

DECISION NOTICE
And
FINDING OF NO SIGNIFICANT IMPACT
For
Road Reconstruction Proposal
Brushy Creek Development Co., LLC

USDA Forest Service
Bankhead Ranger District, National Forests in Alabama
Winston County, Alabama
NWSE Section 36, T10S, R7W

BACKGROUND

In November 2004, the USDA Forest Service received a proposal from the Brushy Creek Development Company, LLC for a 40' easement to reconstruct an existing woods road across federal land. The easement will permit two lane traffic into the privately owned parcel and allow sufficient width for road maintenance, drainage structures, vegetation management and future utility access. A second 30' easement diverging from the first easement will serve as a single lane driveway to access a separate smaller parcel within the same development. These privately owned parcels are accessible only through federally owned lands or by water on Lewis Smith Lake.

DECISION AND RATIONALE

The decision to be made is whether to issue the requested easement across federally owned lands, or to deny the easement request. Based upon the analysis in the Environmental Assessment (EA) and my review of all alternatives, I have decided to implement Alternative 4, to allow the reconstruction of the existing Forest Service roads and the associated sale and removal of 28 ccf of merchantable timber covering approximately 2.5 acres within the total easement area of 3.24 acres. Alternative 4 will best meet the Purpose and Need identified in the EA and meet Forest Plan Guidelines for that particular area where the roads are located.

In addition to the selected alternative, I considered 3 other alternatives. A comparison of all the alternatives can be found in the EA on pages 6-18.

Alternative 1, No Action or Denial of Special Use Permit

This alternative would deny the easement request without other suggested action. Although any impact on resources would be minimized or prevented, the alternative would be indefensible or result in a court challenge, since the private property is otherwise inaccessible for residential

development. No compelling reasons to deny improved access for resource protection were identified in the Biological Evaluation (Appendix D to the EA).

Alternative 2, Construction of a New Road

This alternative would vary from alternatives 3 and 4 in that it would diverge from the existing roadway from the beginning and require an entirely new route be taken into the private lands. A new route would not lessen the grade from that of the existing road, could potentially impact more trees suitable as bat habitat, could impact more *Trillium stamineum* plants than the existing road, and would certainly cause more soil and vegetation disturbance than utilizing the existing road for at least a portion of the route. This alternative was dropped from detailed study for these reasons.

Alternative 3, Proposed Action

This alternative would widen the existing road for approximately 0.5 miles, proceeding down slope from an elevation of 780 feet at the beginning to an elevation of 520 feet at Lewis Smith Lake. This route would diverge from the existing road near the bottom of the slope, cross a second order stream and end at the larger southernmost private parcel. The driveway would depart from the existing road further down slope, then cross a third order stream and traverse undulating terrain to the smaller second parcel. Two 24" culverts would be installed at the second order stream crossing and four 24" culverts at the third order stream crossing. No offsite fill would be used and excavation would not be necessary. Twenty-three *Trillium stamineum* plants would be impacted in the widening of the existing road and an additional 121 plants in the additional construction of the new section into the larger parcel.

Alternative 4, Preferred Alternative

This alternative will follow and widen the existing road for approximately 0.5 miles as in alternative 3, then depart and cross the second order braided stream bottom at a point 40 feet south of the centerline proposed in alternative 3 and then rejoin the route proposed in alternative 3 to the larger southernmost parcel. The route to the northernmost smaller parcel will follow the existing road farther down and depart from it at the bottom of the slope, crossing the third order stream at that point, then traverse gently undulating terrain to the second smaller parcel. The entire easement width(s) will not be cleared of vegetation, but will be limited to the width necessary to permit construction. This alternative will also utilize two 24" culverts in crossing the second order stream and four 24" culverts in crossing the third order stream. By relocating the road into the larger parcel 40 feet downstream on the second order stream, the number of *Trillium stamineum* plants impacted is reduced from 121 to 12 on the new section, in addition to the 23 impacted in the widening of the existing road.

