

Decision Notice

And

Finding of No Significant Impact

Ninemile Fuel Reduction Project

Environmental Assessment

August 31, 2004

Fremont-Winema National Forests

Chiloquin Ranger District

Klamath County, Oregon

Introduction

The United States Forest Service, Fremont-Winema National Forest proposes to reduce fire hazard through the use of conifer thinning, whipfalling, machine and hand piling, pile burning, brush mowing, and prescribed burning in the 18476 acre Ninemile Fuel Reduction Project Area on the Chiloquin Ranger District. All activities are planned within the Wildland-Urban Interface (WUI) under the authority of the Healthy Forest Restoration Act of 2003 (HFRA). The Ninemile Project Area covers WUI areas associated with the community of Sprague River Valley, Oregon, which was identified as a community at risk in the Federal Register in 2004. These activities will reduce the risk of stand replacement wildfire in the interface area east of the town of Chiloquin by reducing conifer stocking, lowering fuel loadings, eliminating fuel ladders, and burning accumulated natural fuels. The treatments will improve big game habitat by increasing forage quality and quantity. Forest health and vigor will increase in treated units. A majority of the proposed fuel reduction activities will be done through contracts, providing employment opportunities to the local community.

The Decision

Based on the analysis described in the Environmental Assessment, collaboration with the Klamath Tribes, the Chiloquin-Agency Lake Fire District, and the Chiloquin Community Action Team, coordination with other state and federal agencies, and comments received from the public during this analysis, it is my decision to implement Alternative 2. Alternative 2 will reduce the fuel hazard with two or more treatments on a total of 6961 acres of Wildland-Urban Interface in the Ninemile Area. The treatments will include commercially thinning conifers from 4-21" DBH on 3461 acres to reduce fuel ladders and open up dense stands. Commercial harvest will include yarding all slash to the landings for disposal by burning or by chipping. Whipfalling of trees from 0-4" DBH will be done on 2093 acres to further reduce fuel ladders and control stocking. Machine piling and pile burning (1440 acres), jackpot burning (221 acres) and handpiling and pile burning (26 acres) will be done to treat slash created by whipfalling. Slashbusting or brush mowing will shred the brush component of the fuel profile on 4793 acres, preparing these acres for underburning. Underburning will finish the suite of fuel reduction treatments on 6374 acres by consuming accumulated ground fuels and shredded brush. Alternative 2 will retain big game cover, and will leave mature bitterbrush in treated units for seed sources.

Rationale for the Decision

I have selected Alternative 2, because it best addresses the mix of resource concerns identified in the area and still meets the purpose and need while addressing Tribal concerns. Alternative 2 meets the direction provided by the Winema Land and Resource Management Plan of 1990 (LRMP) and the intent of the Healthy Forest Restoration Act to reduce fire hazards around communities at risk from wildfire. I have reviewed the issues identified for this project and have determined that Alternative 2 best addresses them. I selected Alternative 2 because it will reduce high fuel loadings over a large portion of the Ninemile Fuel Reduction Project area and reduce the risk of large-scale, high severity wildfire occurrence. The potential for tree mortality from insects and disease will be reduced over a portion of the area by thinning in overstocked stands. Alternative 2 will treat about 37% of the Project area with a comprehensive, site-specific suite of fuel reduction activities. Fuel ladders will be reduced through thinning and whipfalling. Treating the accumulated natural fuels will reduce the overall risk of uncharacteristically severe wildland fire. Treated areas will be returned to Condition Class 1, where fire will function as it did historically, in a stand maintenance mode rather than as a stand replacement event.

Burning and mechanical treatment will increase the quantity and quality of forage by stimulating new shoot production, retaining seed sources, and provide growing space for new plants in burned areas. Conifer thinning will improve forage on treated acres by shifting site resources from trees to forage.

Under the treatment regime of Alternative 2, forage improvement should be effective for 20 to 25 years. Fuel treatments should be effective for about the same time before the growth creates fuel conditions that may require another treatment.

