Decision Notice
for the
Continuation of Interim Management Direction
Establishing Riparian, Ecosystem
and Wildlife Standards for Timber Sales

United States Forest Service
Region 6
Colville, Deschutes, Fremont, Malheur, Ochoco,
Okanogan, Umatilla, Wallowa-Whitman and Winema
National Forests in Oregon and Washington

Introduction:

This Decision Notice identifies that the Interim Direction of August 18, 1993 (Appendix A of the EA), as modified in the attached Regional Forester's Forest Plan Amendment #1, will continue to be applied on the nine national forests on the east side of the Cascade Mountains through amendments to appropriate forest plans pending completion of the environmental impact statement as part of the Eastside Ecosystem Management Strategy, Pacific Northwest Region (Eastside EIS). The EA prepared for this interim direction does not analyze or disclose site-specific environmental analysis; site-specific analyses and appropriate National Environmental Policy Act (NEPA) documentation will occur on the project level to insure compliance with applicable laws. This Interim Direction will apply to the designing of timber sales in certain riparian areas, as well as late and old structural forest stands, of the Colville, Deschutes, Fremont, Malheur, Ochoco, Okanogan, Umatilla, Wallowa-Whitman, and Winema National Forests (Eastside Forests).

Background:

Since the forest plans affected by this decision were completed, several new studies have been released concerning the forests east of the Cascade Range (see EA at 9-11) In addition, during this period each forest has been monitoring the effects of its activities on various resources. Some of the results revealed a need for further assessment of ways to protect certain resources. In addition, the Forest Service received a petition from the Natural Resources Defense Council (NRDC) which sought amendments to the management standards on the Eastside forests. After preliminary review of this information, the Forest Service determined that the adoption of an ecosystem management strategy would be appropriate, with supporting Environmental Impact Statement.

In the meantime, on August 18, 1993, I issued an Interim Direction requiring the Eastside forests to use certain standards to "screen" all FY 93 timber sales and to apply the same standards when designing FY 94 sales (see Appendix A to EA). The direction was designed to restrict timber harvest in certain areas so as to assure that the full array of planning options are preserved while the various items of new information are being assessed and the need for new management direction evaluated through the preparation of the Eastside EIS. It is expected that the Eastside EIS will be completed in May, 1995. 59 Fed. Reg. 4680 (Jan. 26, 1994).

In September, 1993, members of the timber industry filed suit against the Forest Service, challenging the establishment of the August 18 Interim Direction. Prairie Wood Products v. Espy, Civil No. 93-6288-TC (D. Ore.).

Alternatives Considered:

Alternative 1 - No Action. This alternative would permit timber harvesting to continue under existing Forest Plan standards and guidelines without the addition of the August 18 Direction. Site-specific projects would undergo NEPA analysis and consultation with National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS), if required.

Alternative 2 - Moratorium. Under this alternative, all timber sales in the Eastside forests would be halted pending completion of the Eastside EIS. Other non-timber projects would continue with site-specific NEPA analysis and consultation with NMFS and FWS if required.

Alternative 3 - Selected action. Under this alternative, the August 19 Interim Direction, as modified, will continue to be used. The modifications to the Direction are various, and include a clarification of ponderosa and lodgepole pine requirements, snag and down log requirements, and the definition of riparian areas, as well as a condensation of the ecosystem standard. (See EA at 5-6 for a complete description of modifications.)

The modified direction establishes standards for timber sales in riparian areas, in late and old structural stands, and to protect wildlife. See Amendment #1 for a complete description of the standards and their application; a general summary of the standards follows.

A. Riparian Interim Standard: Timber harvesting will be deferred in the following riparian emphasis areas:

1) Perennial and intermittent fish-bearing streams;

2) Perennial nonfish-bearing streams;

3) Intermittent nonfish-bearing streams; and

4) Wetlands, seeps, springs, bogs, ponds and lakes.