Road construction will follow recommended Best Management Practices for soil and water conservation and proper care will be utilized to prevent unnecessary disturbance in order to minimize short term impacts on soil conservation, water quality, timber resources, and wildlife habitat. Slash treatment resulting from timber removal will require that grubbed stumps and logging slash be scattered within the right-of-way limits, with height above ground after scattering not to exceed two feet. Areas where soil is disturbed in construction will be stabilized according to requirements of the Revised Land and Resource Management Plan for the National Forests in Alabama (LRMP) and the terms of the Special Use Permit. These measures include

but are not limited to seeding, mulching, silt fencing, hay bales, etc. as necessary to control erosion and sedimentation. Applicable standards in the LRMP will be followed, including FW2 through FW18 on pages 2-10 through 2-12; FW35 through FW40 on pages 2-19 and 2-20; FW 60 through FW 69 on page 2-26 and FW97 on page 2-33.

PUBLIC INVOLVEMENT

The need for this action arose in November 2004, when the easement proposal was received from the Brushy Creek Development Co., LLC. A proposal to grant the easement for reconstruction was listed in the Schedule of Proposed Actions in July 2005. The proposal was provided to the public and other agencies during scoping in December, 2004 and a legal notice was published in the local paper of record, *The Northwest Alabamian*, on December 11, 2004. No comments were received in response to this scoping.

An Environmental Assessment (EA) was prepared and made available to the public. A legal notice was published in *The Northwest Alabamian* on August 27, 2005, on the availability of the EA and the opportunity to comment. During the comment period, no comments were received.

FINDING OF NO SIGNIFICANT IMPACT

After considering the environmental effects described in the EA, I have determined that this action will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Therefore, an environmental impact statement will not be prepared. My findings are based on the following:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action.
2. There will be no significant effects on public health and safety. Only potential indirect effects are anticipated in the future, but these are connected with the eventual development of the properties in question and are outside the scope of this action.
3. There will be no significant effects on any unique characteristics of the area; there are none present to be affected.
4. The effects on the quality of the human environment are not like to be highly controversial because there is no known scientific controversy over the impacts of the project (see EA pages 9-15).
5. We have considerable experience with the type of activity to be implemented. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk (EA page 8 and Biological Evaluation, Appendix D).
6. The action is not likely to establish a precedent for future actions with significant effects, because each proposal of this type is considered and analyzed on an individual basis.

7. The cumulative impacts are not significant (see EA pages 6-15).
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, because there are no such resources present in the area. The area has been previously surveyed and there is no record of any cultural resources or archaeological sites in the area (see EA pages 12 and 37). Further, since the road reconstruction will generally take place upon the existing road footprint, there will be no significant effects with the alternative selected.
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. Although there are several species on the Bankhead National Forest's List of Proposed, Threatened, and Endangered Species and List of Sensitive and Locally Rare Species, only one, the locally rare *Trillium stamineum* has been detected in the area of the proposed project, and mitigation measures are in place. (see EA pages 4-14, 17-18 and Biological Evaluation, Appendix D).
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 Revised Land and Resource Management Plan for the National Forests in Alabama.

Findings Required by Other Laws and Regulations

This decision to allow reconstruction of these existing woods roads is consistent with the intent of the forest's goals and objectives as described in the Revised Land and Resource Management Plan for the National Forests in Alabama. The project will be designed in conformance with land and resource management plan standards and incorporate appropriate land and resource management plan guidelines for road construction. The applicable Management Prescriptions in the Revised LRMP, Chapter 3, pages 3-1 through 3-72, will be followed.

Project Implementation & Appeal Opportunities

Pursuant to 36 CFR 215.12(e)(1) this decision is not subject to appeal and may be implemented immediately following publication in the *Montgomery Advertiser*.

Contact

For additional information concerning this decision or the Forest Service appeal process, contact Glen D. Gaines, District Ranger, Bankhead National Forest, P.O. Box 278, Double Springs, AL 35553 or on (205) 489-5111.

/s/Stephen R. Rickerson

STEPHEN R. RICKERSON

Forest Supervisor

National Forests in Alabama

10/27/2005

Date