Alternative 2 addresses Tribal concerns by protecting cultural resources, retaining big game cover and forage relationships and addressing the visual appearance of treated areas. My rationale for selecting Alternative 2 and how it relates to treaty rights and resources of interest to the Klamath Tribes is as follows:

1. My decision will not deny access to any portion of the former reservation nor will it alter any right to hunt, gather, fish, or trap in the project area.
2. I am confident that the effects on visual quality from rock features will be minor, and, in many cases nonexistent due to vegetative screening and topography. Known sites were avoided by unit design and buffers will be used for additional protection. Units will be adjusted to protect sites during layout when needed.
3. Water quality and quantity will not be negatively affected by the fuels treatment activities.
4. Subsistence hunting, especially for mule deer, is a treaty right and a major issue with the Klamath Tribes. Mule deer population levels are currently below state management objectives. Over time, forage conditions will improve in response to the proposed treatments and the habitat should be able to support more deer. Alternative 2 provides for fire hazard reduction in the WUI while retaining cover amounts and arrangements needed both in the general forest and in areas designated as Mule Deer Winter Range (Management Area 10) in the Winema LRMP. The treatments would not result in an immediate increase in herd numbers, but an increase could occur over the next decade or so as forage responds to the proposed treatments. As herd numbers increase, there is more opportunity for Tribal subsistence harvest.
5. After reviewing the Environmental Assessment, the analysis file, and comments provided by the Klamath Tribes, I believe that the selection of Alternative 2 will not violate treaty rights or terms of the Consent Decree. The Klamath Tribes were consulted throughout this project, and the Tribal Natural Resource Department collaborated in developing Alternative 2. Analysis and scientific information was presented to the Klamath Tribes as it was developed or became available. Consultation with the Klamath Tribes has been ongoing since summer of 2002, when the project was first discussed in a Tribal pre-SOPA meeting and subsequently was presented to the public in the Schedule of Proposed Actions (SOPA).

Other Alternatives Considered

Alternative 1 (No Action): This alternative would leave the area in its existing condition. Alternative 1 was not selected because it did nothing to reduce fire hazard, protect the at-risk community of Sprague River Valley, lower the potential for a large-scale wildfire, or improve big game forage.

Public Involvement and Collaboration

Public involvement was initiated when the Ninemile Fuel Reduction Project was first identified in the summer, 2002 Schedule of Proposed Actions (SOPA). The project was discussed with the Chiloquin Community Action Team at several of their regular meetings in 2003 and 2004. A public scoping letter was mailed on May 15, 2002, to the regular Chiloquin District NEPA mailing list and to adjacent private property owners. This mailing included a return postcard for comments. A total of 158 scoping letters and cards were mailed, and 43 cards were returned, along with some other letters and emails regarding the project. These comments and Forest Service responses may be found in the Project Record. Pertinent information was incorporated into the analysis by Project specialists.

Local level collaboration included participation by Will Hatcher, Tribal Forester, and Rick Ward, Tribal Biologist, in designing the proposed action to meet fuels reduction needs balanced with

mule deer habitat considerations. Dewaine Holster, Chiloquin Agency Lake Fire Chief, helped the interdisciplinary team (IDT) identify problem areas and suggested treatments. Chief Holster has indicated that the Ninemile Project will complement treatments envisioned on private lands under the Community Wildland Fire Protection Plan being developed for the fire district. The Chiloquin Community Action Team (CAT Team) was kept informed of the project and contributed valuable suggestions, particularly on posting information on the Ninemile Project and on the ongoing implementation of the earlier Chiloquin Community Fuels Reduction Project in the community.

The Proposed Action was circulated for public comment as an HFRA project in a letter mailed on January 27, 2004. The HFRA mailing was sent to all parties contacted for the original Ninemile public scoping. The mailing contained detailed maps and a description of the proposed action. The accompanying letter notified the public that the Ninemile Project would be analyzed and reviewed under Sections 104 and 105 of the HFRA and invited comments on the proposed action for 30 days. It also included an invitation to a public meeting on Ninemile. The public was informed that new comments must be submitted within the HFRA comment period even if they had replied to the original Ninemile scoping in May 2002. A website location was included in the letter where the public could review the text of HFRA and the interim implementing regulations for Section 105 of HFRA.

The thirty-day comment period for HFRA began on January 30, 2004 with the publication of a notice in the Klamath Falls, Oregon Herald and News newspaper. The publication included notice of the public meeting, which was scheduled for February 18, 2004.

A public meeting was held on February 18, 2004. Five members of the public attended the public meeting and participated in informal discussions on the Ninemile Project with the interdisciplinary team and Fire Chief Dewaine Holster. No written responses were received at the meeting. One person who attended the public meeting submitted comments before the end of the comment period.

Six written responses were received on the Ninemile Project during the HFRA comment period. One landowner had a specific concern that treatment of a portion of one unit in the proposed action bordering his private pasture would expose his cattle to increased danger from hunters. An on-the-ground meeting and discussion resolved his concerns through layout changes that retained more screening in the problem area.

