

**DECISION NOTICE  
AND  
FINDING OF NO SIGNIFICANT IMPACT  
UTILITY CORRIDOR VEGETATION MANAGEMENT**

**USDA Forest Service**

**Cold Springs, Poteau, Mena, and Oden Ranger Districts  
Ouachita National Forest**

**Logan, Scott, Sebastian, and Yell Counties, Arkansas**

**The project occurs in rural electric cooperatives' rights-of-way that cross the  
Ouachita National Forest**

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## **Decision and Reasons for the Decision**

### **Background**

A group of four rural electric service cooperatives approached the Ozark-St. Francis and Ouachita National Forests and proposed that their Special Use Permits be amended to allow the utilization of USDA approved silviculture herbicide treatments on target vegetation in their rights-of-way (ROWs). The activity area consists of approximately 425 miles of distribution and transmission lines that cross National Forest lands in portions of fourteen counties in north central, northwest, and west Arkansas. As a result of discussion with these companies, they hired ATOKA, Inc. who developed the Environmental Assessment (EA) under the guidance and direction of the USDA Forest Service. The rural electric service cooperatives participating in this project are:

- Arkansas Valley Electric Cooperative Corporation
- Carroll Electric Cooperative Corporation
- North Arkansas Electric Cooperative, Inc.
- Ozarks Electric Cooperative Corporation

The purpose and need for the action is to allow for herbicide use to maintain power line ROWs so that vegetation does not interfere with the delivery of power to their customers. Woody material that grows within the ROWs can affect the delivery of power primarily during weather events such as storms with high winds that blow the woody materials across power lines breaking either the lines or the poles.

The Proposed Action Alternative reflects the desire of the power companies to utilize herbicides to meet the above purpose and need. They deem this proposed action as needed to increase the efficiency, effectiveness and environmental soundness of vegetation management in rural electric cooperatives' ROWs that cross National Forest lands.

The No Action Alternative analyzes mechanical methods which are currently the only treatments used in the rural electric cooperatives' ROWs that cross the Ozark-St. Francis and Ouachita National Forests.

The environmental assessment (EA) documents the analyses of these two alternatives to meet this need.

### **Decision**

Based upon my review of all alternatives, I have decided to implement the Proposed Action Alternative (on the Ouachita National Forest) which will allow for modification of the companies' Special Use Permits to include herbicides as one of the tools they may utilize to manage vegetation within their ROWs. On the Ouachita National Forest, these ROWs total approximately 64 miles, or 390 acres. They will be required to use methods analyzed in the EA which are direct foliar spraying from a backpack or the hack and squirt method directly to the woody vegetation. This decision allows the use of the herbicides analyzed in the EA with the exception of Picloram. Picloram will not be used due to uncertainty of American Burying Beetle occurrences.

My decision 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 acknowledgement of incomplete or unavailable information. See “Relevant Planning Documents” (EA, page 3) and “References” (EA, pages 115-128). Also, see “Response to Comments” in the project file.

When compared to the other alternative, this alternative provides the companies with another method along with the use of light and/or heavy machinery to maintain the vegetation within those ROWs. This allows the companies to make a choice of the most appropriate method taking into account environmental effects, targeting of specific woody materials as well as economic considerations. The use of this method should also

- provide consistency of vegetation management on National Forest and non-Forest lands;
- extend the periods between required re-treatment, while also providing ongoing protection for the integrity of the power lines;
- reduce or eliminate the need for mechanical or motorized vegetation maintenance activities in the ROWs, which lessens the potential adverse effects from heavy equipment such as erosion, spread non-native invasive species, water sedimentation, and disturbance of fish and wildlife;
- provide improved habitat quality for game and non-game species of wildlife such as quail, turkey, songbirds, and butterflies; and
- reduce the cost of ROW management.

This alternative restricts the companies to the use of herbicides already analyzed in the Human Health and Ecological Risk Assessments (HERAs) and requires them to follow the objectives, guidelines, and standards regarding herbicide use included within the Ouachita National Forest’s Revised Land and Management Plan (RLRMP). Additionally, mitigation measures were included to address the issues identified by management and by the public during the scoping and comment periods. Those issues included; Water Quality-Erosion/Siltation; Effects on Wildlife; Herbicide Application; Regulatory Compliance-NEPA; Scenic Integrity and ROW Use; Economic Effects; and Health and Human Safety--Toxic Properties, Risk Assessments.

