

**Decision Notice
& Finding of No Significant Impact**

**Access Road
For the Ogden City Water Storage Reservoir**

**Uinta-Wasatch-Cache National Forest
Ogden Ranger District
Weber County, Utah**

Introduction

This document details my decision regarding authorization of a special use permit to Ogden City for construction and use of an access road across National Forest System land. My decision is based on an environmental analysis for the proposal documented in an Environmental Assessment (EA) and released concurrent with this decision. The access road is located in the Taylor Canyon vicinity, east of the Ogden City limit at approximately 28th Street in Section 35, T6N, R1W, SLM.

Decision

After a thorough review of the environmental analysis, I have decided to implement the proposed action as described in the EA. My decision authorizes a special use permit to Ogden City for construction and use of an access road across National Forest System land. The access road will be used in the construction and maintenance of a new Ogden City water storage tank to be located entirely on private land.

My conclusions are based on the scientific analysis in the EA (and supporting project record) that demonstrates a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information. The analysis identifies techniques and methodologies used, considers current and accurate science, and references scientific resources relied upon. The analysis includes a summary of the creditable scientific evidence relevant to evaluating reasonably foreseeable impacts.

Details of the Decision, Including Mitigation

The access road to be permitted is approximately 629 feet of road that was inadvertently constructed on National Forest System land by Ogden City in May 2008. At the time the road was constructed, the City believed it was located entirely on private property. In September 2008, it was discovered that the GIS database used in the project design was in error and a small piece of National Forest System land had been incorrectly labeled as private land. The 629-foot segment varies in width from 12 feet to 20 feet with an average width of 16 feet, for a total area on NFS land of approximately 0.24 acres.

When completed, the road will include a 6 inch gravel surface, and will be out-sloped and cross ditched to minimize soil erosion. Much of the affected area on NFS land is located within an old gravel pit development that contains old roads and trails. These disturbed areas will be reclaimed with native vegetation.

Motorized use of the access road will be restricted to Ogden City personnel and their contractors. The access road will be used on a daily basis during construction of the water reservoir which is expected to occur during the summer of 2009. Following construction, the road will be used infrequently for maintenance access to the reservoir. Construction and rehabilitation activities will be monitored by Forest Service personnel to assure that mitigation measures and management requirements are adhered to.

The segment of the access road located on NFS land is within the North Wasatch-Ogden Valley Management Area of the Revised Forest Plan and has a 3.1W management prescription. This management prescription, which includes lands where management emphasis is on "maintaining or improving quality of watershed conditions and aquatic habitats", allows no road construction (Forest Plan, page 4-69). When issuing special use authorizations that require road access, such as for this project, it is Forest Service policy to add these roads to the Forest's transportation system (even if they are closed to public use). The proposed action would necessitate a non-significant amendment of the Forest Plan to approve a one-time waiver to the management prescription standard S3.1W, to allow road construction associated with this project.

I have decided to approve the non-significant amendment that would waive application of this standard (S3.1W) and allow Ogden City to maintain this segment of road under special use authorization (see Appendix B). The amendment would pertain only to this road and would not affect 3.1W areas elsewhere on the Uinta-Wasatch-Cache National Forest. The road would be used by the City of Ogden for access to the water storage tank on private land and would not be open to public motorized use.

Mitigation and Management Requirements

My decision includes mitigation in addition to the provisions listed above, to prevent or diminish adverse effects of management actions on the human environment. The mitigation, management requirements, and monitoring discussed in the EA are included in my decision and are listed in Appendix A of this decision.

The access road will require a Conditional Use Permit from Weber County and appropriate building permits will also be required. Ogden City is responsible for acquisition of these permits.

Decision Rationale

In making the decision to authorize construction and use of the access road, I have reviewed the existing environmental conditions and the direct, indirect, and cumulative effects for all the actions included in the alternatives. I have also considered comments received from the public. I gave careful consideration of how well each alternative met the purpose and need, and how well each responded to the issues and public concerns.