B. Ecosystem Interim Standard: Harvest of late and old structural stands of timber will be deferred unless a comparison of existing stands of late and old structure (LOS) stands, with the historic range of variability (HRV)[1], shows that the amount of existing LOS is within or above the HRV; and that the proposed timber sale will not decrease existing levels of LOS stands below the HRV.

C. Wildlife Interim Standard:

1. when LOS stands are below HRV, timber harvest outside LOS can occur only if:

a) harvest is designed to maintain and enhance components of LOS stands;

b) open, park-like stands of old seral ponderosa pine are maintained;

c) connectivity between LOS stands are maintained;

d) fragmentation of LOSS is reduced;

e) high levels of large snags, remnant live LOS trees, and down logs are left in place;

f) every known active and historically used goshawk nest site is protected from disturbance;

g) 30 acres of the most suitable nesting habitat surrounding goshawk nest trees are maintained; and

h) a 400 acre post-fledging area is established around every known active goshawk nest site.

2) when LOS stands are within or above HRV, harvest can occur within LOS as well as other stands as long as

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[1] HRV refers to the historical pattern and abundance of structural stages within watersheds, using pre-settlement (1800-1900) conditions as a reference point. It involves the determination of whether a particular sale might critically alter the abundance of any structural stage within the project area.

the harvest activity does not drop LOS levels below HRV; and the following conditions are met:

a) Conditions b through f of paragraph 1 above are met;

b) A 400 acre goshawk post-fledging area is established around every known active next site, with at least 60% of the area retained in unharvested LOS stage.

c) No regeneration harvest methods are allowed within blocks of LOS stands greater than 100 acres except along the edge of the stand (ie within 300 feet from the edge); and

d) Components of LOS stands are maintained and enhanced as much as possible.

3) any existing Forest Plan standard that is more restrictive will supersede the above interim standard.

4) Site-specific projects will undergo NEPA analysis and consultation with NMFS and FWS as required; no specific timber sale or associated activity is approved, required or mandated by this proposed action.

5) The interim standards will be incorporated into the Eastside forest plans through amendment and will remain in effect until the Eastside EIS is completed.

Decision

My decision is to select Alternative 3, set forth in full in the attached Regional Forester's Forest Plan Amendment #1. This decision continues the application of the interim direction for timber sales of August 18, as modified, through amendment of each of the nine forest plans, until the Eastside EIS is completed. The modifications to the Direction are various, and include a clarification of ponderosa and lodgepole pine requirements, snag and down log requirements, and the definition of riparian areas, as well as a condensation of the ecosystem standard. (See EA at 5-6 for a complete description of modifications.)

Rationale:

I have chosen to continue the interim management direction begun in August, 1993, as slightly modified, because it best meets my goal of maintaining conditions on the forests so as not to foreclose future management opportunities, while continuing to provide timber from the forests. The current state of scientific knowledge, habitat conditions, and public issues surrounding the

continuation of timber sales planning and eventual timber harvest on Eastside Forests makes it imperative that I take an appropriate short-term action to assure that certain stands of timber, essentially the late and old structure stands and riparian areas, are not harvested pending the completion of the Eastside EIS which will fully analyze the pertinent information and set new management direction. This interim direction also makes it possible to continue a flow of timber from the affected forests at levels at or near recent historical levels. It is expected the interim direction will allow the majority of the scheduled preventive treatment sales that would have occurred under Alternative 1 to go forward. I find that the interim direction is generally accomplishing what it was designed to do and I therefore have decided to continue it, as modified (see EA at 5-6 for discussion of modifications).

In comparison, Alternative 1 would allow reductions in late and old structural stands to levels below their historical range of variability, and would be the most likely to result in the greatest amount of reductions in, and fragmentation of, late and old structural stands of all the alternatives. Further, Alternative 1 could allow timber harvesting in areas that would hinder riparian area recovery. The Biological Evaluation (Appendix C to EA) determined that Alternative 1 was likely to adversely affect a number of endangered and threatened species or critical habitat (BE at 8). Although consultation with U.S. Fish and Wildlife Service and National Marine Fisheries Service on a sale-by-sale basis may have avoided a jeopardy opinion, I am convinced that in order to assure that management options are maintained for decisionmaking in the Eastside EIS, it is necessary to incorporate the riparian standards into forest plans to assure universal application. Alternative 1 would allow the greatest reduction of key structural components such as down logs, snags, and live remnant old and late structural trees that are essential habitats of many old forest associated species, of any alternative. EA at 18. Alternative 1 also retains the fewest acres for goshawk habitat of any alternative. Id.

