

To: Public

From: Forest Supervisor

Date: February 1, 2007

Subject: Determination Whether a New or Modified Record of Decision Is Needed for the Basin Creek Hazardous Fuels Reduction Project.

**Background**

On June 23, 2006, Judge Molloy issued an order stating: "The Basin Creek Hazardous Fuels Reduction Project is permanently enjoined and remanded to the Forest Service to conduct the required analysis of the Project's potential impact on soil productivity. The Forest Service may move to dissolve the injunction upon a showing that they have complied with environmental laws."

The Beaverhead-Deerlodge National Forest prepared the Soil Scientist Specialist Report (hereinafter Report) to respond to the Court remand. The Report was made available for 45-day public review and comment on September 29, 2006, through a legal notice in the Montana Standard. Notice of the availability of the Report was published in the Federal Register on October 3, 2006. (71 FR 58369). Notice of the availability of the report was also provided to approximately 158 parties who previously expressed interest in the Basin project.

The Beaverhead-Deerlodge National Forest received a total of 3 public comments on the Report. (See Remand Record R-29, R-31, R-33). Each public comment received a response. (See Remand Record R- 30, R-32, R-34). The Forest's responses and the public comments are available from the Forest. In response to the public's comments, additional material was added to the following sections of the Report: Section III C. 3. South Butte Salvage Sale – BMP Effectiveness and Section IV. B. 1. Sensitive Soils. In addition, a new Appendix E was added detailing the physical soil properties or characteristics of the soils in the project area. Specifically, the Report now includes discussion and scientific support for the effectiveness of the mitigation measures of ripping, tilling and back-blading and discussion of the objective criteria used in determining the sensitivity of soils. The public comments did not change the conclusions of the Report.

The Basin Creek Hazardous Fuels Reduction project is located eight miles south of Butte, Montana. A Record of Decision (ROD) (corrected), authorizing treatments for the area (Alternative 3) was signed by Forest Supervisor, Thomas Reilly on June 7, 2004. The selected alternative (Alternative 3) proposed total treatment on 2,602 acres of the 14,320 acre project area. The ROD authorized a total of 2,268 acres of mechanical treatment and 334 acres of burning. I would be remiss in not noting that since this project began, our insect and disease surveys, through 2006, indicate over 500,000 acres of the Forest have been infested. This project is surrounded by over 25,000 acres of infested trees, with mortality approaching 100 percent. The greatest threat to human health and safety, soil productivity, wildlife, and other environmental concerns in the project area is the threat from wildfire due to the massive die-off of the Forest.

## **Consideration of the Soil Scientist Specialist Report and Public Comment**

In making my determination as to whether a new Record of Decision (ROD) or a modification of the ROD for the Basin Creek Hazardous Fuels Reduction Project is needed, I considered both the Soil Scientist Specialist Report and public comments.

The Report confirms and explains how monitoring (conducted on the South Butte Salvage sale and elsewhere on the Beaverhead-Deerlodge National Forest) demonstrates conservation practices (including BMPs, Soil and Water Conservation Practices, and mitigation measures) and timber sale contract provisions are an effective means of achieving Regional Soil Quality Standards to maintain site productivity as required by the National Forest Management Act. Specifically, the Report includes the results of monitoring 5 units of the South Butte sale, where harvesting is complete, finding three of the five units comply with the Regional Soil Quality Standard with no more than 15% of the activity areas with detrimental soil disturbance. Two of the units exceeded the standard by 3% (Unit 65) and 5% (Unit 70) largely on the basis of detrimental soil displacement. However, the Report discusses that the monitoring was conducted prior to the completion of all required mitigation measures. Report at 11. This soil displacement was recognized in timber sale inspection reports. The mitigation measures of the FEIS require, that at such time as work can be resumed on the project, the displaced soil be back-bladed and smoothed with the harvesting equipment so the A horizon is restored to its original position. The Report found that for these harvest units this is easily accomplished as the displaced soil is within the skid trail corridor and has not been moved from its location adjacent to its original position. Further, studies support the efficacy of the mitigation measures, including ripping, tilling and back-blading in reducing detrimental soil disturbance.

In summary, the project soil impacts and the conclusions in the Basin Creek Hazardous Fuels Reduction FEIS are confirmed. The Report shows the analysis and disclosures in the Basin Creek Hazardous Fuels Reduction FEIS are valid and support the determination in the FEIS that "By design under this proposal, detrimental soil disturbance in all units would be at or below 15 percent, which is the maximum level allowed by soil quality standards from all causes.". The soil quality standards have been incorporated into the project contract and practices designed to achieve these standards have been implemented and monitored. There is no change needed to the ROD to meet the Regional Soil Quality Standards.

Further, the Report has confirmed Forest Plan Monitoring Item 9-3 has been complied with as soil chemical and physical properties have not changed more than 20 percent due to project impacts. Ground cover is adequate to minimize erosion and provides adequate protection to maintain site productivity. In addition, at such time as operations can be resumed, soil mitigation measures will be completed and coarse woody debris requirements will be met in all units as specified in the Basin Creek Hazardous Fuels Reduction Project and the timber sale contract.