Three letters of support were received from individuals. One supported reducing fuels and improving the forage quality, and suggested using commercial timber receipts to offset fuel reduction work post-sale. Another urged the Forest Service to remove more conifer stocking than proposed, and to make sure that the underburning step was completed after other activities have taken place. A third urged the protection of mountain mahogany and suggested that we consider road closures in the project area.

Three organized groups responded with comments. One additional action alternative, which proposed only thinning smaller, non-commercial trees, was proposed by the Oregon Natural Resources Council and the Klamath-Siskiyou Wildlands Centers in a combined letter, and by the Klamath Forest Alliance in a separate letter. This alternative was not analyzed. Only the proposed action and the no action alternatives were considered in this analysis because this project is within the WUI and no Community Wildfire Protection Plan has been completed for the area (HFRA Section 104(d)(3)).

The environmental assessment was mailed out for the 30-day objection period on June 24, 2004. An ad announcing the availability of the environmental assessment and the objection period was placed in the Herald and News, a Klamath Falls newspaper, on June 27, 2004.

Two objections were received during the 30-day objection period, from the Oregon Natural Resources Council and the Klamath Siskiyou Wildlands Center. Both objections were identical. The Reviewing Officer responded to the objections on August 26, 2004, and instructed the Deciding Officer to proceed with the issuance of a Decision Notice for the Ninemile Project. The objections and the response to the objections may be found in the project record and on the Winema website at www.fs.fed.us/r6/winema/management/analyses/ninemile/.

Finding of No Significant Impact

Based on the site specific analysis summarized in the Ninemile Fuel Reduction Project EA and this Decision Notice, and on previous experience with similar proposals, I have determined that this action is not a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement will not be prepared. The determination was made considering the following factors:

1. Significant impacts can be both beneficial and adverse. I find that my decision would have neither a significant beneficial or adverse impact because the acres treated are a small percentage of similar acres across the landscape, and the anticipated effects are similar to those in past projects which have not proven to cause significant impacts. This it is not a significant federal action.
2. My decision would not adversely affect public health or safety. It will lead to a beneficial effect upon public health and safety because it has the potential to reduce the frequency and intensity of wildfires in the Ninemile area of the Sprague River Valley, which has been identified in the Federal Register as a community at high risk from wildfire. The impact is not significant because the area treated is a small component of a much larger area with high fire hazard, and because weather conditions and the random nature of fire ignitions make it impossible to project more than potential benefits.
3. My decision will not affect any unique areas such as parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas, as there are no such areas in the project vicinity.
4. My decision falls within the scope of the analysis for the Winema Land and Resource Management Plan (1990), as amended, and its supporting Environmental Impact Statement. The desired future condition, standards and guidelines and the analysis for the Forest Plan support fuel reduction and related activities like those in this action for this area. My decision includes no activities that were not addressed in the Forest planning process. Effects on the quality of the human environment are not considered highly controversial because these types of activities have taken place in this area and in similar areas and the resulting effects are well known and understood.
5. My decision does not involve highly uncertain, unique, or unknown risks. The activities proposed in this decision are well established land management practices, and the risks are well known and understood.

6. My decision will not establish a precedent for future action with significant effects because this action is not unusual in itself and does not lead to any further action that is unique.
7. My action will not adversely affect any scientific, cultural, or historical resources because all known sites will be avoided, and sites discovered during implementation of the project will also be avoided. A heritage resource field survey has been completed for the analysis area. Concurrence has been obtained from the State Historic Office and Advisory Council on Historic Preservation, who have reviewed the Ninemile Fuel Reduction Project to consider prudent and feasible alternatives to avoid adverse effects to historic properties. This satisfies Forest Service responsibilities under Section 106 of the National Historic Preservation Act for implementing the Ninemile Fuel Reduction Project.
8. Biological evaluations were completed for threatened, endangered, and sensitive species of animals, fish, and plants. A May Impact Individuals or Habitat (but will not likely contribute to a trend toward Federal listing) finding was made for some sensitive animals and a sensitive plant. The potential impacts upon animals are limited to short-term disturbance that may cause individuals to move to other areas. These impacts are not significant because of the small area impacted compared to the range of these species. In addition, the project will retain snags and down wood, protect nest trees for specific species and provide riparian reserve buffers to further reduce impacts on these species. For many species the short-term disturbance will be followed by long-term enhancements of habitat. *Astragalus peckii*, a sensitive plant, will be affected positively or not at all. A small test burn, under another project, will be performed to determine the plant's response before the plant population areas will be treated under the Ninemile project. If the test shows a negative effect, the potential habitat areas will be removed from the Ninemile activity units.

