

- The Forest Service acted arbitrary and capricious in approving the projects without first gathering required PETS data, in violation of NFMA;
- Because the Forest Service failed to analyze the effects of Amendment #4 on the Forest *Plan* itself, it implemented the change in violation of NEPA. Amendment #4 was vacated and the resulting decisions considered arbitrary and capricious, in violation of the APA; and
- It could not reach a conclusion regarding MIS and associated NFMA requirements, so parties will be permitted to set an evidentiary hearing or submit additional briefings.

The Forest Service contends that conclusions were made in error and continues to defend the projects. Since the District Judge preferred holding an evidentiary hearing to consider additional arguments, discovery is currently in progress. Docket call is scheduled for November and an evidentiary hearing to consider the remaining MIS portion of the case may be held in December 2006. Both projects are enjoined until a final ruling is entered.

**Cause No. H-04-3154 - USA v. Gregory J. Colson in the U.S. District Court, Southern District of Texas, Houston Division**

The NFGT filed suit against defendant Colson for erecting gates that unlawfully denied the United States Department of Agriculture access to 165 acres of National Forest lands. Mr. Colson's counterclaims against the government and its employees were dismissed. A trial was held on June 12, 2006 where an advisory jury ruled in favor of the government. In a final judgment issued on June 15, 2006, the court ordered the defendant to remove the two gates in question and any other obstructions - at his expense. He was instructed to not impede the free use of the road in question by the U.S. Forest Service and the general public in attaining ingress to and egress from the Sam Houston National Forest. The government was also awarded cost of court from the defendant.

(2) National Forest System Litigation Affecting the NFGT

There were no new national rulings during FY 2006 that affect NFGT lands.

**b. Changes in Resources Planning Act, Policies, or Other Direction**

When changes to the Resource Planning Act and/or other policies or direction occur, the NFGT adjusts its management actions to follow the new laws, rules and regulations.

On November 9, 2005 the U.S. Department of Agriculture Forest Service issued a new regulation for recreational motor vehicle use on national forests and grasslands which will provide a sustainable system of routes and areas designated for motorized use in the future.

The new travel management policy requires each national forest and grassland to identify and designate those roads, trails and areas that are open to motor vehicle

use. The NFGT will seek public input and coordinate with federal, state, county and other local governmental entities as well as tribal governments before any decision is made on a particular road, trail, or area. Unplanned, user-created routes will be considered at the local level during the designation process. More detailed information on the status of this new regulation on the NFGT can be found under “Off-Road Vehicle Use”.

### **c. Significant Changes in Conditions or Demands**

Three major events happened during FY 05 and FY 06 that significantly changed conditions on the NFGT. These events are discussed in the following text.

#### **(1) Hurricane Rita**

Hurricane Rita struck the Texas coast just east of Sabine Pass in Jefferson County near the Louisiana border before dawn on September 24, 2005. Following less than a month after Hurricane Katrina devastated parts of the central Gulf Coast region, Hurricane Rita was the second hurricane of the season to reach Category 5 status (on the Saffir-Simpson scale) in the Gulf of Mexico. It was one of the strongest storms on record for the Atlantic Basin, with peak sustained winds of 175 mph as the storm tracked through the Gulf. Weakening occurred during the 36 hours prior to landfall, but Rita was still a Category 3 hurricane with winds speeds of 120 mph when it struck the Gulf Coast. Hurricane strength winds occurred up to 150 miles inland and caused significant damage along the coast. Large portions of the Angelina and Sabine National Forests were impacted by the storm, while the Sam Houston and Davy Crockett National Forests received minor damage. Since the hurricane struck just a week before the end of the federal fiscal year (September 30), most of the recovery efforts took place in FY 06 and so are being reported here.

The following graphic illustrates the path of Rita as it developed from a tropical storm into a hurricane and progressed through the Florida Straights, the Gulf of Mexico, Texas and Louisiana from September 18-25, 2005.

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**Figure 19. Path of Hurricane Rita**

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Source: <http://cimss.ssec.wisc.edu/tropic/archive/2005/storms/rita/rita.html>

Even though Hurricane Rita weakened from a Category 5 to a Category 3 hurricane by the time it made landfall, it was still a powerful hurricane as the following satellite image illustrates.

