itself, rather than on the particular effects to resources.

[1] Foundation for North American Wild Sheep (FNAWS) v. USDA, 681 F.2d 1172 (9th Cir. 1982)

***Degree of possible effects on the human environment is highly uncertain or involves unique or unknown risks***

Alternative II is similar to many past actions on the Shoshone National Forest. Based on the results of past actions and technical and professional insight and experience, I am confident that we adequately understand the effects of the harvest on the human environment. Based on the site-specific analysis, there are no unique or unusual characteristics about the area or selected alternative that are highly uncertain, unique, or would indicate an unknown risk to the human environment (Chapter 3, EA). The results of monitoring activities will be assessed to determine whether the effects are within the range predicted in the EA. Monitoring is found in Section 2.4 of the EA.

***Degree to which action may establish precedent for future actions with significant effects or represents decision in principle about future considerations***

The project is similar to other vegetation projects that have occurred on the Forest. The action does not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. My decision implements direction found in the Forest Plan (EA, Chapter 2) and does not establish a precedent. Implementation of my decision will not trigger other actions, nor is it a part of a larger connected action (EA, Chapter 3).

***Is action related to other actions with individually insignificant but cumulatively significant impacts?***

There are no significant cumulative effects. The effects from the project, when combined with other past, present, and reasonably foreseeable future activities are not expected to have any significant cumulative effects. The selected alternative will have a minor specific cumulative effect when added to the existing conditions. The EA (Chapter 3, Section 3.11) found no past, present, or foreseeable activities in or adjacent to the project area that would result in potential significant cumulative effects to the quality of the human environment.

***Degree to which action may adversely affect sites or projects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historic resources.***

The action is not predicted to have significant effects on heritage resources (EA, Section 3.8). The proposal meets laws for protection of heritage resources. As described in the EA in Chapter 3, heritage resources will not be affected by proposed activities. A concurrence letter from the State Historic Preservation Office for the project is in the project file.

***Degree to which action may adversely affect an endangered or threatened species or its habitat determined to be critical under the Endangered Species Act.***

The actions do not adversely affect any threatened or endangered species or its habitat that have been determined to be critical under the ESA of 1973 (EA, Section 3.5.14). The Biological Assessment prepared for this project describes the findings for threatened and endangered species. The U.S. Fish and Wildlife Service concurred with the determinations.

***Whether the action threatens violation of federal, state, or local laws or requirements imposed for protection of the environment.***

This action complies with all federal, state, and local laws and requirements for the protection of the environment. Wilderness and roadless areas, air quality, heritage resources, water quality, threatened and endangered species, significant caves, wild and scenic rivers, farmlands (prime or unique), and Native American religious concerns will not be affected by implementation of the selected alternative. It meets National Forest Management Act requirements, and National Environmental Policy Act disclosure requirements. Effects on water quality, floodplains and

wetlands (Executive Orders 11988 and 11990) are disclosed and documented in the EA (section 3.6.2).

## Findings Required by Other Laws and Regulations

The EA is tiered to the 36 Code of Federal Regulations (CFR) for National Forest Management Act (NFMA) consistency and the Shoshone National Forest Land and Resource Management Plan (as amended). All management prescriptions for resource protection shall be consistent with the relative resource values involved, minimize serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces unless these are specifically excepted, as in wilderness (36 CFR 219.27).

The decision to implement Alternative II is consistent with the intent of the Forest Plan's long-term goals and objectives. The environmental analysis documented in the EA is tiered to the Final Environmental Impact Statement for the Shoshone National Forest Land and Resource Management Plan (40 CFR 1500.4, 40 CFR 1502.20, 40 CFR 1508.28). I have determined that this decision is consistent with the Forest Plan (as amended), with the exception noted earlier. The project is designed in conformance with land and resource management plan standards/guidelines, many of which are referenced in the EA. The exemption to conformance with the Forest Plan is the 20% vertical diversity standard, which is addressed in Appendix A Non-significant, Site Specific Amendment to the Forest Plan.

Detailed discussions of NFMA are located in Section 3.12 of the EA. The selected alternative and analysis are also consistent with laws and regulations on forest management practices (EA, section 3.12), Clean Water Act (section 3.6), Endangered Species Act (section 3.5.14), heritage resources (section 3.8), environmental justice (section 3.10.1), and transportation policy (section 3.7). Executive Orders 11988 and 11990, dealing with floodplains and wetlands, will be complied with under the proposed action (section 3.6.2).