Purpose and Need

Authorization for construction and use of a 629-foot segment of road across National Forest is needed to provide safe access for the construction and maintenance of a 300,000 gallon, reinforced-concrete reservoir to be constructed for Ogden City on private land.

Response to Issues

Based on comments received during scoping, the Forest Service Interdisciplinary Team developed the list of issues for the proposed project. The issues were then used in development of alternatives, to prescribe mitigation measures, and in the analysis of environmental effects. In making my decision I considered how well each of the alternatives address and resolve the issues. The issues raised during scoping included the following:

- **Recreation**

An issue was raised that construction and maintenance of the access road to the Ogden City water storage tank in Taylor Canyon may lead to unintended problems associated with the Bonneville Shoreline Trail (BST). Recreation is a major public use in this area, and use is primarily on the Bonneville Shoreline Trail. The indicator used to compare alternatives was; “the degree of impact to the Bonneville Shoreline Trail resulting from the proposed road segment.”

The access road would cross the Bonneville Shoreline Trail and could affect use of this non-motorized hiking trail. The location where the trail crosses the road is directly adjacent to the tank location (where vehicles can park and turn around). Although the road would cross the trail, no undue adverse effects to recreation would occur because the location of this site is directly adjacent to Ogden City streets, a busy residential area. The access road would result in a minor conflict with the overall physical and psychological enjoyment of the project area.

Although not open to the public, the road would be used by administrative vehicles year round, for maintenance of the water storage tank. The evidence of this motorized activity would become a permanent feature of this area. This adjacency of motorized and non-motorized uses occurs in other areas along the Ogden Front where the gravel roads for the water pipelines are used for administrative purposes. It is possible this road will require plowing during the winter for management access, extending the season of use by motor vehicles.

The proposed action includes mitigating measures to limit administrative uses during construction and afterwards which will minimize effect on the Bonneville Shoreline Trail activities. The crossing of the actual trail will require regular maintenance to ensure that it will not prevent the trail uses, especially in the event the road is plowed of snow and could leave a steep snow mound. A mitigation measure is included in the proposed action to regularly clear the trail of snow and debris, resulting in no effect to BST uses.

- **Soils**

An issue was raised that the proposed project may increase the risk of erosion and sediment during construction of the proposed road segment. The indicator used to compare the alternatives was: “the degree of risk of erosion and sedimentation resulting from the proposed road segment.”

Access road drainage features are a required element in this decision and are expected to be fully functional at all times during the construction period through regular maintenance and/or repair. In addition, sediment fencing is required and is expected to be fully functional at all times during the construction period (cleaned periodically of rainstorm sediment and repaired whenever damaged by construction activities). Therefore, it is expected erosion and sediment will be controlled and the effects on water and soils will be minimized and no damage from excess runoff is expected.

No adverse effects to water quality, wetlands, or floodplains are expected to occur because there are no water features (streams or springs) in the project area. Mitigating measures to control sediment and rehabilitate disturbed areas will minimize effect on the soil resource. The commitment of soil resource is approximately ¼ acre. Mitigation to compensate for the loss of soil resource is achieved through rehabilitation of an equivalent area or greater in need of restoration. This will be accomplished by seeding of weed-free native seed and bitterbrush plantings

The management requirement to power wash construction equipment before delivery and use on National Forest land will help prevent the introduction of weed infestations into the project area. It is expected that revegetation of areas disturbed by construction activities (native grass and shrub species seeded and planted per Forest Service prescription) will effectively rehabilitate affected areas and minimize introduction of noxious/invasive weed species.

- **Wildlife**

An issue was raised that the proposed road may affect winter range habitat for big game, particularly mule deer, in the vicinity of the project. The indicator used to compare the alternatives was: “the amount of crucial winter range lost by conversion to roadbed.” The effect of the access road within key winter range habitat is limited, since the road will be gated and only accessible for administrative use, thus limiting potential disturbance to mule deer. Approximately 0.24 acres of crucial winter range will be lost by conversion to road bed on National Forest System land. To provide compensation for this .24-acre loss of winter range habitat, approximately 350 containerized bitterbrush plants will be planted in grass/shrubland openings in the vicinity. Therefore, there will be a negligible overall effect on winter range habitat.

