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RECORD OF DECISION

Viveash Fire Salvage EIS

Pecos/Las Vegas Ranger District, Santa Fe National Forest
Pecos, New Mexico

INTRODUCTION

This Record of Decision (ROD) documents my decision and rationale to select Alternative 2 from the range of alternatives analyzed in the *Final Environmental Impact Statement (FEIS) for the Viveash Fire Salvage Project*. The FEIS presents the results of a detailed environmental analysis of salvage harvest and road management alternatives within the Viveash project area. Based on a thorough review of public comments received on the Draft EIS (DEIS), I determined that there was no need to modify alternatives considered in the DEIS or develop new alternatives. In response to the comments received on the DEIS, the FEIS contains non-substantive changes in both format and content.

The Viveash wood salvage project was developed as a result of the Viveash wildfire. The Viveash wildfire was a high severity burn that consumed the organic layers of the forest floor and greatly reduced the soil's ability to absorb and store water. The important hydrologic functions of the forest canopy in moisture interception and evapo-transpiration were dramatically reduced as a result of the extensive amount of tree mortality. The cumulative loss of forest vegetation and damage to soil characteristics resulted in large overland water flows during rain events and extremely high rates of soil erosion, stream sedimentation, stream turbidity, and flooding. The fisheries habitat in Cow Creek was also eliminated by this event. The land is now beginning to slowly recover. Burned Area Emergency Rehabilitation (BAER) actions are being implemented to reduce post-fire impacts and help restore resource values in this area. Over the next several years, these detrimental effects will gradually subside.

Location

The project area is located in the Sangre de Cristo Mountains of central New Mexico, in San Miguel County between the towns of Pecos and Las Vegas. It encompasses approximately 36,000 acres of national forest system and private lands. The area includes approximately 29,000 acres that burned in the May 2000 Viveash Fire, plus 7,000 acres outside the Viveash Fire area that are in need of road improvement actions. Of the 36,000-acre project area, approximately 18 percent (6,700 acres of national forest lands) will be affected by timber harvest activities. (See maps in FEIS).

Public Involvement and Issues

Public involvement included soliciting public comments from the *Notice of Intent to Prepare an EIS*, published in the Federal Register on January 8, 2001. In March 2001 we distributed a scoping letter to interested or affected parties, and held a public meeting to inform the public and solicit additional input. Comments were reviewed and documented in a scoping report.



Using the comments from the public and other agencies, the interdisciplinary team identified several preliminary issues regarding harvest volumes, logging trucks, safety, noise, traffic, road damage, and potential impacts to wildlife, soil, water, fisheries, and other resources. Most of these were addressed in refining the proposed action alternative and application of effective mitigation measures. Three key significant issues related to the potential impacts on soil conditions, water quality, and fisheries habitat were used to develop alternatives to the proposal (see FEIS pages 2-4 and 2-5).

On November 7, 2001, after the DEIS was published, another public meeting was held. Comments from this public meeting and other comments submitted during the public comment period were analyzed. The interdisciplinary team completed responses to all substantive comments received during the review period, as documented in Appendix C of the FEIS. No new issues were identified and no new alternatives were created. The result of the evaluation of the comments is that the technical analyses contained in the DEIS and supporting documents are adequate to support my decision.

DECISION – ALTERNATIVE 2

Based upon my review of the FEIS, I have decided to implement Alternative 2, which allows for a variety of wood salvage opportunities on up to 6,600 acres within the 29,000-acre Viveash burn area over approximately 3-5 years – as long as merchantable products can be retrieved from within this area without causing resource damage. Fire-killed trees will be harvested from 5,550 acres of the moderate- and high-severity burn areas, which are within ¼ mile of existing roads. In addition, fire-killed trees will be harvested from 1,050 acres lying within 150 feet of existing roads, across low, moderate, and high burn severity areas. Some salvage areas (100 acres) are being removed from Alternative 2 due to cultural resource concerns. The revised Alternative 2 map is shown in Figure 1. The removal of those areas from the salvage would reduce the overall impact of the action compared to the analyses presented in the FEIS. Harvest equipment will be limited to slopes that are less than 35 percent to reduce soil disturbance. The estimated volume that will be harvested with this alternative is approximately 20-25 million board feet (MMBF) of primarily sawtimber and houselogs, along with approximately 10,000 cords of firewood and other small wood products.