I want to emphasize that the interim direction, while restricting timber harvest in certain areas, is expected to have little effect on recent historical timber outputs. EA at 21.

This contrasts sharply with the effects expected from the application of Alternative 2 (moratorium). Alternative 2 would provide the most assurance of habitat protection in the short-term. It would have the least effect on riparian areas and late and old structural stands. (EA at 18-20) In addition, the BE found it to be "not likely to adversely affect" any endangered or threatened species or their critical habitat (BE, Appendix C, at 10). Nonetheless, the application of Alternative 2 would likely result in a large decrease in National Forest timber supply and result in severe economic impact on local economies (EA at 18-

19). I conclude that the effects of such a shut-down outweigh the incremental additional assurance of environmental protection this alternative would provide over Alternative 3.

I believe that Alternative 3, in conjunction with existing standards and guidelines in the Forest Plans, adequately restricts timber harvest in area which our scientists believe to be vital to old-forest associated wildlife species until the long-term strategy is developed in the Eastside EIS.

Public Involvement:

Response to issues and concerns in the EA

On December 28, 1993 a Notice of Opportunity to Comment was published in every paper of record in Eastern Oregon and Washington. I received nineteen comment letters and one citizen petition, bearing about 150 signatures. Out of these submissions, nearly 270 discrete comments reflected the variety of support for and criticisms of, the Proposed Action. See Appendix C, Summary of Comments and Responses.

While there is clear support for a set of standards to protect late and old structural stands and riparian areas, criticisms focused on whether the standards were too restrictive or too permissive. The position taken seems to depend on economic and social reliance on timber products or on non-consumptive forest uses.

Commenters were particularly concerned about the use of the Historic Range of Variability (HRV). As the EA points out, there is scientific basis for HRV and the interim direction provides extensive guidance for applying the concept. EA at 13. I am applying HRV for short-term guidance to maintain options for future analysis and decisionmaking. (Appendix D at 3.) Likewise, there were numerous comments on the width of buffers for riparian areas. As the EA notes (at 8-9, 13), the buffer widths applied are consistent with those proposed for riparian protection on other similarly-situated federal lands.

Many commenters had personal knowledge and experience with the August 18, 1993 Interim Direction, which initially focused on re-evaluating ("screening") timber sales designed under existing forest plan direction. The effect, in many cases, reduced the expected volume from a particular sale because harvest units had to be dropped or redesigned to comply with the Interim Direction. Such a reduction in planned volumes is not expected under the continuation of the Direction (Alternative 3) because the criteria will be applied in the planning phase. In that way, sales can be designed to comply with the criteria, rather than be limited by them.

Finding of No Significant Impact:

I have determined that overall, the action to be taken under this Decision is not a major federal action and will not significantly affect, either individually or cumulatively, the quality of the human environment. Insofar as this Decision limits where and how timber sales can occur, but does not approve, require, nor mandate any particular timber sale or associated ground-disturbing activity, this decision makes no irreversible or irretrievable commitment of resources. EA at 14. Further site-specific analysis with appropriate NEPA analysis is required for each timber sale affected by this Decision. EA at 13. Any irreversible or irretrievable commitment of resources and the significance of any environmental impact will be identified and assessed at that time.

I have considered the following factors in this determination:

1. This Decision is programmatic, rather than site or project specific, and establishes interim direction for timber sales on portions of eight national forests in eastern Oregon and Washington. EA at 3. The effects are local, rather than statewide, regionwide or nationwide.