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**Figure 20. Satellite Image of Hurricane Rita**

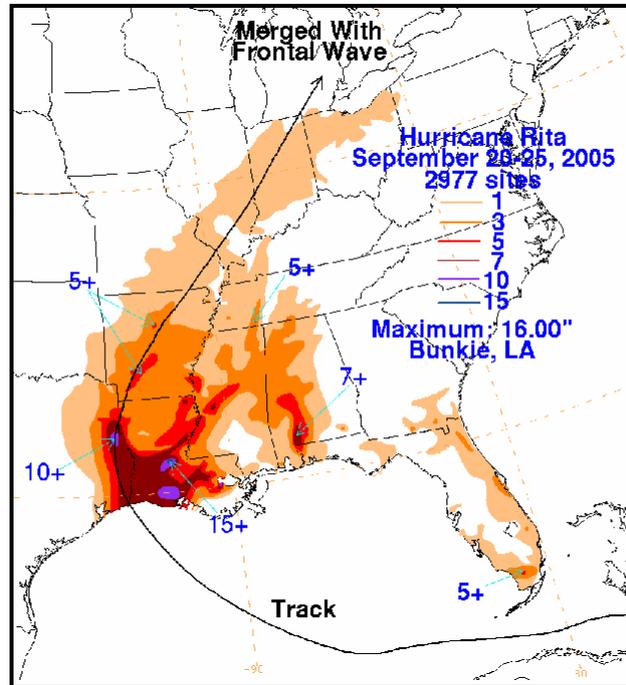
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Source: <http://www.chron.com/content/chronicle/special/05/rita/index.html>

As Hurricane Rita tracked inland, hurricane force winds were sustained more than 150 miles from the coast and tropical force winds were experienced as far north as the Louisiana-Texas-Arkansas border. Rainfall amounts of five to nine inches occurred over a large portion of East Texas, Louisiana and Mississippi, with isolated areas receiving amounts in excess of ten inches. The official weather station in Center, Texas, just north of the Sabine National Forest, recorded 10.48 inches of rain. The following graphic shows rainfall estimates from Hurricane Rita.

**Figure 21. Rainfall Estimates from Hurricane Rita**



Source: <http://www.hpc.ncep.noaa.gov/tropical/rain/rita2005.html>

The Texas Forest Service initiated an assessment of the total damage on both private and public lands caused by Hurricane Rita shortly after the hurricane completed its trek across Texas. They estimated that 771,000 acres of forests in East Texas were impacted. The volume of the damaged and affected trees was estimated at 967 million cubic feet with a stumpage value of \$833 million. They found that the worst damage occurred in southern Newton and Jasper counties, which lie just south of the Angelina and Sabine National Forests. This entire assessment is available at the Texas Forest Service web site, <http://texasforestservicetamu.edu>

Initial surveys by the NFGT identified approximately 12,200 acres of moderate to heavy damage. Based on these initial surveys, the NFGT developed an action plan to prioritize the recovery work to be done. Top priorities were installing RCW cavity inserts to replace cavities lost or damaged during the storm, clearing primary and secondary roads of damaged trees and hazard trees and salvaging damaged trees. Additional recovery efforts included conducting road condition surveys, preparing road maintenance

contracts, performing damage assessments of facilities, administering fuels reduction treatments, accomplishing RCW and bald eagle assessments, and making trail damage assessments. The following section outlines the hurricane recovery work that was accomplished in FY 06.