Part of this project includes opening a maximum of 43 miles of currently closed roads in order to facilitate salvage operations, and then closing or decommissioning them following salvage operations. The decommissioning involves removing culverts, installing waterbars and dips, and barricading the road. These roads are not necessary for public or private land access. Closing or decommissioning them after salvage operations will reduce the open road density in this area to improve watershed and wildlife habitat conditions and meet the Santa Fe National Forest Plan (Forest Plan) standards. A damaged culvert on FR 92V across Elk Creek will also be replaced prior to hauling timber on that road.

In addition, I am authorizing implementation of some separate road management actions that were analyzed in the Viveash Fire Salvage EIS. These actions are within the project area but are not considered “connected actions” with the salvage project because they do not automatically trigger other actions requiring an EIS; can proceed independently of other actions; and are not

Figure 1-1. Revised Map of Alternative 2 (Decision)



BACK OF FIGURE



interdependent parts of a larger action or dependent on the larger action for their justification [40 CFR 1508.25(a1)]. These road management actions were developed from a post-fire “Roads Analysis Process” including road inspections conducted in the project area, and are needed to better protect soil, water, and fisheries resources and provide access to private lands. These actions are as follows:

- Replace the three old and narrow concrete bridges over Cow Creek on FR 92 with higher standard bridges and straighten the road alignment. These actions will improve the safety for vehicle crossings over the creek.
- Reconstruct and realign approximately 1 mile of FR 92, to locate this segment away from the Rito de la Osha (creek) channel. Install culverts at stream crossings. Continue to maintain 13 miles of the road as Maintenance Level 2 (for high-clearance vehicles), while upgrading 7 miles of the road to Maintenance Level 3 (for passenger vehicles). These road improvements will reduce erosion and sedimentation in the stream while improving road safety.
- Upgrade Forest Road (FR) 86, including relocation of approximately 2.3 miles by decommissioning a poorly located road segment and replacing that segment further from the stream. The current location results in excessive water runoff and stream sedimentation during moderate rainfall events. These actions will reduce stream sedimentation and improve public safety. Also, replace the culvert at Cow Creek with an arch culvert, because the existing culvert is too small for the larger volume of water and debris flows that have resulted from the fire.
- Replace approximately 5 miles of road along Willow Creek with approximately 1.5 miles of new road. Portions of the road along Willow Creek will be closed and other portions decommissioned. Decommissioning includes removing culverts, providing for natural streamcourse function in intermittent and ephemeral draws, installing waterbars and dips, and barricading the road. These activities will reduce erosion and sedimentation in Willow Creek and improve private land access (referred to in the EIS as Murphy’s land processes).
- Replace existing low water crossing at FR 86 and Bull Creek with a culvert. This will protect the stream channel and the water quality of Bull Creek while providing private land access (referred to in the EIS as Tapia’s proposal).

REASONS FOR THE DECISION

I selected Alternative 2 after thoroughly reviewing the EIS and supporting documents, listening and talking with many people, and considering all public comments. I received 23 comment letters on the DEIS that expressed many different viewpoints. Some of the comments were general in nature, offering opinions about the project activities, while others were specific and provided reasons why their opinions should be considered. Responses to the public comments are documented in Appendix C to the FEIS.

Many comments expressed concern about the potential impacts to soil movement, water quality, and fish habitat. While these concerns are warranted and were treated as significant issues in the EIS,

extensive analysis and documentation reveal that none of the three action alternatives would substantively impact these resources. The EIS shows that the selected alternative would not contribute measurably or visibly to increased soil erosion, compaction, or stream sediment delivery. The analysis shows that Alternative 2 will temporarily increase soil erosion up to a maximum of an 11 percent increase over current soil erosion (tons per acre per year). The expected increase will be much less than 11 percent, due to application of mitigation measures, especially Best Management Practices (BMPs). Of the 11 percent increase in soil erosion, only 3 percent of that increase is expected to reach stream channels, due to the distance from salvage sites to streams, streamside (no-harvest) buffer zones, restricting harvest to slopes less than 35 percent, leaving slash on the soil, and other BMPs. The effectiveness of BMPs in minimizing erosion and sedimentation is expected to be high, based on results of implementing the same BMPs on other recent salvage and timber harvest projects in New Mexico. Construction of new road segments may temporarily increase erosion. Roads will be located away from streams and the roadwork will reduce soil erosion and sediment delivery to streams over the long term. Road decommissioning will further reduce sedimentation in the long term. The minimal short-term impact to water quality will not adversely impact the recovery of fish habitat. (Refer to FEIS pages 4-4 through 4-5 and 4-19 through 4-23 for details about effects to soil, water and fisheries resources.)