In addition to the above issue, general effects to wildlife and birds were also disclosed in the EA. Concerning Management Indicator Species, none of the wildlife species are likely to occur within this project area. Therefore, the construction of this access road will not affect management indicator species.

Of the T,E,P,C species listed by the U.S. Fish and Wildlife Service, only the Ogden Rocky Mountainsnail is likely to occur within the project area. No snails have been found within the area. Therefore, this proposed project will not affect the Ogden Rocky Mountainsnail.

Of the wildlife species listed as sensitive for the Wasatch-Cache NF, the Townsend's big-eared bat is the only wildlife species likely to occur within the project area. The effects to foraging habitat for bat species would be minor and would not be significant (any effect would be insignificant in comparison to the amount of total habitat).

Of the priority migratory species that occur within the Wasatch-Cache National Forest, only the broad-tailed hummingbird and black-throated gray warbler are known to occur within the project area. The effects to habitat for the broad-tailed hummingbird would be minor and would not be significant. Due to the limited size of the project's affected area (0.24 acres on USFS land), the effects to foraging habitat of the black-throated gray warbler would be minor and would not be significant.

Alternatives Considered in Detail

In addition to the proposed action as described above, I considered the no action alternative. Under the no action alternative there would be no construction of a segment of road across National Forest System land to access the Ogden City water storage tank.

The no action alternative was not selected because it would not provide needed access for the construction and maintenance of the Ogden City water storage tank in Taylor Canyon.

Alternatives Considered and Eliminated from Detailed Analysis

- **Construct the road entirely on private land** – this alternative was dismissed from detailed study because it would not meet the purpose and need for providing safe access for the construction and maintenance of the water tank. The proposed action would accomplish the purpose and need with fewer impacts than a route across private land.
- **Construct the storage tank at a lower elevation** – this alternative is beyond the scope of this decision. Ogden City made the decision as to where the water storage tank is to be constructed. This decision only addresses access across National Forest for its construction and maintenance.
- **Use other configurations of storage tanks and pumps** – these alternatives are beyond the scope of this decision. Ogden City made the decision as to the need and location of the water storage tank. This decision only addresses access across National Forest for its construction and maintenance.

Public Involvement

The Ogden District Ranger mailed a scoping letter on January 23, 2009 to individuals and organizations on the District mailing list. The scoping letter was posted on the Uinta-Wasatch-Cache National Forest website. In addition, the project was listed in the winter 2009 quarterly Schedule of Proposed Actions (SOPA). A legal notice of the opportunity to comment on the

proposed action was included in the January 30, 2009 issue of the Salt Lake Tribune (newspaper of record).

The District received 4 responses to the scoping letter and notice of opportunity to comment. The comments were reviewed and placed in general issue categories. A complete listing of the individual comments is available in the project record.

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 intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

My finding of no significant environmental effects is not biased by the beneficial effects of the action.

There will be no significant effects on public health and safety.

There will be no significant effects on unique characteristics of the area or ecologically critical areas such as historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers because there are no such areas present.

The effects on the quality of the human environment are not likely to be highly controversial because there is no known scientific controversy over the impacts of the project.

The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk.

The action is not likely to establish a precedent for future actions with significant effects, because the nonsignificant amendment is for only this project and future inconsistencies with the management prescriptions and projects are addressed on a case by case basis.

The cumulative impacts are not significant.

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. The action will also not cause loss or destruction of significant scientific, cultural, or historical resources.

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.

The action will not violate Federal, State, and local laws or requirements for the protection of the environment.

