

DECISION NOTICE
And
FINDING OF NO SIGNIFICANT IMPACT

LADY CREEK WATER SYSTEM SPECIAL USE PERMIT

USDA FOREST SERVICE
MT. HOOD NATIONAL FOREST
CLACKAMAS COUNTY, OREGON
ZIGZAG RANGER DISTRICT

An Environmental Assessment (EA) has been prepared for Lady Creek Water System Special Use Permit. The permit area is located in T.3S., R.7E., Sections 11, 13, 14, and 24, and T.3S., R.8E., Sections 16, 17, 18, 19, and 20, WM, Clackamas County, Oregon.

The EA evaluates a proposal to issue a new 10-year Special Use Permit to the Lady Creek Water System. The Lady Creek Water System is a non-profit organization that serves approximately 426 recreational residences on National Forest System lands near Rhododendron, Oregon. The water system has been in existence since 1933, and was originally authorized to operate on the National Forest by Special Use Permits. The authorizing permits have expired, but the facilities and uses are still desired.

DECISION and RATIONALE

I have decided to select Alternative 3. Alternative 3 will meet the purpose and need discussed in the EA (page 2) by implementing the following:

- Issue a 10-year Special Use Permit to the Lady Creek Water System for the continued operation of the water system. The new Special Use Permit would include a revised operating plan that includes current Best Management Practices (BMPs) and other specific requirements that are necessary to meet current Forest Plan Forest-wide standards and guidelines (see Chapter IV of the Forest Plan).

This alternative does not propose any ground-disturbing activities.

It is my decision to select Alternative 3 over Alternative 1 (No Action) and Alternative 2 for the following reasons:

- Compliance With Forest Service Policy – Issuance of a new Special Use Permit will maintain compliance with Forest Service policies and thereby implement a current operating plan for the water system.

- Noxious Weeds – Alternative 3 will require the permittee to maintain the project facilities in a noxious weed free status for the duration of the permit.
- Public Safety – Alternative 3 addresses a public safety hazard by requiring the permittee to repair a chain link fence that is in disrepair and is hanging off of the bridge over Lady Creek.

Description of Other Alternatives and Reasons for Non Selection:

- Alternative 1, the No-Action alternative, was not selected because it would not meet the purpose and need. The permittee would not be in compliance with Forest Service policy, there would be no current operating plan or current mitigation measures. Without these precautions in place, adverse effects (including cumulative effects) to aquatic resources from sedimentation could result from unregulated maintenance work. Unregulated maintenance work could also have adverse impacts to Heritage Resources. The public safety hazard that exists due to a broken chain link fence over the Lady Creek Water System bridge would not be addressed.
- Alternative 2, the Proposed Action alternative, was not selected because it does not address the public safety hazard that exists due to a broken chain link fence over the Lady Creek

FINDING OF NO SIGNIFICANT IMPACT (40 CFR 1508.27)

Based on the site-specific environmental analysis documented in the EA I have determined that this is not a major Federal action that would significantly affect the quality of the human environment; therefore, an Environmental Impact Statement is not needed. This determination is based on the design of the selected alternative and the following factors:

- **THREATENED, ENDANGERED, AND SENSITIVE SPECIES** - No direct, indirect, or long/short term effects to aquatic resources are anticipated by the implementation of this alternative. There would be no effect to Threatened, Endangered, or Sensitive (TES) species or habitat by the implementation of this alternative. Habitat is present for the northern spotted owl. No nesting, roosting, foraging or dispersal habitat would be removed. This project will not likely adversely affect northern spotted owls. No other habitats would be impacted for any other listed TES species. There are no impacts expected to any other wildlife species. Therefore, the project will not jeopardize the continued existence of any listed species nor will it cause a trend to federal listing or loss of viability for any proposed or sensitive species.
- **CONSISTENCY WITH MT. HOOD FOREST PLAN** - The proposed action is consistent with Management Area goals, desired future conditions, and standards and guidelines identified in the Mt. Hood National Forest Land and Resource Management Plan as amended (Forest Plan).

- **CUMULATIVE EFFECTS** - The analysis considered not only the direct and indirect effects of the projects but also their contribution to cumulative effects. The analysis considered the proposed actions with BMPs and design criteria. No significant cumulative or secondary effects were identified.
- **CULTURAL RESOURCES** - Field surveys have been conducted and protection measures incorporated. The heritage resource report concludes that there would be no effect to any properties on or eligible to the National Register of Historic Places.
- **OTHER** – The effects are not likely to be highly controversial and do not involve highly uncertain, unique, or unknown risks. This action will not set a precedent because other similar actions have occurred in the past. The project was not found to threaten a violation of any Federal, State, or local law. The project complies with EO 12898 regarding environmental justice. No disproportionately high adverse human or environmental effects on minorities and/or low-income populations were identified during the analysis and public information process. No significant irreversible or irretrievable commitments of resources were found. There will be no affect to Wild and Scenic Rivers and State Scenic Waterways, wetlands, wilderness areas, research natural areas or any other areas with unique characteristics. The project will not adversely affect public health or safety. Adverse and beneficial impacts have been assessed and found to be not significant.

Comments:

The proposed action and preliminary analyses were available for a 30-day public comment period that ended on August 5, 2004. No comments were received.

Appeal Rights:

This decision is not subject to appeal pursuant to 36 CFR 215.12 (e)(1), but it is subject to appeal pursuant to 36 CFR 251.86, by the applicant. To appeal this decision under 36 CFR 251, the applicant must file a written Notice of Appeal meeting the content requirements of 36 CFR 251.90, and must be postmarked or received within 45 calendar days after the date of notice of this decision. However, when the 45-day filing period would end on a Saturday, Sunday, or Federal Holiday, the filing time is extended to the end of the next Federal working day. The Notice of Appeal must be sent to: USDA, Forest Service, Mt. Hood National Forest, 16400 Champion Way, Sandy, OR 97055, ATTN: Forest Supervisor, Gary Larsen. The Notice of Appeal may alternatively be faxed to: USDA Forest Service, Mt. Hood National Forest, ATTN: Forest Supervisor, Gary Larsen (fax 503-668-1423). A copy of the appeal must simultaneously be sent to: USDA Forest Service, Zigzag Ranger District, 70220 E. Highway 26, Zigzag, OR, 97049, ATTN: Colleen Pelles Madrid. If an appeal is filed, I am willing to meet and discuss concerns. Additionally, if an appeal is filed, an oral presentation concerning the appeal (36 CFR 251.97) and/or stay of implementation (36 CFR 251.91) of the decision may be requested at any time prior to closing the appeal record.

Implementation:

This decision may be implemented immediately.

The EA can be downloaded from the Forest web site at <http://www.fs.fed.us/r6/mthood> in the Forest Projects section.

Contact Person

For further information, contact Mike Malone at (503) 622-3191.

Recommended By:

COLLEEN PELLE MADRID
District Ranger

Responsible Official:

GARY L. LARSEN
Forest Supervisor

October 4, 2004
Date Published