The analysis in the EIS also predicted that Alternative 2 will have little if any impact to vegetation, wildlife habitat, heritage resources, scenic and recreational qualities, fuel loads or future wildfire risk, rangelands, or other conditions (FEIS, pages 4-23-4-36). Hauling the logs and wood products from the area is expected to have no significant adverse impacts in terms of increases in traffic hazards, noise or similar traffic-related effects compared to current conditions (FEIS, pages 4-16 through 4-18). In my review of the EIS and Project Record, I found that the substantial technical analyses fully support the estimated effects conclusions that were made.

Compared to the other alternatives, Alternative 2 best meets the identified purpose of and need for the project, which is to salvage wood from a portion of the fire-killed trees to allow local and regional communities to recover economic and commodity value from some of the trees that died. It will help meet a public need and demand for wood and various wood products used throughout New Mexico. The local communities of Pecos, Santa Fe, Las Vegas, and numerous smaller communities in the outlying areas rely on harvest from the national forest for wood products, including firewood, vigas and latillas, houselogs and sawlogs. This project also best meets a secondary and related purpose: To increase employment opportunities in the area, particularly in San Miguel County, which has high poverty rates, high unemployment rates, and a low average income. Alternative 2 will recover the largest volume of fire-killed trees and provide the greatest number of job opportunities to the local and regional economies.

The selected alternative was developed and analyzed by a team of highly qualified natural resource management professionals and scientists from the Forest Service and an environmental services contracting firm. They put many hours into developing the alternative and associated mitigation measures so the project objectives could be accomplished without sacrificing important natural resource values. By authorizing Alternative 2, I am also adopting all practical means to avoid or minimize environmental harm from this decision, as described in the subsequent mitigation and monitoring sections. After mitigation measures are applied, the environmental effects of this alternative are not substantially different than those from other two action alternatives. Thus, in

summary, I selected Alternative 2 primarily because it best meets the social and economic purpose and need for this project while minimizing the potential for harmful environmental effects.

There are a few secondary benefits associated with this salvage project beyond the obvious economic and social benefits that it was designed for. Salvage logging activities should help break up the water-repellent hydrophobic soil layer, and thus increase infiltration and improve soil productivity. Additionally, slash (tree branches and tops) left from logging operations will be incorporated into the soil, helping reduce soil erosion while increasing organic matter and soil productivity.

It is important to note that while this selected alternative yields the largest volume compared to the other alternatives analyzed, it does not harvest any trees from the remaining 15,000+ acres of national forest land burned in the Viveash Fire. It involves selectively removing individual dead trees, leaving the living trees, and does not clearcut any of the land proposed for harvest. With the possible exception of relatively few acres on gentle terrain along certain roadsides, the overwhelming majority of the harvested acres will retain 20-60 percent of the trees currently on the landscape.

Mitigation

The Final EIS lists the mitigation measures required as part of Alternative 2 that are designed to ensure all practicable means will be implemented to avoid or minimize potential environmental impacts from the selected alternative (pages 2-14 through 2-17). These mitigation measures have been successfully used on other projects on the Santa Fe National Forest as well as other National Forests in the Region. As a result, they are considered effective and made part of this decision. Mitigations include the following: harvest only dead trees; restrict harvest to within high- and moderate-burn severity areas, within ¼ mile of existing roads and on slopes less than 35 percent; avoid riparian plant communities; exclude harvest within habitats that are designated as “critical” or occupied by any threatened or endangered species.

As part of the mitigation measures, the EIS describes numerous Best Management Practices (BMPs) that are adopted with the selected alternative. In addition to economic and technical feasibility, the BMPs were selected based upon consideration of factors such as soils, topography, vegetation, and climate. BMPs are commonly used and can be effective measures to control nonpoint-source pollution and maintain site productivity during implementation of harvest and road management activities. Through adherence to the BMPs, in addition to monitoring the effects of our activities, we expect to be in compliance with provisions of the Clean Water Act as amended, along with regulations and agency directives related to protecting water quality and long-term soil productivity.