The Beaverhead-Deerlodge National Forest received three (3) comments on the Report. The Forest Service responded to each of these comments. Two of the three letters supported the project. The third letter was a three-page letter from WildWest Institute which, in summary, made the following six allegations: 1) the Report is not "sensible" in finding that BMPs are effective as two of five units monitored were over 15% and the Forest Service cannot support the use of mitigation measures; 2) the Report failed to respond to all the scientific and other issues raised in comments and administrative appeals – specifically the lack of monitoring data to objectively compare pre- and post-project measures of soil productivity; 3) the Report fails to disclose how large woody debris will be distributed and how the project area will be impacted by the deficiency of large woody debris; 4) the Report does not offer an objective

definition of sensitive soils; 5) the Beaverhead-Deerlodge NF has changed the Deerlodge Forest Plan monitoring requirement arbitrarily without public dialogue and the Report does not explain lab analysis techniques to show that no more than 20% change in soil chemical and physical properties; and 6) the Beaverhead-Deerlodge NF has failed to prepare a Supplemental EIS.

The Forest has fully responded to each of the issues raised by WildWest Institute. (Remand Record Doc. R-34). The following summarizes the Forest's response to the issues raised by WildWest. First, concerning the fact monitoring showed two of the units of the South Butte sale were above the 15% Regional Soil Quality Standard, - the Report clearly discusses that for these units all required mitigation measures had not been completed at the time of the injunction of activities. The Report also discusses that, with the completion of the mitigation measures, the units will meet the Regional Soil Quality Standard. Report at 11-13. The Report also includes citation to studies supporting the effectiveness of mitigation measures used to reduce detrimental soil disturbance. Report at 9.

Second, concerning the claim the Forest failed to respond to issues raised in comments and administrative appeal, the FEIS itself includes the Forest Service's response to comments and the response to the appeal is included in the administrative record. FEIS at 4.69-4.73; A.R. Doc. M-7.

Third, regarding comments concerning large woody debris, woody debris will be distributed in the units using existing skid trails and over frozen or snow-covered or dry ground to minimize any impacts. Further, maintaining 10-15 tons per acre of large woody debris, as recommended by research, does not result in a "significant loss" in woody debris across the project area.

Fourth, concerning the comment regarding "objective criteria" for sensitive soils, the Forest Service's understanding of the sensitivity of the soils is based on the objective characteristics of the soils in the area. The Report discussed generally the types of soils and their character. The soil map units present in the area are discussed in detail in the FEIS and the Forest Service has added additional discussion in the final Report. It was the characteristics of these soil map units, as discussed in the FEIS, which formed the basis of the soil scientists' understanding of the soils and their sensitivity. The particular characteristics of the soils considered in assessing sensitivity were particle size, moist bulk density, organic matter, and erosion factors – all standard criteria used by soil scientists to determine soil characteristics.

Fifth, concerning comments regarding the Deerlodge Forest Plan monitoring requirements and lab analysis techniques, the Forest does not believe Monitoring item 9-3 restricts the type of monitoring that is conducted. The Forest does not find an amendment is required to undertake more quantitative monitoring consistent with the monitoring item. Further, the laboratory analysis showing there has not been more than a 20 percent change in soil chemical and physical properties was conducted by an independent accredited soils testing laboratory -- not by the Forest Service. The laboratory was Energy Laboratories of Billings, Montana. The results of each sample as reported by Energy Laboratories were provided in the record at document R-06. Energy Laboratories uses standard Natural Resource Conservation Service (NRCS) analysis techniques and methodologies.

Sixth, and finally, regarding the comment that the Forest has failed to prepare a supplement to the FEIS, the Soil Scientist Specialist Report does supplement the soils section of the FEIS. It provides supplemental information on the effectiveness of best management practices to meet soil quality standards and

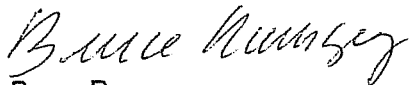
compliance with Forest Plan monitoring item 9-3, as directed by the Court's remand. The Report was made available for 45-day public review and comment.

**Determination**

It is my determination, based on the Final Soil Scientist Specialist Report supplementing the soils section of the FEIS, on public comment, and on the Forest's response to comment, that a new or modified Record of Decision is not needed for the Basin Creek Hazardous Fuels Reduction project.

Forest Service regulations state the following decisions and actions are not subject to appeal:

"(b) Determination, with documentation, that a new decision is not needed following supplementation of an environmental impact statement (EIS) or revision of an environmental assessment (EA) pursuant to FSH 1909.15, Chapter 10, section 18." 36 C.F.R. § 215.12. As such, this determination is not subject to appeal. I find the Basin Creek Hazardous Fuels Reduction Project can proceed under the existing Record of Decision.



Bruce Ramsey  
Forest Supervisor