Project design and mitigation measures are used to protect water quality and to meet standards imposed by the Forest Plan (as amended) and the State. Best Management Practices are applied consistent with the requirements of the Clean Water Act to meet state water quality standards. Changes in air quality are expected to be negligible during vegetation management activities. No violations of environmental laws and requirements were identified through the environmental analysis.

The following, including mitigation and monitoring measures, will apply to my decision to prevent adverse effects: 1) 1982 Forest Planning Regulations (CFR 219) and Forest Plan (as amended) standards and guidelines; 2) Silviculture Best Management Practices, State of Wyoming Nonpoint Source Management Plan, State of Wyoming Water Quality Rules and Regulations; 3) mandatory BMPs contained in Federal regulations at 33 CFR 323, requirements in the Watershed Conservation Practices Handbook (Forest Service Handbook 2509.25), Forest Plan management area direction 9A (riparian); and 4) site-specific project design and design criteria that avoid, eliminate, or reduce adverse effects were incorporated into the project (EA, section 1.4).

## Appeal Opportunities and Implementation Date

If no appeal is received, implementation of this decision may occur on, but not before five (5) business days from the close of the appeal filing period. If an appeal is filed, implementation may not occur for 15 days following the date of the appeal disposition. The implementation of this decision is dependent on funding and would be implemented over several years. Proposed start dates are the summer of 2003 and implementation could be over the next three to five years.

Pursuant to 36 CFR 215.7 this decision can be appealed. Appeals under 36 CFR 215 represent concerns about the analysis. Any written appeal must be postmarked or received by the Appeal Deciding Officer within 45 days after the publication of a legal notice in the *Cody Enterprise*. Appeals must meet the content requirements at 36 CFR 215.9(b)-215.14 (Content of a Notice of Appeal), including the stated reasons for appeal. Notice of appeal must meet these requirements:

- State that the document is an appeal filed pursuant to 36 CFR 215
- List the name and address of the appellant and, if possible, a telephone number
- Identify the decision document by title and subject, date of decision, and name and title of the Responsible Official
- Identify the specific changes in the decision that the appellant seeks or portions of the decision to which the appellant objects
- State how the Responsible Official's decision fails to consider comments previously provided, either before or during the comment period specified in 215.6 and, if applicable, how the appellant believes the decision violates law, regulation, or policy

Pursuant to 36 CFR, Section 215.10(a), if no appeal is filed, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of the appeal disposition [36 CFR. Sec.215.10 (b)]. Appeals must be filed within 45 days after the date the legal notice is published in the *Cody Enterprise.*

Send CFR 215 appeals to:

USDA Forest Service, Region 2
Rocky Mountain Region
Attn.: Appeal Deciding Officer
PO Box 25127
Lakewood, Colorado 80225-25127

**Contact**

For additional information concerning this decision, please contact NEPA Coordinator Marty Sharp or the deciding official at North Zone/Wapiti Ranger District, 203 A Yellowstone Ave., Cody, WY 82414, phone (307) 527-6921. A copy of the EA is available for public review at the Wapiti Ranger District Office or upon request. It is also on the Shoshone National Forest's Internet site at http://www.fs.fed.us/r2/shoshone/forestmgt/nepa/projectinfo.htm

*/s/ Rebecca Aus* *12/16/02*

REBECCA AUS Date
Forest Supervisor

# Appendix A
# Non-significant, Site Specific Amendment to the Forest Plan
# Deadman Bench Vegetation Treatment Proposal

This amendment has been prepared because a minor change to a Forest Plan standard and guideline needs to be made in order to implement the Deadman Bench project (FSM 1922.5). This amendment is non-significant (*see* discussion below) and applies only to the Deadman Bench project area. The project area is approximately 1,217 acres in size. The Crandall 1 Analysis Area is depicted on the Forest Plan Detail Map-Analysis Areas, and discussed in the Deadman Bench EA in Section 1.6.

The vegetation treatment proposal is located in northwest Wyoming approximately 30 miles northwest of Cody, Wyoming in Park County. The project is located on the Shoshone National Forest, Clarks Fork Ranger District. The legal description of the project area is portions of Sections 7, 8, 9, 10, and 16 in T55N, R10W, 6th Principal Meridian. The area that was evaluated for treatment with this analysis (proposed project area) can be described, in general, as the area between the Deadman Bench Road (Forest Service Road [FSR] 144) on the north, Reef Creek Road (FSR 115) on the west, and the Camp Creek Road (FSR 114) on the south and east.

The amendment relates to the Forest Plan standard and guideline (III-19) for structural diversity: maintain or establish a minimum of 20% of the forested area in a unit in vertical diversity, 30% in horizontal diversity, 5% in grass/forb stage, and at least 10% of the potential natural vegetation in old growth. This amendment is for vertical diversity.