The mitigation measures (including BMPs) will be translated into contractual clauses for both timber sale and road engineering contracts, thus ensuring the contractual commitment to implement the practices as planned. Effective BMPs that will be in the timber and road contracts for this project include: timber harvest unit design; limited operating period of timber sale activities; streamside management zone designations; tractor skidding location and design; log landing locations; erosion prevention and control; streamcourse protection; protection of riparian and wetland areas; slope limitations for equipment and vehicle use; timing of construction activities; road slope stabilization; control of road drainage; controlling in-channel excavation; and maintenance of roads (see Final EIS Appendix A for more detailed information on the BMPs).

Monitoring and Evaluation

Monitoring is a key component of implementing the activities outlined in my decision. Monitoring will involve checking that activities were implemented as planned, goals and objectives were met, and environmental effects were within the anticipated range. Implementation of mitigation measures including the BMPs will be carefully monitored. Implementation monitoring is part of the day-to-day administration of timber sale and road work contracts, and the contracts incorporate the mitigation measures. Resource specialists such as biologists, archaeologists, hydrologists, soil scientists, foresters and engineers regularly monitor resource conditions and provide technical advice during project implementation. The effectiveness of our activities and mitigation measures are of special importance. If it appears that mitigation effectiveness may be less than successful, I will ensure an immediate remedy.

OTHER ALTERNATIVES CONSIDERED

The following summarizes the two other action alternatives and No Action alternative analyzed in the EIS, including my reasons for not selecting them for implementation. A more detailed description and comparison of these alternatives can be found in the FEIS on pages 2-6 through 2-11.

Alternative 1 (No Action)

Under the No Action alternative, the salvage harvest and road management activities analyzed in the Viveash Fire EIS would not be implemented. Previously approved management projects and land use activities would continue, including natural resource restoration actions associated with the Viveash Fire Burned Area Emergency Rehabilitation Plan. However, I did not select this alternative because it does not meet the purpose of and need for this project to any extent. In addition, I do not believe the minor environmental advantages of this alternative will outweigh the social and economic advantages of the selected alternative.

Alternative 3

Alternative 3 would include the same road improvement actions, salvage harvest prescriptions, mitigation measures, and BMPs as described for the selected alternative. It differs in that salvage harvest would occur on fewer acres by excluding subwatersheds that are most prone to erosion and/or sediment delivery, located in the southern, lower elevation portion of the project area.

Harvest of fire-killed trees would occur on 2,900 acres within the high- and moderate-burn severity areas. In addition, fire killed trees would be harvested from 2,000 acres lying within 150 feet of roads. The estimated volume harvested with this alternative is approximately 12-15 MMBF of primarily sawtimber and 10,000 cords of firewood and other small products.

While this alternative meets the purpose and need to some extent and results in slightly less impact to soil and water resources, these impacts would not be significantly different from Alternative 2 (see FEIS pages 4-7 and 4-8). However, when I looked at the insignificant potential for adverse impacts to soil and water under the action alternatives verses the greater social and economic public benefits of Alternative 2, my choice was clear. I did not select this alternative because the wood value recovery would not be realized to the extent it would in Alternative 2, and it would yield fewer

employment opportunities in local and regional areas that are economically depressed. Overall, Alternative 2 better met the purpose of and need for action while protecting the environment to approximately the same degree as this alternative.

Alternative 4

Alternative 4 would include the same road improvement actions, except it would only require opening 38 miles of currently closed road to facilitate the salvage harvest (rather than 43 miles in Alternatives 2 and 3), and it would not require replacing the culvert on FS 92V across Elk Creek. Roadside salvage harvest prescriptions, mitigation measures, and BMPs would be the same as Alternatives 2 and 3. This alternative differs in that it excludes harvest beyond 150 feet along each side of the road. This would entail harvest on an estimated 2,600 acres, and yield approximately 10,000 cords of firewood or other small wood products. It is expected that the wood would be cut and sold through personal-use firewood permits, and wood products could potentially be sold in small commercial sales. Whether it is sold under personal or commercial use permits would have little, if any, environmental effect.

Like the other non-selected alternatives, this alternative would have a slightly lower risk of impacting the biological and physical environment, but only minimally meets the purpose and need for action. This alternative yields significantly less wood product and provides for fewer employment opportunities, yet is not significantly different than the selected alternative in terms of the estimated effects to soil conditions, water quality, or fish habitat (see FEIS, pages 4-8 and 4-9).

