



United States
Department of
Agriculture

Forest Service

Pacific Northwest
Region - Pacific
Southwest Region

March
2010



DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

Mt. Ashland Ski Area Expansion

Rogue River-Siskiyou National Forest
Siskiyou Mountains Ranger District

Klamath National Forest
Scott River Ranger District

Lead Agency:

USDA Forest Service
Rogue River-Siskiyou National Forest

Responsible Official:

Scott D. Conroy
Forest Supervisor
Rogue River-Siskiyou National Forest

**For Further Information
Contact:**

Donna Mickley; District Ranger
Siskiyou Mountains Ranger District, or

Steve Johnson; Project Leader
Ashland Ranger Station
645 Washington Street
Ashland, OR 97520; Phone: (541) 552-2900

DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

Mt. Ashland Ski Area Expansion

**Siskiyou Mountains Ranger District
Rogue River-Siskiyou National Forest**

**Scott River Ranger District
Klamath National Forest**

Jackson County, Oregon

March 2010

Lead Agency: USDA Forest Service
Rogue River-Siskiyou National Forest

Responsible Official: **Scott D. Conroy**
Forest Supervisor
Rogue River-Siskiyou National Forest

For Further Information Contact: **Tim Chesley; Acting District Ranger**
Siskiyou Mountains Ranger District, or

Steve Johnson; Project Leader
Ashland Ranger Station
645 Washington Street
Ashland, OR 97520; Phone: (541) 592-2900

Abstract:

The Mt. Ashland Ski Area (MASA) is an existing winter sports recreation area located within the Siskiyou Mountains in Southern Oregon on National Forest System Lands, and is operated under special use authorization issued and administered by the Rogue River-Siskiyou National Forest, Siskiyou Mountains Ranger District. A small portion of the ski area is located on the Klamath National Forest. MASA is located about 7 air miles south of the City of Ashland, primarily within the Ashland Creek Watershed. The Mt. Ashland Association currently leases the ski area from the City of Ashland, holder of the Forest Service Special Use Permit for the MASA. According to its bylaws, Mt. Ashland Association operates the ski area for the City of Ashland as "a non-profit corporation organized under the laws of the State of Oregon exclusively to provide educational and recreational opportunities in Jackson County, Oregon, to members of the general public.

In September 2004, the Forest Service issued a Record of Decision (ROD) for the Mt. Ashland Ski Area (MASA) expansion, selecting Alternative 2 with some modifications adopted from Alternative 6. The Forest Service received twenty-eight notices of appeal to the ROD. In December 2004, the Forest Service denied all administrative appeals to the ROD. In January 2005, Oregon Natural Resources Council (ONRC) filed suit against the Forest Service and Regional Forester Linda Goodman seeking declaratory and injunctive relief on the grounds that the MASA expansion project violated both the NEPA and the NFMA. On February 9, 2007, after considering cross-motions for summary judgment, a United States District Court entered summary judgment against ONRC. ONRC filed a timely notice of appeal to the Ninth Circuit Court of Appeals. Upon review, the Ninth Circuit remanded the case to the district court and instructed it to promptly enjoin the MASA expansion project contemplated in the 2004 ROD until the Forest Service corrected the NFMA and NEPA violations found in Opinion CV-05-03004-PA.

The Forest Service has prepared this Draft Supplemental Environmental Impact Statement (DSEIS) in response to the September 24, 2007 Opinion of the Ninth Circuit Court of Appeals concerning the Mt. Ashland Ski Area Expansion. The Court of Appeals found that the Forest Service failed to properly evaluate the impact of the proposed MASA expansion on the Pacific fisher; in violation of both the NEPA and the NFMA and that it violated the NFMA by failing to appropriately designate Riparian Reserves and Restricted Watershed terrain.

The purpose and need for this supplement is to analyze and correct specific violations identified by the Ninth Circuit Court of Appeals which will allow a determination on whether and to what extent analysis of supplemental information might alter the decision to allow ski area expansion. This action is needed to address the appropriateness of the previous decision and to be responsive to the Court of Appeals Opinion and district court injunction.

This DSEIS document is designed to supplement the existing 2004 FEIS document by adding information and analysis to Chapter III (Affected Environment) and Chapter IV (Environmental Consequence) to address matters identified by the Ninth Circuit Court of Appeals. In some cases (as noted), it will replace certain sections of these FEIS chapters. This supplemental process will then allow the latest and most complete information and analysis to include the 2004 FEIS concurrent and integrated with the 2009 supplemental information and analysis.

Comments:

This DSEIS is made available for a 45-day Comment Period, under the provisions of the National Environmental Policy Act (40 CFR 1506.10). The Forest Service will accept written, electronic and oral comments beginning on the day following date of publication of the notice of availability (NOA) in the Federal Register. This day is scheduled to be **March 26, 2010**. The Forest Service will respond to substantive comments received in an appendix to the Final EIS. **Send comments to:**

Scott Conroy, Forest Supervisor:
C/O Steven R Johnson, Project Lead
Ashland Ranger Station
645 Washington St.
Ashland, OR 97520-1402
FAX: (541) 552-2922

Email responses to: comments-pacificnorthwest-rogueriver-siskiyou@fs.fed.us

Important Notice:

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who only submit anonymous comments will not have standing to object to the subsequent decision under 36 CFR Part 215. Additionally, pursuant to 7 CFR 1.27 (d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets.

