

Decision Notice
& Finding of No Significant Impact

Flint Road Easement

USDA Forest Service
Three Rivers Ranger District, Colville National Forest
Pend Oreille County, Washington

Legal Land Description

The legal description of the project is the NE1/4 Section 22; SE1/4 Section 15; and the NE1/4SW1/4 Section 15, all in T. 37 N., R. 41 E., W.M. The affected segment of non-system road is approximately 1,475 feet in length. The segment of Forest Road 7020100 proposed for use is approximately 4,750 feet in length. The right-of-way for the roads will be 66 feet (33 feet on either side of centerline) for a total affected area of approximately 9.4 acres.

Background

Mr. Stephan Flint is requesting authorization to use and maintain a portion of Forest Road 7020100 and a non-system road to cross National Forest System (NFS) lands to access property he owns. Forest Road 7020100 is an open road and is currently in good condition. The non-system road is thought to have been originally constructed and used in the 1930s for mining purposes and was more recently used for timber harvest in the 1970s. The culvert at the stream crossing near its junction with Forest Road 7020100 was pulled, but not removed from the site, following completion of harvest activities. In 2008 Mr. Flint received a temporary special use permit authorizing him to reconstruct the non-system road, including removing the sections of collapsed culvert and installing a new culvert to reestablish the stream crossing. Vehicle access on the non-system road is restricted by a gate located at its junction with Forest Road 7020100. Mr. Flint is requesting long-term use of the roads to provide vehicle access to facilitate timber management and other use of his property.

Decision and Reasons for the Decision

Based upon my review of the EA (*Environmental Assessment for the Issuance of a Special Use Authorization for Road Access to Private Property to Stephan Flint*, which is incorporated by reference), I have decided to implement the Proposed Action, which is to issue Mr. Stephan Flint a special use authorization for use and maintenance of approximately 4,750 feet of Forest Road 7020100 and 1,475 feet of an existing non-system road. This decision also will result in the issuance of a special-use permit that will eventually be replaced with a permanent easement.

I chose the proposed action by considering the resource management objectives for NFS lands as well as the legal requirement to provide reasonable access to Mr. Flint's property as provided by the Alaska National Interest Lands Conservation Act (ANILCA). Under Section 1323(a) of the ANILCA, the Secretary of Agriculture is to provide such access to non-federally owned land within the boundaries of the National Forest System (NFS) as the Secretary deems adequate to secure the owner the reasonable use and enjoyment thereof.

Other Alternatives Considered

Prior to considering encumbering public lands with an access authorization, Mr. Flint was required to examine alternative access through adjacent private property to the west of his parcel. It was determined that the topography (steep slopes and rock cliffs) precluded access from that area.

In addition to the selected alternative, I considered two other alternative locations for roaded access, however, both required new road construction across NFS lands and would be longer than the proposed route. No additional alternatives were suggested by the public. Therefore, only the "No Action" alternative and the Proposed Action were considered in detail. A comparison of the Proposed Action and the No Action alternatives can be found in the EA on page 10.

ALTERNATIVE A – "NO ACTION"

The National Environmental Policy Act (NEPA) requires that a "No Action" alternative be included for consideration. Under this alternative, Mr. Flint would be denied an authorization for long-term use and maintenance of roads across NFS lands to access his property. Structural improvements associated with the non-system road (gate and culvert) would be removed and the road would be closed with an earthen berm. Mr. Flint would not have reasonable access to his property and the Forest Service would be in violation of the ANILCA.

ALTERNATIVE B – PROPOSED ACTION

Under this alternative, a special use authorization (permit/easement) would be issued to authorize use and maintenance of the approximately 4,750 feet of Forest Road 7020100 and approximately 1,475 feet of a native-surface, non-system road to access private property. Vehicle access on the non-system road would continue to be restricted by a gate at its junction with Forest Road 7020100. Mr. Flint would share responsibility for maintenance the affected section of Forest Road 7020100 with the Forest Service and would be solely responsible for maintenance of the non-system road.

Public Involvement

As described in the background, the need for this action arose when Mr. Stephan Flint submitted a request for authorization to use and maintain a portion of Forest Road 7020100 and a non-system road to access his property. A proposal to issue a road easement to Mr. Flint was listed in the Schedule of Proposed Actions starting on April 1, 2008. A scoping and 30-day comment period was provided to the public and other agencies with the publication of legal notices in the *Colville Statesman Examiner* (the official Newspaper of Record) on May 6, 2009. A scoping letter was sent to 74 agencies, organizations, and individuals in the area on April 8, 2008. In addition, letters inviting consultation were sent to the Kalispel Tribe of Indians, the Spokane Tribe, and the Confederated Tribes of the Colville Reservation on April 7, 2008. The scoping/30-day comment period ran from May 13, 2009 through June 12, 2009. No comments were received from the public.

Findings Required by Other Laws

National Forest Management Act of October 22, 1976 (NFMA): Provisions of NFMA applicable to all projects require the following: (a) resource plans and permits, contracts, and other instruments shall be consistent with the land management plan; (b) insure consideration of the economic and environmental aspects of management, to provide for outdoor recreation, range, timber, watershed, wildlife, and fish; and (c) provide for diversity of plant and animal communities. All of these considerations and requirements were considered and project actions are consistent with these provisions of NFMA.

The Colville National Forest Land and Resource Management Plan was developed and approved December 29, 1988 using the provisions of the planning rule in effect prior to November 9, 2000 (the 1982 planning rule). The Forest Service now has a new planning rule (36 CFR 219, published in the Federal Register on April 21, 2008) referred to as the 2008 planning rule. The 2008 planning rules specifically states at 36 CFR 219.14(b)(4) that, for plans developed under the 1982 rule, the 1982 planning rule is without effect. There remain no obligations from that regulation, except those that are those specifically in the plan. The only requirement specifically provided in the 2008 rule related to projects is at 36 CFR 219.8(e), requiring that projects and activities must be consistent with the applicable plan components. As required by 36 CFR 219.8(e), I have found that this project is consistent with the Colville National Forest Land and Resource Management Plan.

Finding of No Significant Impact

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and the intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action. Effects are discussed in the EA on pages 11-21 and none of the effects described are significant.
2. There will be no significant effects on public health and safety. See discussion in the EA on page 21.
3. There will be no significant effects on unique characteristics of the area. See discussion in the EA on page 21.
4. The effects on the quality of the human environment are not likely to be highly controversial. There is no known scientific controversy over the impacts of the project.
5. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk.
6. The action is not likely to establish a precedent for future actions with significant effects.

7. The EA did not identify any impacts that when added to other past, present, or reasonably foreseeable future actions would cumulatively result in any significant effect. See discussions in the EA on pages 11 through 21.
8. The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, and will not cause loss or destruction of significant scientific, cultural, or historical resources. See discussion in the EA on page 19.
9. The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. See discussion in the EA on pages 13 through 15.
10. The action will not violate Federal, State, and local laws or requirements for the protection of the environment. The action is consistent with the Colville National Forest Land and Resource Management Plan.

Implementation Date

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Administrative Review or Appeal Opportunities

This decision is not subject to administrative review (appeal) because no comments were received during the 30-day public comment period (36 CFR 215.2(e)(1)). Therefore, implementation may begin immediately upon publication of a notice of this decision in the Newspaper of Record.

Contact

For additional information concerning this decision, contact Kim Di Rienz at the Sullivan Lake Ranger District, 12641 Sullivan Lake Road, Metaline Falls, WA 99153, (509) 446-7540.



RICK BRAZELL
Forest Supervisor
Colville National Forest

6/22/09

Date

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.