Forest Plan Consistency

The decision to grant special use authorization to the City of Ogden and amend the Forest Plan with a one-time waiver of S3.1W for road construction within a 3.1W management prescription is consistent with the Revised Forest Plan (Page 4-69). The intent of the Forest Plan's long term goals and objectives listed on pages 4-16 through 4-25 and desired future condition relative to the North Wasatch-Ogden Valley Management Area are being followed. When evaluating the significance of this Forest Plan amendment, I considered the following criteria defined in the Forest Service Manual 1926.5 (Regional Forester letter dated August 9, 2007). These factors are: (1) goals and objectives (2) management prescriptions, (3) standards and guidelines, and (4) opportunities for additional projects. These factors were analyzed in the EA (Section 2.5.1) and I am incorporating the analysis into my finding. Based on this analysis, I conclude the waiver of the standard for this specific authorization is a non-significant amendment of the 2003 Wasatch-Cache National Forest Revised Forest Plan. The amendment is attached as Appendix B of this decision.

Findings Required by Other Laws and Regulations

Numerous laws, regulations, and agency directives require that my decision be consistent with their provisions. My decision is consistent with all laws, regulations, and agency policy relevant to this project. The following discussion is intended to provide information on the regulations that apply to issues raised and comments made by the public or other agencies.

National Forest Management Act of 1976 (PL-94-588) – The National Forest Management Act directs that management activities be consistent with the Forest Plan. Based on the discussions provided in the EA, with the above-described non-significant Forest Plan amendment, I have concluded my decision is now consistent with provisions of the 2003 Revised Land and Resource Management Plan for the Wasatch-Cache National Forest (Forest Plan), including Goals, Management Prescriptions, and Standards and Guidelines.

Clean Water Act – The Clean Water Act requires each state to implement its own water quality standards. The State of Utah's Water Quality Anti-degradation Policy requires maintenance of water quality to protect existing in stream Beneficial Uses on streams designated as Category 1 High Quality Water. All surface waters geographically located within the boundaries of the Wasatch-Cache National Forest whether on public or private lands are designated as Category 1 High Quality Water. Based on the management requirements and mitigation measures included in my decision (Appendix A) and the analysis presented in the Soil and Water Report (EA, Section 3.2) I have concluded that my decision will maintain water at existing high quality and is consistent with the Clean Water Act.

Executive Order 11990 of May 1977 – This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that analysis be completed to determine whether adverse impacts would result. As

disclosed in the EA, my decision will have no adverse effects to wetlands because none are located within the project area, and therefore, my decision is in compliance with EO 11990 (see EA, Section 3.2).

Executive Order 11988 of May 1977 – This order requires the Forest Service to provide leadership and take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risk to flood loss, (2) minimize impacts of floods on human safety, health and welfare, and (3) restore and preserve natural and beneficial values served by floodplains. My decision will have no adverse effects on floodplains (see EA, Section 3.2).

Endangered Species Act – This Act directs that all Federal departments and agencies shall seek to conserve endangered, and threatened (and proposed) species of fish, wildlife and plants. This obligation is further clarified in a National Interagency Memorandum of Agreement (dated August 30, 2000) that states our shared mission to “...enhance conservation of imperiled species while delivering appropriate goods and services provided by the lands and resources.” Based on the information disclosed in the EA (Section 3.3) and the Biological Evaluation/Biological Assessment (available in the project file) I have determined my decision will not significantly affect populations of endangered, threatened, and candidate species of fish, wildlife and plants. This is because there is no suitable habitat within the project area, the species are not found within the project area, and/or the effect of this project relative to populations is minor and will have no effect on populations or trends.

Executive Order 13186 of January 10, 2001 – Chapter 3, Section 3.3 of the EA discloses the effects of this project on migratory birds, primarily as related to the effects on their habitat. As disclosed, the 629-foot access road will have a minor and non-significant effect on habitat for the broad-tailed hummingbird and black-throated gray warbler. Based on this information and information in the project file concerning migratory birds, my decision is in compliance with this Executive Order for the Conservation of Migratory Birds.