### **Forest Management /Timber Removal**

- 28 timber sales sold (100% of goal)
- 118,663 CCF offered and sold
- 185,721 tons hauled to date with a value of \$2,495,329
- Sale treatment area totaled 26,337 acres
- Heritage/Archeology:
  - 150 total sites field checked within sale areas (100% of goal)
  - Damaged assessment done on all sites outside sale areas (100% of goal)

### **Fuels Management**

- 27,003 acres hazardous fuels treated, (non-burning)
- Mechanical fuels treatment by mulching accomplished on 6,928 acres
- 5,010 acres pre-commercial thinning occurred on adjacent private land (as directed by the Stevens Act).
- NEPA was initiated on approx. 13,100 acres to develop a hazardous fuels commercial thinning project

### **Wildlife Management**

- TES species were inventoried and protected (including RCW and Bald Eagle)
- RCW:
  - 212 individual clusters sites assessed (150% of goal)
  - 3,927 cluster acres assessed (125% of goal)
  - 240 artificial cavities installed (103% of goal)
- Bald Eagle:
  - 45 individual eagle territories surveyed (100% of goal)
  - Two aerial surveys accomplished as planned (100% of goal)
  - No activities adversely affected bald eagle nesting

### **Engineering**

- 438 miles of system roads were opened using saw crews and FS equipment
- Design, specifications and contracts on 103 miles of roads for tree removal sales were completed
- A major (\$557,000) culvert restoration/replacement contract was prepared and awarded
- A contractor is currently re-surveying 450 miles of property boundaries
  - 40 miles property boundary resurveyed to date
- 800 property corners will be maintained, 100 corners will also be re-monumented
  - 131 property corners maintained to date
  - 14 property corners re-monumented to date

**Recreation**

- 250 miles of trail were assessed, 40 miles were opened using FS equipment
- Double Lake Recreation Area on the Sam Houston NF, Ratcliff Lake Recreation Area on the Davy Crockett NF, and Red Hills Lake Recreation Area on the Sabine NF have all been cleared of damaged trees and debris and are open to the public
- The Angelina NF's Boykin Springs and Caney Creek Recreation Areas are still closed, but contracts for removal of damaged trees are now completed. Debris cleanup contracts have been awarded, but the recreation areas remain closed until these contracts are completed.
- The Boykin Springs spillway and geo-tech projects have been renewed following closure of tree removal contracts in the area
- Repair of facilities (buildings) has been initiated at the Yellowpine Work Center, the Angelina District office, Caney Creek Recreation Area and Boykin Springs Recreation Area. Some of the smaller structures at Boykin Springs Recreation Area have been repaired, but repairs of the spillway at the lake still must be completed.

**General comments:**

- Job Hazard Analyses, safety briefings and tailgate safety sessions were conducted to ensure a safe working environment.