The forest is below the Forest Plan standard for vertical diversity in the Deadman Bench diversity unit. The Forest Plan standard for vertical diversity is 20%; the existing is below 10%. The justification for implementing an action alternative is for restoration purposes in the project area. Implementation of a restoration alternative would accelerate moving toward the standard sooner than would a no action approach. It is this shorter-term**,** restoration approach to maintain diversity and move toward plan standards that is the justification for the action. The action is best suited to the multiple-use goals for the area and provides the most practical means for the desired effect on wildlife habitat. If existing situations are below the standard, then a restoration approach is needed to move toward the standard in the most expedient manner possible.

Section 3.2.2 of the EA states that the desired 20% vertical diversity is currently not being met. Section 3.2.2 states, “even though the standard relating to the proportion of forested area to be maintained in vertical diversity is not being met, and cannot be met for decades into the future, management action to reduce the risk of insect/disease infestation and stand replacing wildfire by selective sanitation and salvage harvest of high risk trees is deemed necessary and appropriate at this time. The potential consequence of inaction, due to the inability to meet the vertical diversity standard, is the loss of ecological integrity over this landscape. Removal of a portion of the upper tier of these multiple tiered stands, to prevent the potential loss of all the tiers contributing to vertical structure and providing cover characteristics for many purposes, appears to be the prudent course of action from a long-term ecological perspective.”

Growth rates of understory trees within stands treated by sanitation/salvage can be expected to increase with removal of competing high-risk overstory trees. The action alternatives, such as Alternative II, would jump start the restoration of vertical diversity. Actions to accelerate regeneration would begin with project implementation; restoration would be 15 to 20 years ahead of a strictly natural process such as the No Action Alternative.

Heavy insect infestation and stand replacement wildfire would convert most stands back to even-aged stands if such disturbance occurs. This is already occurring in the Douglas-fir type. Vertical diversity will continue to decline no matter what the Forest proposes, and attainment of Forest Plan standards relative to vertical diversity will be a long time in coming no matter what alternative is chosen (<25 to 30 years under an action alternative and > 30 to 50 years under the No Action Alternative). The action alternatives provide actions to accelerate regeneration and establish or restore vertical diversity in the shortest time possible. Sanitation treatment reduces vulnerability to major disturbance, thus allowing vertical diversity (cover standards) to be achieved in a shorter period over the long term than does the No Action Alternative.

The older spruce/fir stands in the Deadman Bench area are also highly susceptible to insect infestation and loss of vertical diversity as evidenced by epidemic (unprecedented) levels of spruce bark beetles in many areas of the Forest. The Forest is proposing a sanitation and salvage treatment for the Deadman Bench in order to restore as much vertical structure as possible. It is our intent to leave as many healthy green trees in these stands as possible. It must be noted that the higher the basal area, and the higher the numbers of old-age vulnerable trees available, the more damaging the infestation is relative to the mortality of all age classes of trees, including the smaller and more healthy trees.

Over the long term, however, an improvement of vertical diversity would be achieved on this acreage. Therefore, this amendment allows the vertical diversity standard to be exceeded; it can be exceeded because the intent is to move toward establishing/restoring the vertical standard in a shorter time than would occur naturally.

#### Amendment Significance

This amendment is non-significant for the following reasons:

- It does not significantly alter the long-term relationship between levels of multiple-use goods and services originally projected in the Forest Plan (36 CFR 219.10(e)). Volume from the harvested areas falls within values in the Forest Plan ASQ Amendment.
- It does not have an important effect on the entire Forest Plan or affect land and resources throughout a large portion of the planning area during the planning period. The area affected by the amendment is 336 acres; the total planning area is 2.4 million acres.
- There are no changes in management prescriptions (FSH 1909.12, Chapter 5.32).

Appropriate public notification has been made as per 16 USC 1604 (f) (4). Scoping occurred in 1990/91 during the original NEPA process. In 1996, scoping was reinitiated in a letter. Responses from the release of the 1998 EA were reviewed and used in subsequent analysis. The project status was reported on the Forest's SOPA report and public Internet site. Section 1.12 of the EA describes the decision to be made for the Deadman Bench Vegetation Project; sections 1.5, 1.6, and 3.21 to 3.2.4 of the EA describe desired vegetation conditions for diversity and the need to reduce vertical diversity in the short term to restore long-term sustainability of desired vegetation conditions in the area. A legal notice of the availability of the pre-decisional EA was published in the *Cody Enterprise* on August 26, 2002.

*/s/ Rebecca Aus* *12/16/02*

REBECCA AUS Date
Forest Supervisor