This alternative is identified as the “environmentally preferable alternative” because it would “have the least potential to damage the physical and biological environment and best protects, preserves and enhances historical, cultural and natural resources” (40 CFR 1505.2). The reason this alternative is environmentally preferable over the No Action Alternative, is because road improvement actions would result in greater improvements to soil and water conditions in the long term compared to the insignificant short-term impacts expected from the roadwork and roadside salvage activities.

ALTERNATIVES CONSIDERED BUT ELIMINATED

The following two alternatives were initially considered but later eliminated from further analysis in the EIS.

Alternative A – Harvest on 27,500 acres

An alternative was considered that would salvage fire-killed trees over the entire area within the Cow Creek Watershed that was burned by the Viveash Fire. It was considered because it would meet the purpose and need, and yield approximately 100 to 200 million board ft [MMBF]). This would involve salvage logging on up to 27,500 acres of high-, moderate-, and low-burn severity. The salvage logging would require constructing an extensive new road system for access, yarding logs with cable and helicopter systems on the steeper terrain, temporarily opening and maintaining existing forest roads, and acquiring road access across private lands. This alternative was not considered in further detail because it was not considered economically feasible (due to amount of cable/helicopter logging costs), and would require salvaging on steep slopes close to streams that would result in unacceptable impacts to water quality.

Alternative B – Harvest on 17,250 acres

Another alternative was considered that would salvage fire-killed trees over approximately 17,250 acres of high- and moderate- burn severity areas within the entire Viveash Fire area. These burned areas are located in the Cow Creek and Upper Bull watersheds. It was considered because it would meet the purpose and need, and yield approximately 50 to 60 MMBF of timber. This alternative was not considered in further detail because it was not considered economically feasible, for the same reasons identified in Alternative A.

PERMITS OR OTHER APPROVALS REQUIRED

The EIS lists four permits or authorizations that must be obtained prior to implementing the project, and two have already been obtained. The concurrence notification from US Fish and Wildlife Service on the Biological Assessment. The heritage resource clearance has been approved by the Santa Fe NF Forest Supervisor, in consultation with the State Historic Preservation Officer and Advisory Council on Historic Preservation. The other two are currently being processed – the Clean Water Act Section 404 permit from the Army Corps of Engineers, and the Clean Water Act Section 401 certification from New Mexico Environmental Department for drainage control work on several of the road projects. Additionally, several easements still need to be obtained from private landowners along FR 86 to implement the road relocation and improvement actions.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

National Environmental Policy Act (NEPA) and 40 CFR 1500 Regulations

Based on the contents of the EIS and supporting documents in the project record, I find that the planning and decision making process for this project was conducted in accordance with this Act and its implementing regulations. The EIS offered a reasonable range of alternatives, including a No Action alternative, from which to make a choice. In addition, the EIS disclosed the expected direct, indirect, and cumulative effects of each alternative, and did so without becoming “encyclopedic” by identifying and emphasizing the most relevant issues.

National Forest Management Act (NFMA) and 36 CFR 219 Regulations

This project is consistent with this Act and associated regulations which set forth direction regarding the programmatic Forest Plan. I find that the selected alternative is consistent with the 1987 Santa Fe National Forest Plan, as amended based on the following factors:

- To ensure Forest Plan consistency, the planning team developed the alternatives in accordance with goals, standards, and guidelines from the Forest Plan. Applicable standards and guidelines were incorporated by reference on page 2-1 of the EIS. The EIS Appendix Response to Comments, Comments ~, also discloses information regarding consistency with specific Forest Plan requirements.
- To further ensure compliance with the Forest Plan, mitigation measures for the selected alternatives include and reference the applicable forest-wide standards and guidelines.