2. The effect of the interim direction is limited in time and scope because it will be in effect only until a longer term strategy is adopted in the Eastside EIS in approximately 18 months. Of all the activities undertaken on these eastside national forests, only timber sales are affected. By deferring harvest in the riparian areas and deferring or restricting harvest within the late and old structural stands, the scope of the interim direction is further limited, i.e. only those parts of timber sales that could have been planned in riparian areas or in certain late and old structural stands are affected. Furthermore, any timber not harvested by sales planned in the next 18 months is still available for harvest. EA at 2.

3. No known unusual circumstances exist because the Decision does not impose any highly uncertain, unique or unknown environmental risks. The interim direction is based on professional scientific interpretation of research and forest conditions, and fish and wildlife habitat needs. The interim standards are similar to measures being adopted to meet the threatened and endangered anadromous fish habitat requirement. Recent research also supports the benefits of late and old structural stands for old forest associated wildlife species. EA at 6-9.

Additionally, no unique characteristics of the eastside national forests would be adversely affected by the Interim Direction. Riparian areas and threatened and endangered anadromous fish

habitat may be affected, but by improvement or maintenance of current conditions. App. C at 10-11.

No adverse effects to any historical places or loss of scientific, cultural or historic resource would occur because no ground-disturbing activities are approved, required or mandated by this Decision and existing forest plan standards adequately address mitigation measures for these resources. EA at 15.

4. The Interim Direction would not produce any significant irreversible, irretrievable or cumulative effects for the following reasons: 1) no ground-disturbing activities are approved, required or mandated by this Decision; 2) the Biological Evaluation for threatened, endangered and sensitive species concluded that the proposed action was not likely to adversely affect the listed species or critical habitat and the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) concurred with this conclusion (Appendix C); 4) site specific consultation will occur with FWS and NMFS under the provisions of the Endangered Species Act (EA at 15); and 5) the purpose of the interim direction is to reduce the effects on the physical and biological environment of the riparian areas and in the late and old structural stands.

This Decision is not related to other actions with individually insignificant but cumulatively significant impacts because the Interim Direction is programmatic, does not approve, require, or mandate any timber sale, is in effect only until the Eastside EIS is completed, and is designed to leave more trees in place in riparian areas and certain late and old structural stands than required by the current forest plans. EA at 3.

5. This Decision will not threaten to violate federal, state, or local requirements imposed for the protection of the environment because no ground-disturbing activities are approved, required or mandated by this Decision and any timber sale planned using the interim standards will receive appropriate NEPA analysis. EA at 3.

6. The Interim Direction would not likely cause highly controversial environmental effects because controversy in this context refers to cases where there is a substantial dispute as to the size, nature, or effect of the federal actions, rather than opposition to its adoption. The scientific basis for this interim direction has been evaluated by Forest Service biologist and scientists. The decline in salmon habitat or the necessity of late and old structural stands for certain old forest associated wildlife has not been disputed.

7. This Decision will not set a precedent for future actions likely to result in significant environmental consequences, nor will it represent a decision in principle about future

considerations because the Eastside EIS will develop an ecosystem management strategy that will supersede this Decision. EA at 5. Furthermore, the interim direction is based on some of the same scientific information used in the Environmental Assessment for the Implementation of Interim Strategies for Managing Anadromous Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho and Portions of California, published for Notice and Comment at 59 Fed Reg 14356 (March 25, 1994).

Therefore, I have concluded that no significant adverse or beneficial effects on the physical, biological or human environment will occur, thus no Environmental Impact Statement (EIS) will be prepared for this interim direction.