Those mitigation measures include:

- Adhering to Forest Plan directives regarding herbicide use;
- Following all manufacturers’ labels concerning mixing and use directions;
- Ensuring that applicators are properly trained;
- Utilizing the proper personal protective equipment (PPE) for workers applying and mixing herbicides;
- Supervision by a licensed pesticide applicator;
- Utilizing Best Management Practices (BMPs);
- Employing training and supervision to ensure that only targeted woody stem vegetation is treated and that proper spraying techniques are used;
- Applying herbicides only when wind speeds are low and no precipitation is forecast;
- Ensuring that herbicides are applied within National Forests only in the ROWs;

- Sampling of streams and water bodies adjoining the treatment areas, as provided in the Forest Service approved Sampling and Analysis Plan (Appendix 4 of EA);
- Adhering to Forest Service-directed streamside and riparian buffer zones where herbicides are not used and;
- Managing target vegetation identified within non-treatable buffer areas through hand and mechanical means only. (EA, pages 24-25)

I am requiring the cooperatives to identify certified organic farms within the Forest boundary to assure they are protected from any possible herbicide contamination.

In addition, I am requiring that the cooperatives notify the appropriate district offices before they apply herbicides and when they have completed the application in order to coordinate with other activities or administrative concerns on the district.

### **Other Alternatives Considered**

In addition to the selected alternative, I considered one other alternative. A comparison of these alternatives can be found in the EA on pages 26-28.

#### **Alternative 1 - No Action**

Under the No Action Alternative, current management plans would continue to guide management of the project area. This would limit the companies to the use of hand and mechanized equipment in order to maintain clear ROWs for their power lines. No herbicide use would be allowed. Special Use Permits would not be amended.

#### **Alternative 2 – Proposed Action**

Alternative 2 - Proposed Action Alternative, the Action Alternative proposed by the Forest Service is to allow the use of EPA approved (registered) and USDA Forest Service approved herbicides to treat only woody stem vegetation where appropriate within the rural electric companies' ROWs on National Forest lands. The participating rural electric cooperatives identified above as participating in this project propose to use commercial herbicide formulations to control specific woody stem vegetation within existing constructed utility corridors located on federal lands. Special Use Permits would be amended to allow for this use.

Mechanical methods of ROW maintenance will also still be allowed.

### **Public Involvement**

As described in the background, the need for this action arose in 2005. A proposal to develop this project was listed in the Schedule of Proposed Actions on the fourth quarter of 2007. The proposal was provided to the public and other agencies for comment during the scoping period (7/24/2007-08/24/2007). A link was posted on the Ouachita Forest's external web page to the scoping documents posted on the Ozark-St. Francis Forest's external web page at: [http://www.fs.fed.us/oonf/ozark/projects/planning/documents/Herbicide\\_scoping\\_complete\\_000.pdf](http://www.fs.fed.us/oonf/ozark/projects/planning/documents/Herbicide_scoping_complete_000.pdf)

Using the comments from the public, other agencies, adjacent land owners and Native American Tribes (see “Issues” section), the interdisciplinary team identified several issues regarding the effects of the Proposed Action. Main issues of concern included Water Quality, Wildlife Effects, Herbicide Application, Regulatory Compliance, Scenic Integrity and ROW Use, Economic Effects, and Health and Human Safety (see EA pages 12 and 13). To address these concerns, the Forest Service created the alternatives described above. The EA was released for public comment in December of 2008 (12/22/2008–01/21/2009). A link was posted on the Ouachita National Forest’s external web page to the EA posted on the Ozark-St. Francis Forest’s external web page at:

[http://www.fs.fed.us/oonf/ozark/projects/planning/documents/Herbicide\\_FSEAFINAL102208.pdf](http://www.fs.fed.us/oonf/ozark/projects/planning/documents/Herbicide_FSEAFINAL102208.pdf)

However, there was a delay in the mailing of the notices to the public, so the Forest instituted a second comment period in February of 2009 (2/12/2009-3/13/2009) in order to assure that the public was informed of the pending decision and the Environmental Assessment. The EA was posted to the Ozark-St. Francis Forest’s external web page and located at:

[http://www.fs.fed.us/oonf/ozark/projects/planning/documents/Herbicide\\_FSEAFINAL102208.pdf](http://www.fs.fed.us/oonf/ozark/projects/planning/documents/Herbicide_FSEAFINAL102208.pdf)

A link was posted on the Ouachita National Forest’s external web page to the EA.