No impact or no habitat present was made for all other plant, animal, and fish species listed as sensitive for the project area. A finding of No Effect was made for the threatened Canada Lynx, Lost River Sucker, Shortnose Sucker and Bull Trout. A finding of No Impact was reached for the candidate species Yellow-billed Cuckoo and Oregon Spotted Frog.

There is a finding of Not Likely to Adversely Affect for the Bald Eagle and for the Northern Spotted Owl. In the case of the eagle, the effect over time is expected to be beneficial as the proposed treatments will help protect nesting habitat from loss due to wildfire. Seasonal restrictions will mitigate negative effects by avoiding activities when the nests are occupied. In the case of the Spotted Owl, the proposed treatments will help develop pine associated old growth over time, and will open up stands that could be used for dispersal habitat by the owl in the short term.

Consultation was done with the USFWS on the determination of effects on Threatened, Endangered, and Sensitive species, and concurrence was reached on June 16, 2004.
9. I have reviewed the soil survey information and the estimated effects to soils expected from this project. A nearby area of similar soils that was heavily logged in the past was tested and found to have no detrimental soil effects. Thus, I find that the expected effects of the Ninemile project are within LRMP standards and this project will have no significant effect upon soils.
10. I have examined this action and its relationship to NFMA, ESA, NEPA, NHPA and related laws and find that my decision will not violate any federal, state, local laws or requirements for protection of the environment.

11. I and my staff have reviewed the standards and guidelines for Management Areas 3A, 3C, 7, 8, 10, and 12, the Forest-wide goals, objectives, standards and guidelines, and find that the proposed actions will meet the objectives of the Winema Land and Resource Management Plan (1990), as amended.

Consistency Findings

From the results of the site specific analysis documented in the environmental assessment, I conclude that:

1. No timber will be sold from land not suited for timber production (refer to 36 CFR 219.27 for definition).
2. All vegetation manipulation in the Project Area will comply with requirements of 36 CFR 219.27 (b).
3. The Ninemile Fuel Reduction Project is consistent with the goals and objectives of the Winema LRMP as amended and will help achieve the Desired Future Conditions for the Winema National Forest. Ninemile will meet the direction and intent of the Eastside Screens by retaining large trees, moving treated areas toward missing or under-represented late and older successional (LOS) conditions, returning fire to its historical function, and by protecting wildlife habitat.
4. The Forest Service has consulted with The Klamath Tribes on the Ninemile Fuel Reduction Project. Information was exchanged throughout the process and meetings were held with various entities of the Klamath Tribes. Copies of the environmental assessment were hand delivered to the Klamath Tribes prior to being sent out to the general public for the 30-day comment period. Neither the terms of the Consent Decree or Treaty Rights were violated. The trust responsibility of the Forest Service to the Klamath Tribes was considered throughout the environmental process. Public scoping was conducted and appropriate notices were published in the local newspaper, the Herald and News, for review of the project.
5. This decision is consistent with Forest Service Manual direction regarding roads analysis. I have determined that additional roads analysis is not needed for this project because the project makes no changes in access to the area and the project involves no permanent road construction, reconstruction, or decommissioning. Roads will be maintained as necessary to support project implementation.

The Ninemile Fuel Reduction Project Environmental Assessment is on file and available for public review at the Winema Forest Supervisor's Office, 2819 Dahlia St., Klamath Falls, Oregon, 97601, 541-883-6714. The Environmental Assessment and the analysis record are on file and available for public review at the Chiloquin Ranger District, 38500 Highway 97 North, Chiloquin, Oregon, 97624, 541-783-4001. The Environmental Assessment is also available for review on the Winema National Forest Internet Website at:

www.fs.fed.us/r6/winema/management/analyses/ninemile/.

Administrative Review

This decision is not subject to appeal pursuant to 36 CFR 215.12 (Decisions and actions not subject to appeal). The objection process pursuant to 36 CFR 218 provided the sole means of administrative review for this HFRA project. The response to the objectors dated August 26, 2004 is the final review of this project by any Forest Service or Department of Agriculture official.

Implementation of this project may begin immediately.

For further information about this project, contact Kevin R. Moore, NEPA Coordinator, Chiloquin Ranger District, (541) 783-4001.

/s/ Karen Shimamoto
Karen Shimamoto
Forest Supervisor
Responsible Official

August 31, 2004
Date