NFMA Finding of non-significant amendments:

I find that adoption of these amendments would not significantly change the forest-wide impacts disclosed in the Forest Plan Environmental Impact Statements (EIS) for the above listed forests. Pursuant to 16 U.S.C. 1604(f)(4), 36 C.F.R. 219.10(f), Forest Service Manual 1922.5, and Forest Service Handbook { 1909.12, Chapter 5.32, I have determined that these forest plan amendments are not significant based on the following factors:

Timing: As pointed out in the EA, the interim standards are for a relatively short period of time, 12 to 18 months, until the Eastside EIS is completed. The effect of the interim standards is to defer where the timber sale units can be located and how they can be designed to preserve options for the long-term strategy considered in the Eastside EIS. In addition, this interim direction is expected to be superceded by new direction before the end of the planning period for any of these forest plans. Therefore, the timing of the amendments do not make them significant for the current forest plans.

Location and Size: During the life of this interim amendment, it is anticipated that only small portions of each eastside forest will be affected. The direction only applies to timber sales and therefore only those areas that would have timber sale activities will be directly affected. It is estimated that approximately 50,000 acres could be planned for timber sales in the next 18 months, out of over 11 million acres of national forest lands on these nine forests. Of that 50,000 acres, only a portion would be potentially within areas that could be affected by the interim direction.

Goals, Objectives, and Outputs: The interim standards only apply to location and design of timber sales. They do not alter the long-term relationship between levels of goods and services projected by the forest plans. I do not expect any

significant change in timber outputs over what might be available if the sales were designed differently. Any reduction that might result from these amendments would not preclude achieving projected levels over the planning period. Therefore, it is not likely that any opportunity is being foregone to achieve projected outputs in later years of the planning period. The interim standards in Alternative 3 are necessary to preserve options for a long-term ecosystem strategy and to meet other forest plan goals such as wildlife viability and diversity. These measures are designed, in the short-term, to balance the goals of integrating new information about wildlife and fish viability and ecosystem management, while continuing to provide timber products, rather than constituting a change in the relationships.

Management Prescription: The interim standards do not change the desired future condition for land and resources from that contemplated by the existing management direction in the forest plans in the short-term. They do not affect the whole planning area, but only those portions of the land where timber harvest is contemplated in the riparian areas, LOS stands, or within the habitat of old-forest associated species. The interim standards do not change forest plan allocations or management areas.

Appeal rights:

Implementation of this decision shall not occur until 7 days following publication of the legal notice of the decision in the ~~papers of local circulation.~~ [newspaper of record.] See Appendix D to EA.

The decision to adopt interim management direction through non-significant forest plan amendments is subject to appeal pursuant to 36 C.F.R. 217, not 36 C.F.R. 215. The regulation at 36 C.F.R. 215.1 indicates that it applies only to "projects and activities implementing forest plans." Pursuant to 36 C.F.R. 215.4(e), the decision to make non-significant amendments to forest plans is expressly subject to appeal under 36 C.F.R. 217.

Any written Notice of Appeal of this decision must be fully consistent with 36 C.F.R. 217.9. (Content of a Notice of Appeal) and must include the reasons for appeal. A written notice of appeal, in duplicate, must be filed with Jack Ward Thomas, Chief USDA Forest Service, Reviewing Officer, within 45 days of the date that legal notice of this decision appears in the ~~papers of local circulation for the affected national forests.~~ [prinicpal newspaper.]

For further information, contact Jim Schuler, Regional Appeals Coordinator, Regional Office, Portland, Oregon. (503) 326-2322. An Environmental Assessment (EA) for the Continuation of Interim

Management Direction Establishing Riparian, Ecosystem and Wildlife Standards for Timber Sales is available for public review at the following offices:

Regional Office, 333 S.W. First Avenue, Portland, OR
Colville National Forest, 765 S. Main, Colville, WA
Deschutes National Forest, 1645 Highway 20 E, Bend, OR
Fremont National Forest, 524 North G St., Lakeview, OR
Malheur National Forest, 139 N.E. Dayton St., John Day, OR
Ochoco National Forest, 3000 E. 3rd, Prineville, OR
Okanogan National Forest, 1240 Second Avenue South, Okanogan, WA
Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, OR
Wallowa-Whitman National Forest, 1550 Dewey Ave., Baker City, OR
Winema National Forest, 2819 Dahlia, Klamath Falls, OR

May 20, 1994
Date

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