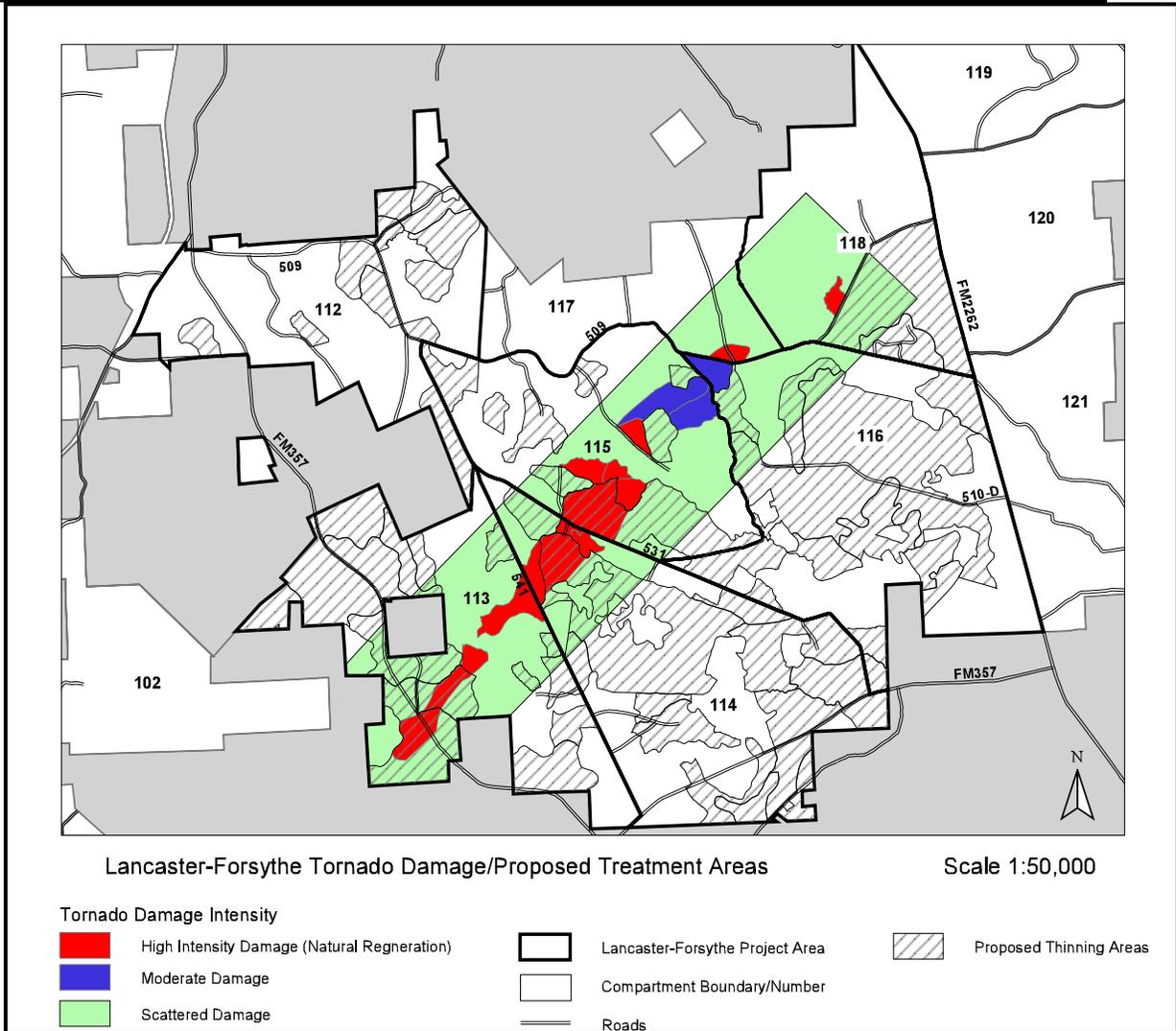
Work on several hurricane-recovery contracts will continue into FY 2007.

(2) Tornado Damage on the Davy Crockett National Forest

A tornado struck a portion of the Alabama Creek Wildlife Management Area of the Davy Crockett National Forest on the evening of November 23, 2004. The tornado damaged trees along a path approximately 4.5 miles long and 0.75 miles wide, encompassing roughly 2,300 acres in Compartments 113 through 118. The affected area was within the Lancaster-Forsythe Project Area, which was in the final stages of NEPA analysis when the event occurred. Most of the affected area was within Management Area 2, where RCW management is the emphasis.

The following graphic illustrates the path of the tornado as it crossed the Davy Crockett National Forest.

**Figure 22. Path and Damage of the Tornado on the Davy Crockett National Forest**



An existing hazard tree removal contract was utilized to open roads and remove hazard trees as quickly as possible within the area impacted by the tornado.

Three forest product sales were sold to remove trees from the areas most impacted by the tornado. These sales covered 777 acres; the volume of trees removed totaled 7,447 CCF (3,723 MBF) and was valued at \$520,000. Most of the damaged trees were removed in the summer of 2005, but the harvesting wasn't completed until October 2005.

The following pictures illustrate a portion of the tornado-damaged area where the damage was intense (heavy). The first picture was taken just three days after the tornado struck, and the second was taken on April 2, 2006, after the tree removal sales were completed.

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**Figure 23. Tornado Damage on September 26, 2005**

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Photo by Barton Davis, USFS

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**Figure 24. Tornado Damage on April 2, 2006**

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Photo by Barton Davis, USFS

Areas hardest hit by the tornado do not have adequate tree stocking remaining to continue to manage them as intended. Davy Crockett personnel anticipate that there will be sufficient natural regeneration of these areas that site preparation will not be necessary. Stocking exams are planned for these areas in FY 2007 to determine whether natural seedlings have become established or reforestation treatments will be needed.

