

DECISION MEMO

FLPMA PRIVATE ROAD PERMIT – STEPHAN FLINT

**USDA Forest Service
Colville National Forest
Pend Oreille County, Washington**

DECISION

I have decided to proceed with the issuance of a special use permit to Mr. Stephan Flint for the reconstruction, use and maintenance of an existing, native-surface road located on the Three Rivers Ranger District of the Colville National Forest.

The legal description of the road is the NE1/4SW1/4 Section 15 T. 37 N., R. 41 E., W.M. The road is approximately 1,475 feet in length and the right-of-way would be 66 feet (33 feet on either side of centerline) for a total permit area of approximately 2.23 acres.

The following measures will be made a part of the special use permit:

Protection of Threatened, Endangered, or Sensitive Species

Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act of 1973, as amended, or as sensitive by the Regional Forester under authority of FSM 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this authorization, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the authorization holder.

If protection measures prove inadequate, if other such areas are discovered, or if new species are listed as Federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify additional protection regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

Prevention of Soil Erosion and Infestation by Noxious Weeds

Areas of soil disturbed during maintenance activities shall be promptly revegetated using the guidelines and seed mixes prescribed in the Colville National Forest Seeding and Planting Guide (USDA Forest Service 2000) appropriate for the site-specific environment.

Existing noxious weeds within the project area are to be treated prior to the onset of any ground-disturbing road maintenance activity. Any herbicide applications on National Forest System lands are to be coordinated with the Forest Noxious Weed Program Manager. Off-target drift of herbicides is to be avoided or eliminated. All herbicides applications are to be done in accordance with label instructions and are to be overseen by a licensed pesticide applicator. The Forest Noxious Weed Program Manager will provide information on required documentation (spray logs, etc.).

Equipment used in reconstruction and or maintenance shall be cleaned of soil and potential noxious weed seeds and inspected by a Forest Officer prior being brought onto National Forest System lands. This measure is intended to reduce the risk of introduction of noxious weed species into the area that are not already present.

Any seed mix used for erosion control for construction or maintenance shall use seed that is certified as “Prohibited and Restricted Noxious Weed Free for the State of Washington” and must be approved in advance by the Forest Service.

Areas that have had ground disturbing activities occur within them are to be inspected for noxious weeds annually for the first three years following completion of those activities.

The road is to be surveyed for noxious weeds on a minimum of once every three years. Surveys are to be conducted prior to seed set and the appropriate treatment measures are to be taken to control new invader species of noxious weeds found. New invader species are defined as those species not currently established on the site or species specifically identified by the Pend Oreille County Noxious Weed Control Board for control/eradication. The cost of surveys and treatment within permitted road corridor is the responsibility of the Permit Holder.

The Permit Holder is responsible for management of noxious weeds within the road corridor (permit area). Methods of weed management must be approved by the Forest Service prior to implementation.

Fire Prevention

The permit holder and his/her employees or contractors must comply with current fire restrictions. Information on the Industrial Fire Precaution Level (IFPL) and fire restrictions may be obtained from the Three Rivers Ranger District (509) 738 -7700 during the normal business hours of 7:30 a.m. to 4:00 p.m. Monday through Friday.

Heritage Resource Protection

The permit holder shall immediately notify the authorized officer of any and all antiquities or other objects of historic or scientific interest. These include, but are not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as the result of operations under this authorization, and shall leave such discoveries intact until authorized to proceed by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

REASONS FOR CATEGORICALLY EXCLUDING THE PROPOSED ACTION

Through past experience and review of similar projects as well as a review of the proposed action, no extraordinary circumstances were found to exist that would cause the proposed action to have significant environmental effects. This decision falls within Category 3 of Section 31.2 of WO Amendment 1909.15-2008-1 of FSH 1909.15, approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land. The proposed action is therefore categorically excluded from preparation of an Environmental Assessment or an Environmental Impact Statement.

SCOPING AND PUBLIC INVOLVEMENT

Scoping by the Forest Service was initiated through:

- 1) Sending letters requesting formal consultation to the Kalispel, Colville, and Spokane Tribes of Indians.
- 2) Sending a scoping letter describing the project proposal and requesting comments to a general interest mailing list.
- 3) Sending a request for input to resource specialists on the Colville National Forest.
- 4) Publishing information on the project in the Schedule of Proposed Actions (SOPA) beginning with *Projects '08, Volume Sixteen, Number Three, Spring Issue, Fiscal Year 2008*.

No comments were received and no issues were identified as a result of public scoping.

FINDINGS

The Colville National Forest Land and Resource Management Plan (LRMP) 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 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.

The subject road is located in an area designated as Management Area (MA) 7 by the Forest Plan. The emphasis in MA 7 is Wood/Forage with the goal of managing "to achieve optimum production of timber products while protecting basic resources" (Page 4-101 of Forest Plan). Direction provided by the Forest Plan regarding special uses is to "Grant rights-of-way requests when appropriate" (Page 4-103 of Forest Plan).

The action is consistent with direction contained in Regional Forester's Forest Plan Amendment #2 (page 3 of Project File).

INFISH requires that Riparian Habitat Conservation Areas be delineated, and that Standards and Guidelines found in INFISH Decision Notice Attachment A, pages A-6 through A-13 be followed. The actions are consistent with INFISH direction. (See pages 3 and 8 of Project File)

The actions are consistent with the Forest Plan because mitigation measures (Decision Memo, pages 1 through 3) have been fully applied in the selected actions. The project is feasible and reasonable, and it results in applying management practices that meet the Forest Plan overall direction of protecting the environment while producing goods and services.

The determination of the Biological Evaluation was that the project would have no effect on any threatened or endangered species of wildlife or plants and would not lead to federal listing or loss of viability of species of wildlife or plants listed by the Forest Service as sensitive. (Project File, Threatened, Endangered, and Sensitive Species, pages 4 through 6).

This action does not pose a violation of Federal, State, or local law requirements imposed for the protection of the environment. It does not, individually or cumulatively, have a significant effect (40 CFR 1508.4) on the quality of the human environment.

This is not a major Federal action. It will have limited context and intensity (40 CFR 1508.27), individually or cumulatively, to the biological, physical, social, or economic components of the human environment. It will have no adverse effect upon public health or safety; consumers, civil rights, minority groups and women; prime farmland, rangeland, and forest land; significant scientific, cultural or historic resources; roadless areas; steep slopes or highly erosive soils; old growth forest options; or to designated Wilderness. Although a portion of the project is proposed to occur within the RHCA of an seasonal, non-fishbearing stream, it is not expected to measurably impact flood plains or wetlands.

Legal Requirements

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 are addressed in the Decision Memo and the various resource reports in the project file. Therefore, project actions are consistent with these provisions of NFMA.

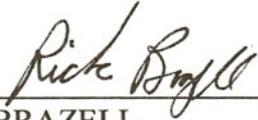
IMPLEMENTATION

This project may be implemented immediately. The Forest Supervisor expects the special use permit to be issued in October 2008.

ADMINISTRATIVE REVIEW OR APPEAL

This categorical exclusion decision is not subject to appeal pursuant to 36 CFR 215.12 (f), however, it may be appealed by those with standing under 36 CFR 251.86(b).

Questions regarding this decision should be submitted by mail to Kim A. Di Rienz, Forest Special Uses Coordinator, Sullivan Lake Ranger District, 12641 Sullivan Lake Road, Metaline Falls, WA 99153, or by telephone at (509) 446-7540, or email at kdirienz@fs.fed.us.



RICK BRAZELL
Forest Supervisor
Colville National Forest

10/31/08
Date