- The EIS describes project conformance with Forest Plan direction for management areas A, B, D, and E, which overlap portions of the affected area. The management area direction does not prohibit salvage, which means that salvage harvesting is an allowable use in these management areas. Salvage harvesting is specifically allowed by forest-wide direction that states "Salvage harvesting operations will be prescribed as needed to meet conditions imposed by wildfires, insect and disease infestations, blowdown, or other catastrophic events. Salvage harvesting will conform to integrated stand management principles and management area emphasis." (Forest Plan p. 71).
- This project does not build new roads in inventoried roadless areas and is consistent with the agency's 2001 Roadless Area Conservation Strategy for inventoried roadless areas.
- The project will not result in a loss of long-term soil productivity. It will improve permeability of the hydrophobic soil layers created by the wildfire, thus allowing for more infiltration and soil water storage. The slash layer to be left on the soil will reduce soil erosion while increasing the organic matter that gets incorporated into the soil which enhance productivity (see FEIS pages 4-6 and 4-7).
- This project is consistent with 36 CFR 219.19 regarding Management Indicator Species (MIS). The Santa Fe National Forest's Assessment of MIS (USDA-FS, 2002) uses monitoring data and habitat characteristics to evaluate population trends and viability of MIS. Population trends and viability are appropriately assessed on a forest-wide scale rather than a project scale. The EIS analysis includes an evaluation of how this project effects individual MIS or their potential habitat, and concludes that no adverse effects would be expected (see FEIS pages 4-3 and 4-31).
- The selected alternative is not likely to adversely impact Forest Service sensitive animal or plant species known to occur or have potential habitat in the project area, based on the analysis in the EIS. Those habitats or species that could potentially be affected by project activities are northern goshawk, and Rio Grande cutthroat trout. The selected alternative will have no potential impact on the American peregrine falcon, black-tailed prairie dog, swift fox, goat peak pika, New Mexican (meadow) jumping mouse, Jemez Mountain salamander, Nokomis fritillary, Pecos (hairless) fleabane, Arizona willow, and Chiricahua dock. (See Project Record and FEIS pages 4-28 and 4-29).
- In comparing the effects analysis in the EIS with requirements for vegetation management contained in 219.27, the project complies with all requirements. Some items do not apply because the project is not designed as an even-age or regeneration harvest.

National Historic Preservation Act (NHPA) and 36 CFR 800 Regulations

I find that this project is consistent with the requirements of Section 106 of NHPA and regulations at 36 CFR 800 based on the following factors:

- Inventories, site evaluations and management decisions regarding heritage resources were conducted in a manner consistent with National Historic Preservation Act regulations, agreements with the New Mexico State Historic Preservation Officer (NM SHPO), and

concurrence from Advisory Council on Historic Preservation (see Project Record). There will be no direct effects to any sites eligible or potentially eligible for listing in the National Register of Historic Places (NRHP) from the proposed actions in Alternative 2 (see FEIS page 4-50).

- A heritage resource impact analysis was completed and additional details are contained in the Project Record. Archaeologists who prepared this analysis concluded that the selected treatments offer suitable protection for heritage resources in the area (see FEIS page 4-50 and 4-51).
- Native American tribes have been contacted regarding identification of potentially affected historic properties as required under 36 CFR 800.4(a)(4) (Project Record). Tribes have not revealed any traditional cultural or other historic properties of concern in the project area.
- Mitigation measures and monitoring requirements listed in this document and in the EIS help ensure compliance with these requirements. "Mitigation and monitoring measures are expected to be effective in creating a low risk of damage to heritage resources based on past experience with harvesting and road projects on the Santa Fe National Forest" (see FEIS page 4-51).

Endangered Species Act (ESA) and 50 CFR 402 Regulations

I find that the project is consistent with this Act and its implementing regulations based on the following factors:

- The required Biological Assessment (BA), the Addendum to the BA, and consultation with U.S. Fish and Wildlife Service have been completed for this project (Project Record).
- According to the BA, the Addendum to the BA, and concurrence letter from Fish and Wildlife Service, there is only one threatened or endangered species that could occur or have habitat in the project area, and that is the Mexican spotted owl. Surveys for the owl were completed in 2001 and 2002. The 2002 survey identified the presence of a pair of owls in the Lower Cow PAC. The 2002 survey located an owl in the Creek PAC. US Fish and Wildlife Service concurred that salvage activities will not occur within the two occupied Protected Activity Centers (PACs). Other PACs were so severely burned that they are not considered suitable nesting or roosting habitat. The design of the project incorporates appropriate conservation measures including seasonal operating restrictions, and conforms to the Recovery Plan (Project Record) for the Mexican spotted owl. They concurred with the finding that Alternative 2 "*may affect, but is not likely to adverse affect*" the Mexican spotted owl.

Migratory Bird Treaty Act (MBTA)

I find that the project is consistent with this Act, as well as recent agency guidelines for conformance with the MBTA, based on the following factors:

- No "Important Bird Areas" as defined by New Mexico Partners In Flight occur within the project area. The comprehensive wildlife analysis documented in the Final EIS includes consideration of Priority Species identified by New Mexico Partners In Flight that may occur

in the project area. The analysis identified 20 migratory bird species that potentially occur within the project area. The analysis considered effects to migratory birds associated with snags, down logs, and riparian and other habitat types (pp. 4-31 and Table 3-14). Analysis in the EIS shows that the project would not have adverse effects on migratory birds.