Executive Order 13112 – Invasive Species – This Executive Order directs that Federal Agencies should not authorize any activities that would increase the spread of invasive species. My decision includes aggressive noxious weed management to effectively reduce the occurrence or spread of infestations of noxious weeds and invasive plant species in accordance with the Record of Decision for the WCNF Noxious Weed EIS. Therefore, my decision is consistent with this order and will not increase the spread of invasive species.

American Antiquities Act of 1906 and the National Historic Preservation Act of 1966 – A survey was conducted and the Forest archeologist made the determination the access road will not significantly affect any cultural resources in the project area and no historic or cultural features will be impacted (EA, Section 1.7.4.4). Therefore, my decision is in compliance with these Acts.

Prime Farmland, Rangeland and Forest Land (Secretary of Agriculture Memorandum 1827) – My decision does not make any changes to boundaries or forest lands found within the project area.

Civil Rights – Based on comments received during scoping and the comment period no conflicts have been identified with other Federal, State or local agencies or with Native Americans, other minorities, women, or civil rights of any United States citizen.

Executive Order 12898 of February 16, 1994 “Federal Actions to Address Environmental Justice on Minority Populations and Low-income Populations” – This order requires federal agencies to the extent practicable and permitted by law to make achieving environmental justice part of its mission by identifying and addressing as appropriate disproportionately high and adverse human health effects, of its programs and policies and activities on minorities and low-income populations in the United States and territorial possessions. In compliance with this Executive Order the Wasatch-Cache National Forest through scoping and public involvement attempted to identify interested and affected parties, including minorities and low-income populations for this project. A comment period was held for 30 days following the publication of the legal notice in the Salt Lake Tribune. No minorities and low-income populations were identified during public involvement activities.

Violating Federal, State and Local Laws – My decision does not violate any Federal, State or local laws or requirements for the protection of the environment.

Administrative Review or Appeal Opportunities

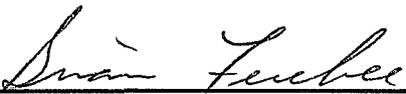
This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer at *Appeal Deciding Officer, Harv Forsgren, Regional Forester, 324 25th Street, Ogden, Utah 84401 fax 801-625-5277*. The office business hours for those submitting hand-delivered appeals are: 8:00 to 4:30, Monday through Friday, excluding holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), and Word (.doc) to appeals-intermtn-regional-office@fs.fed.us. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification. Individuals or organizations who submitted comments during the comment period specified at 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14. Appeals, including attachments, must be filed within 45 days from the publication date of the legal notice in the Salt Lake Tribune, the newspaper of record. Attachments received after the 45-day appeal period will not be considered. The publication date in the Salt Lake Tribune is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

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.

Contact

Additional information can be obtained by contacting Chip Sibbersen at the Ogden Ranger District, 507 25th Street, Ogden, Utah 84401 or by phone at (801) 625-5112.



BRIAN FEREBÉE
Forest Supervisor

5/1/09
Date

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Appendix A

Mitigation and Management Requirements

Mitigation measures, Best Management Practices (BMPs), and forest-wide standards and guidelines included in the decision are listed below. Research and information substantiating these requirements are found in the Revised Forest Plan and FEIS (USDA Forest Service 2003). The decision includes the following mitigating measures to eliminate or reduce environmental effects:

Recreation

1. In order to keep the Bonneville Shoreline Trail open during construction and into the future, debris (including snow) will be kept clear of the trail surface where it crosses the access road and the trail's edge will be buffered to prevent damage to the trail surface.

Access

2. Motorized use of the new road will be restricted to Ogden City personnel and their contractors, before, during, and after construction of the access road and water tank.
3. Ogden City and its designated contractors will cooperate closely with the Forest Service to maintain the existing motorized use closure, focusing on maintaining existing travel management structures (i.e. fences and gates), and improving travel management control with additional structures where needed.

