

DECISION MEMO
Boreal Toad Pond Enhancement Project

USDA - Forest Service Uinta National Forest
Heber Ranger District
Wasatch County, Utah

INTRODUCTION

The boreal toad, *Bufo boreas boreas* is a Utah Species of Concern and populations have been monitored annually by the Utah Division of Wildlife Resources (UDWR) for several years. This toad is one of two subspecies of western toad whose populations were thought to be much higher historically than the current known populations. The population in Strawberry Valley has less than 100 individuals and is the only known population on the Uinta National Forest. UDWR and the Uinta National Forest have cooperatively developed this project to provide additional breeding habitat for this species. The main portion of the current habitat is fenced from livestock and secure from most disturbances, but does not contain much ponded water for breeding. The objective of this project is to help maintain and potentially enhance this known population of boreal toad.

DECISION

It is my decision to implement the Boreal Toad Pond Enhancement Project. Approximately 1/8 acre of pond habitat near Mud Creek will be developed with a track hoe in S25, T3S, R12W, Uintah Special Meridian, immediately west of Strawberry Reservoir (see attached map).

The pond will be excavated to up to a 5' depth. Following excavation and placement of a temporary topsoil stockpile, topsoil will be placed on the excavated subsoil to reduce soil erosion and assist with vegetative reestablishment. The surface will be seeded with desirable native riparian vegetation.

The UDWR will have a 404 permit from Army Corp of Engineers for stream/wetland alteration prior to implementation.

Design Features

- Pond development will be accomplished by a track hoe.
- Topsoil will be removed and salvaged to an 8" depth in the pond and soil placement areas.
- Excavated material will be placed in a soil placement area.
- Subsoil material will be shaped to contour and covered with topsoil.
- Surface will be seeded with a desirable native vegetation seed mix.

- The work will be done in late summer/fall when the toads are not concentrated in the area for breeding or hibernation.

RATIONALE FOR DECISION

This project will increase the depth and surface area of a small pond which is currently supporting a population of boreal toads, a Utah Species of Concern. The increased depth and surface area is expected to improve boreal toad breeding habitat.

This project has been developed in close cooperation and partnership with the UDWR, and they are providing funding for implementation of the project. This project also compliments the 2006 boreal toad fence, which was also a partnership between the Forest Service and UDWR to provide protection from livestock for this important boreal toad breeding site.

Category

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 SECTIONS 31.1, 31.1b or 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

The project is within the FSH 1909.15 31.2 (6) category of exclusion that includes *“Timber stand and/or wildlife habitat improvement activities which do not include the use of herbicides or do not require more than one mile of low standard road construction.”*

Finding of No Extraordinary Circumstances

FSH 1909.15, Section 30.3 (1909.15-2004-3) lists the following as resource conditions that should be considered in determining whether extraordinary circumstances warrant further analysis.

Federally listed threatened or endangered species, or designated critical habitat species proposed for Federal listing, or proposed critical habitat or Forest Service sensitive species:

The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered or result in adverse modification to such species' designated critical habitat. As required by this Act, potential effects of this decision on listed species have been analyzed and documented in a Biological Assessment/Biological Evaluation (Project File Records).

Forest Service biologists and vegetation specialists have surveyed the project area. The Forest Service has determined that this project will have no effect on federally protected species or critical habitat. It was also concluded that the proposed project will have no impact to population trend or population viability of TES species evaluated.

Floodplains, wetlands, or municipal watersheds

Executive Order 11990 requires federal agencies to avoid adverse impacts associated with destruction or modification of wetlands. Executive Order 11988 requires federal agencies to avoid adverse impacts associated with the occupancy and modification of floodplains.

This very small wetland, less than 1/8 acre, will be modified only to the extent that additional ponded water, up to an estimated 1/8 acre, will be developed. Adverse effects to soils will be minimized through stockpiling and resurfacing with stockpiled topsoil and vegetative reestablishment through reseeding upland plants. A 404 stream/wetland alteration permit is being provided by the U.S. Army Corps of Engineers for this project, and implementation will not occur until the permit is received.

Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas

The project area does not reside in, and the projects will not have any direct, indirect or cumulative impacts on any congressionally designated areas.

Inventoried roadless areas

The project area does not reside in, and the projects will not have, any direct, indirect or cumulative impacts on inventoried roadless areas.

Research natural areas

The project area does not reside in, and the projects will not have any direct, indirect or cumulative impacts on any research natural areas.

American Indians and Alaska Native religious or cultural sites

Based on site investigations and scoping, the project area is not known to include, and the project will not have any direct, indirect or cumulative impacts on any American Indian religious or cultural sites. There are no archaeological sites eligible for the national register of historic places within a treatment area (Project File Record). The decision is consistent with the American Indian Religious Freedom Act, and the Native American Graves Protection and Repatriation Act.

Archeological sites, or historic properties or areas

Based on site investigations, the project area does not reside in, and the project will not have any direct, indirect, or cumulative impacts on any archeological sites that are eligible for the national register of historic places or areas. The decision is consistent with the National Historic Preservation Act (Project File Records).

The proposed actions will be of limited context and intensity and capable of producing little or no significant environmental effects (40 CFR 1508.4) individually or

cumulatively on the quality of the human environment; are within a category listed in FSH 1909.15; and there are no extraordinary circumstances related to the proposed actions.

Public Involvement

This project has been listed in the Uinta National Forest's "Schedule of Proposed Actions" (i.e. "NEPA Quarterly") since the summer of 2007 issue. A request for comments was published in the *Provo Daily Herald* on June 10, 2007 and letters were sent to interested parties on June 6, 2007. In response to these efforts, I received one letter regarding this project, the issues and response follow.

Issues

Issues: How would the pond be made larger, and does that involve a need to get some kind of wetlands take permit?

The pond will be excavated with a track hoe up to a 5' depth. Following excavation and placement of a temporary topsoil stockpile, topsoil will be placed on the excavated subsoil to reduce soil erosion and assist with vegetative reestablishment. The surface will be seeded with desirable native riparian vegetation. UDWR has applied for a stream/wetland alteration through the U.S. Army Corps of Engineers, and implementation of this project will not occur until the permit has been received. The project will modify the existing wetland, but it will still function as a wetland therefore there is no "taking".

Findings Required by Other Laws

This project lies within the Strawberry Reservoir Management Area as identified in the Uinta National Forest 2003 Land and Resource Management Plan. (Forest Plan, pages 5-121 to 134). The management prescription for this area is 4.4-Dispersed Recreation. This action is in compliance with Forest Plan.

No adverse impacts on birds are anticipated, and this decision is consistent with the Migratory Bird Treaty Act. Pond development will be in the late summer/fall, outside the primary nesting period.

The proposed actions will not impact water quality and are consistent with the Clean Water Act. The project is in compliance with the Clean Air Act.

There will be minimal activity to develop this 1/8 acre pond. Therefore, there are no implications on mineral resources.

In accordance with Executive Order 12898 this action will not result in any disproportionate impact to minority or low-income populations.

A 404 stream/wetlands alteration has been applied for, and will be obtained from the U.S. Army Corps of Engineers prior to implementation of the project.

Implementation of these proposals is consistent with other Federal, State, and local laws for the protection of the environment.

My conclusion is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

Administrative Review or Appeal Opportunities

Pursuant to 36 CFR 215.12(f) and *Earth Island Institute v. Ruthenbeck*, No. CIV F-03-386 JKS (E.D. Cal., October 19, 2005), this decision is not subject to appeal.

Implementation Date

Following receipt of the stream/wetlands alteration permit, implementation of this decision may begin immediately.

Contact Person

For further information please contact Michael Bornstein at the Heber Ranger District - Uinta National Forest, 2460 South Highway 40, Heber City, UT 84032, or by phone at (435) 654-5227.

/s/ Julie K. King
JULIE K. KING
District Ranger
Heber Ranger District
Uinta National Forest

8/23/2007
Date