On February 15, 2006, an assessment of voluntary BMPs was conducted by the Texas Forest Service on one of the tornado-damaged area forest product sales. The assessment included evaluations of resource protection measures taken related to permanent and temporary roads, skid trails, stream crossings, streamside management zones and log landings. They determined that the overall operation was good as it related to water quality and meeting BMP recommendations, and they gave the overall implementation percentage of BMP measures at 90 percent. The picture below was taken during the BMP audit and illustrates a healthy stand of grass on a temporary road that was seeded after sale closure in order to stabilize the soil and prevent soil erosion.

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**Figure 25. Revegetation of Temporary Road in Tornado Damaged Area**

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Photo by Barton Davis, USFS

### (3) Fire Severity

Due to extreme drought, the NFGT began experiencing severe fire conditions in early July 2005. Extra resources (personnel and equipment) were positioned strategically throughout the state for the remainder of fiscal year 05 and into fiscal year 06 using fire severity funding. Fire incidence occurrences went up and the fires that burned were at much higher intensities. This extra activity dominated the attention of Fire Program Managers for much of the summer and fall of 2005. Efforts continued into FY 2006 with

some relief coming to the East Texas forest units in the form of light rainfall in the fall and early winter of 2006. The Grasslands in North Texas continued to experience severe fire conditions throughout most of 2006 before finally getting rain in the fall.

#### **d. Effects of National Forest Management to and from Private Lands**

National Forests and Grasslands in Texas management actions affect its lands, resources and adjacent communities. Management activities conducted on nearby lands that are managed by other Federal, State, local governmental agencies, or individuals can also affect NFGT lands and resources as well. These interactions need to be carefully considered and are discussed in the following issues.

##### (1) Wildland-Urban Interface

The NFGT is a very fragmented forest and there is an abundance of private land intermingled with its lands. This creates a serious wildfire situation where a fire that starts on the NFGT can easily spread to private land. Conversely, a fire that starts on private land can easily spread to federal lands.

In FY 06, the NFGT conducted numerous prescribed fires that, among other benefits, reduced the potential of wildfire to spread. In addition to prescribed fire, mechanical treatments were performed to reduce fuels to address reducing the potential for damaging wildfires to occur. Figure 25 shows an example of how the urban interface problems effect prescribed fire activities. In FY 07, the NFGT will continue its prescribed fire program and increase efforts to mechanically treat strips of land along federal property boundaries to help mitigate the potential for the spread of wildfire.

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**Figure 26. Landline Boundary Between Private land and Federal Property on the Caddo National Grasslands.**

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Photo by James Flue, USFS

(2) Payments to Counties

In FY 06, the NFGT made payments to counties in Texas that contain NFGT lands. Table 13 displays the amounts that were paid by the U.S. Treasury to the involved counties.

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**Table 13. Payments to Counties in 2006**

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<b>Counties</b>	<b>Payments</b>
Angelina	\$298,623
Houston	\$988,993
Jasper	\$107,184
Montgomery	\$259,254
Nacogdoches	\$47,914
Newton	\$19,197
Sabine	\$923,774
San Augustine	\$373,684
San Jacinto	\$326,254
Shelby	\$574,749
Trinity	\$709,838
Walker	\$294,297
<b>Total</b>	<b>\$4,923,761</b>

Since 1908, 25 percent of the Forest Service revenues, such as those from timber sales, mineral resources and grazing fees, have been returned to states in which national forests lands are located. The increase in returns shown in 1998 is due to the increase in timber salvage sales resulting from the 1998 windstorm. There is also a decrease across all counties in returns during 1999 and 2000 due to court injunctions which reduced timber harvesting. Because receipts from timber sales fluctuate, the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS) was developed to stabilize payments to counties for six years. Figure 26 reflects the payment fluctuation from the years and the stabilization since 2001 due to SRS. All payments since 1966 are shown on a table found in Appendix G.

Payments shown in the table on the next page do not reflect national grassland revenues, which are calculated on a calendar year basis and are paid to counties in March.

**Figure 27. Payments to Counties for the Past 20 Years**