Clean Water Act, 40 CFR 130 Regulations and State Water Quality Standards

I find that the project is consistent with this Act and its implementing regulations and is expected to adhere to State water quality standards, based on the following factors:

- The project area contains a number of perennial streams including Willow Creek, Cow and its tributaries, and a portion of Bull Creek. Due to the effects of the wildfire, water quality within the Cow Creek system are currently not fully supporting the state water quality standards for its designated uses. Willow Creek also fails to fully support its designated uses due to effects of the Terrero mine located downstream of the Project area.
- The effects of the action alternatives upon surface water quality were carefully analyzed in the EIS (pp. 4-9 through 4-16), which states "The reduced road densities, low predicted increases in soil erosion, low sediment delivery rating in harvest areas, and specific mitigation measures designed to reduce sediment delivery to streams in subwatersheds with sensitive landtypes results in a low probability of generating noticeable or measurable effects."
- The New Mexico Environment Department Surface Water Quality Bureau has been consulted during the planning of this project. The department has and will continue to be encouraged to provide input during all phases of this project.
- BMPs were used to design the mitigation measures that help avoid or minimize impacts to water quality and long-term site productivity (EIS appendix A), as listed in this document.

Clean Air Act, 40 CFR 50 Regulations and State Air Quality Standards

I find that this project is consistent with this Act, implementing regulations and State air quality standards based on the following factors:

- The project area lies within a Class I airshed that currently meets air quality standards. The project does not involve prescribed burning or increases the potential for wildfires, thus limiting the potential for significant air quality impacts.
- The EIS includes estimates of the effects of vehicle emissions and dust from log haul. It considers potential short- and long-term effects on air quality for the Pecos Wilderness, a Class I airshed. (pp. 4-19).
- The EIS compares the effects of the action alternatives to the National Ambient Air Quality Standards (NAAQS) set by the Environmental Protection Agency to ensure compliance with the Clean Air Act (p. 4-19). It concludes that dust from log haul would result in only a temporary local degradation, which would be further mitigated by watering the road surface and therefore, is not likely to exceed air quality standards. (p. 112).

Environmental Justice, Executive Order 12898

I find that the selected alternatives would not disproportionately impact minority or low-income populations, based on the EIS disclosure of socio-economic effects, including effects on environmental justice (p. 4-38 through 4-44).

Floodplains and Wetlands, Executive Orders 11988 and 11990

I find that the project is consistent with these Executive Orders based on the following factors:

- Salvage and slash disposal activities will not occur within or impact any wetlands, riparian areas, or streamside management zones (EIS pp. 2-13).
- The EIS analyzes the project for changes to peak flows in Cow Creek (p. 4-9). Elimination of the duff layer and existing vegetation caused by the Viveash Fire has already dramatically increased peak flows and to some degree altered the floodplains. Harvesting green trees is not proposed as part of the salvage; therefore, the salvage harvesting is not expected to cause peak flows that would alter the existing floodplains (see FEIS page 4-9).

IMPLEMENTATION

If no appeal is received, 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. Implementation of the sawlog salvage sale should be completed within the first 18 months. Remaining treatments should be completed within three to five years.

ADMINISTRATIVE REVIEW AND APPEAL OPPORTUNITIES

This decision is subject to appeal in accordance with 36 CFR 215.7. As stated in 36 CFR 215.11, an appeal may be filed by any person or non-Federal organization. A notice of appeal must be in writing and clearly state that it is a Notice of Appeal being filed in pursuant to 36 CFR 215.7. Appeals must be filed with (or addressed to) the address below within 45 days of the date of legal notice of this decision in the Albuquerque Journal. Appeals must meet the content requirements of 36 CFR 215.14. Appeals must be submitted to:

USDA Forest Service
Southwestern Regional Office
ATTN: Appeal Reviewing Officer
333 Broadway Blvd., SE
Albuquerque, NM 87102



Contact

For additional information concerning this project, decision, or appeal procedures contact Chris Napp, Project Manager, Pecos/Las Vegas Ranger District, P.O. Drawer 429, Pecos, NM, 87552, (505) 757-6121.

Joseph G. Reddan

07/24/02

Joe Reddan
District Ranger
Pecos/Las Vegas Ranger District

Date

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