Water and Soils

4. Proper road drainage improvements (such as drainage dips) will be installed to prevent runoff and sediment effects from impacting nearby recreation trails and private property.
5. All road drainage features are expected to be fully functional at all times during the construction period. They will be regularly maintained and/or repaired if damaged by construction activities.
6. Waste soil and rock from excavation of the water tank disposed of in the gravel pit area must be covered with additional top soil that will support re-vegetation. Earthen material needed for bedding of the tank foundation or of pipeline trenches, may be temporarily stockpiled on National Forest lands. Runoff and sediment from these stockpiles should be contained by a line of sediment fencing.
7. All project sediment fencing is expected to be fully functional at all times during the construction period. It should be cleaned periodically of rainstorm sediment and repaired whenever damaged by construction activities.
8. The construction access road to the project will be periodically watered to minimize dust.
9. No washout of concrete trucks will be allowed on National Forest lands.

Vegetation

10. Old roads and trails located on NFS lands in the vicinity of the gravel pit will be closed and rehabilitated with native vegetation.
11. To prevent the introduction and spread of invasive weed species, all construction equipment working on the project must be power washed before delivery and use on National Forest land.
12. All areas disturbed by construction activities will be seeded at a minimum rate of 40 pounds per acre and then covered with a mulch product that has a minimum of one full year of performance. The seed mix will be provided by the Forest Service and will be certified free of noxious/invasive weed species. Seeding will be done after final road grading has been accomplished.
13. Ogden City will be responsible for the treatment and control of noxious weeds that occur within the project area for a period of 5 years.

Wildlife

14. Approximately 350 containerized bitterbrush plants (quart-size or larger) will be established in the grass/shrubland openings within the surrounding area to compensate for the loss of mule deer winter range habitat.
15. A small water trough will be installed near the water tank to provide water for wildlife.
16. To reduce disturbance effects to wintering mule deer and nesting birds, construction/maintenance of the road should occur in the summer/fall.

Wasatch-Cache NF Guidelines (G) that apply to this project.

(G3) Proposed actions analyzed under NEPA should adhere to the State Nonpoint Source Management Plan to best achieve consistency with both Sections 313 and 319 of the Federal Water Pollution Control Act. (RFP, p. 4-37).
(G4) At the end of an activity, allow no more than 15% of an activity area to have detrimental soil displacement, puddling, compaction and/or to be severely burned. (RFP, p. 4-37).
(G9) Avoid soil disturbing activities (those that remove surface organic matter exposing mineral soil) on steep, erosive, and unstable slopes, and in riparian, wetlands, floodplains, wet meadows, and alpine areas. (RFP, p. 4-38).
(G11) Use Best Management Practices & Soil & Water Conservation Practices during project assessment/ implementation to ensure maintenance of soil productivity, minimization of sediment discharge into streams, lakes and wetlands to protect designated beneficial uses (RFP 4-38).

Appendix B

Wasatch-Cache Forest Plan Amendment No. 7

Effective with the Decision on the Environmental Assessment (EA) for the Ogden City Access Road, April 2009

POSTING NOTICE:

This non-significant amendment applies to Standard 3.1W, Page 4-69 of the 2003 Revised Forest Plan.

EXPLANATION:

The analysis to substantiate the waiver of Standard 3.1W is found in the EA for the Ogden City Access Road, April 2009

This amendment is a non-significant amendment to the Wasatch-Cache Forest Plan that allows a waiver to standard (S3.1W) in Management Prescription (MPC) 3.1W as it applies to the Ogden City Access Road special use authorization. The standard reads:

(S3.1W) Timber harvest, road construction and new recreation facility development are not allowed (RFP page 4-69).

In other areas of the Wasatch-Cache where MPC 3.1W has been applied road construction is not allowed. The amendment is provided to allow Ogden City the authorization to construct and maintain a segment of road on National Forest System land accessing the water storage tank in Taylor Canyon.