Comments were accepted and considered from both comment periods.

### **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:

1. Both beneficial and adverse effects have been considered and this action will not have a significant effect on the quality of the human environment (EA, pages 29-113).
1. There will be no significant effects on public health and safety, because the proposed herbicides target biochemical pathways unique to plants, do not accumulate in human tissue and are passed through the body without significant effect. Application methods and quantities proposed present minimal risk to the public. A minor adverse risk to applicators from overexposure is possible, however, no significant immediate or cumulative adverse effects to workers or the general public are anticipated. (EA, pages 101-113).
2. The action will not adversely affect any unique characteristics of the geographic area (e.g., proximity to historic or cultural resources, wetlands, ecologically critical areas) (EA, pages 51-63,95,96).
3. 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. (EA, pages 101-113).

4. We have considerable experience with the types of activities to be implemented. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk. The RLRMP allows the agency to use these herbicides under the design criteria within the Forest Plan. Those same design criteria as well as the mitigation measures in the EA will be followed by the companies when they use these herbicides on Forest Service lands. (EA, pages 19-25).
5. The actions in this decision will not establish a precedent for future actions with significant effects nor does this represent a decision in principle about a future consideration.
6. The cumulative effects of this action have been analyzed with consideration for past and foreseeable future activities on adjacent public and private lands, and no significant cumulative effects would result from implementation (EA, pages 31-113).
7. 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. Twelve historical or cultural sites have been identified in the ROWs. These sites and unknown sites would not be adversely affected by herbicide use. The action will also not cause loss or destruction of significant scientific, cultural, or historical resources because there are no known historic properties in the ROWs. Under the Programmatic Agreement with the Arkansas State Historic Preservation Office, herbicide activities within existing ROWs are Categorically Excluded from needed inventory (EA, pages 95-96).
8. The action is not likely to adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973. No known significant direct, indirect, or cumulative adverse effects are expected to proposed endangered threatened and sensitive species (PETS). (EA, pages 68-75 and the BE).
9. The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (pages 33-111). The action is consistent with the RLRMP.

### **Findings Required by Other Laws and Regulations**

This decision to allow the direct hand application of herbicide for vegetation management is consistent with the National Forest Management Act (NFMA) and the intent of the RLRMP's strategy or objectives listed on pages 27-71. The project was designed in conformance with land and resource management plan standards and incorporates appropriate land and resource management plan design criteria for the use of herbicides (RLRMP, pages 76,77,87-89,106).

### **Appeal Rights and Implementation**

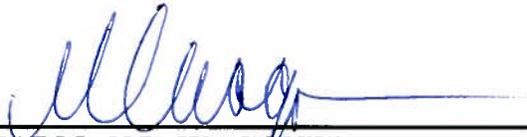
This decision is subject to appeal pursuant to 36 CFR 215.11. A written appeal, including attachments, must be postmarked or received within 45 days after the date a legal notice of this decision is published in the *Arkansas Democrat-Gazette*. Individuals or organizations who submitted comments during the comment period specified at 215.6 may appeal this decision. Appeals must meet content requirements at 36 CFR 215.14.

The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer at: Appeal Deciding Officer, 1720 Peachtree Road, NW, Suite 811N, Atlanta, GA, 30309-9102; Fax: (404) 347-5401. The office business hours for those submitting hand-delivered appeals are: 7:30 am to 4:00 pm 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), or Word (.doc) to [appeals-southern-regional-office@fs.fed.us](mailto:appeals-southern-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.

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 business days following the date of appeal disposition. (36 CFR 215.9).

### Contact

For further information on this decision, contact Lisa Cline, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902, or (501) 321-5256.

  
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**NORMAN L. WAGONER**  
Forest Supervisor  
Ouachita National Forest

8/12/09  
Date