Reviewers should provide the Forest Service with their comments during the review period of the DSEIS. This will enable the Forest Service to analyze and respond to the comments at one time, and to use information acquired in the preparation of the Final SEIS, thus avoiding undue delay in the decision-making process. Reviewers have an obligation to structure their participation in the National Environmental Policy Act process so that it is meaningful and alerts the agency to the reviewer's position and contentions; Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the DEIS stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts. City of Angoon v. Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986) and Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Comments on the DSEIS should be specific and should address the adequacy of the statement and the merits of the alternatives discussed (40 CFR 1503.3).

**DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT
MT. ASHLAND SKI AREA EXPANSION**

TABLE OF CONTENTS

CHAPTER I - INTRODUCTION

A. BACKGROUND I-1

 1. Expansion History under the NEPA I-2

 2. Litigation History I-3

 3. Evaluation of New Information and/or Changed Conditions I-4

B. WHAT THE COURT OF APPEALS FOUND DEFICIENT I-4

 1. Pacific Fisher - NFMA Claims I-4

 2. Pacific Fisher - NEPA Claims I-5

 3. Restricted Riparian and Restricted Watershed Terrain - NFMA Claims I-5

 4. Riparian Reserves - NFMA Claim I-6

 5. Restricted Watershed Terrain - NFMA Claim I-6

C. WHAT THE COURT OF APPEALS FOUND SUFFICIENT I-6

D. PURPOSE AND NEED FOR THIS SUPPLEMENT I-7

 1. What This Supplement Does I-8

 2. What This Supplement Does Not Include I-8

E. DECISION TO BE MADE I-8

F. OVERVIEW OF WHAT THIS SUPPLEMENT INCLUDES I-9

CHAPTER II - SUPPLEMENTAL INFORMATION

A. INTRODUCTION II-1

B. SUPPLEMENTAL INFORMATION - PACIFIC FISHER II-1

 1. Pacific Fisher - NFMA Claims II-1

 a. No Compliant Biological Evaluation II-1

 b. Insufficient Biological Evaluation Process and Habitat Analysis II-2

SUPPLEMENTAL BIOLOGICAL EVALUATION – PACIFIC FISHER II-3

Pacific Fisher Biology II-3

Pacific Fisher Habitat Needs II-6

Pacific Fisher Listing Status II-8

Effects from Ski Area Expansion II-13

 2. Pacific Fisher - NEPA Claims II-16

 a. Impacts to Corridor Not Disclosed II-16

 b. Cumulative Effects from Other Projects Not Considered II-19

3. Determinations - Pacific Fisher	II-25
a. Sensitive Species Determination	II-25
b. Cumulative Effects	II-26
C. SUPPLEMENTAL INFORMATION - RIPARIAN RESERVES AND RESTRICTED WATERSHED TERRAIN	II-27
1. Restricted Riparian and Restricted Watershed Terrain - NFMA Claims	II-27
a. Failure to Designate Restricted Riparian (MS 26) & Restricted Watershed (MS 22)	II-27
RESTRICTED RIPARIAN (MS 26)	II-27
RESTRICTED WATERSHED (MS 22)	II-28
b. Failure to Evaluate Soils Standards and Guidelines: MS 26 & MS 22	II-29
SOILS STANDARDS AND GUIDELINES for MS 26 and MS 22	II-30
<i>Standards and Guidelines – SOILS: LRMP page 4-307 for MS 26</i>	II-31
<i>Standards and Guidelines – SOILS: LRMP page 4-272 for MS 22</i>	II-32
2. Riparian Reserves - NFMA Claim	II-33
a. Failure to Designate Landslide Hazard Zone 2 as Riparian Reserve	II-33
LHZ 2 as RIPARIAN RESERVE	II-34
RIPARIAN RESERVE LAND COVER CONDITIONS	II-34
SUPPLEMENTAL LAND ALLOCATIONS	II-36
3. Determinations - Riparian Reserves and Restricted Watershed Terrain	II-36
a. Restricted Riparian (MS 26)	II-36
b. Restricted Watershed (MS 22)	II-37
c. Landslide Hazard Zone 2 as Riparian Reserve	II-37

CHAPTER III - REFERENCES

CHAPTER IV - LIST OF PREPARERS AND CONTRIBUTORS

**CHAPTER V - LIST OF AGENCIES AND ORGANIZATIONS TO WHOM COPIES OF
THE STATEMENT ARE SENT**

APPENDIX

Appendix A New Information and Changed Circumstances Evaluations

LIST OF TABLES

CHAPTER I NONE

CHAPTER II

Table SEIS II-1. Soil Erosion Potential from Soil Resource Inventory (SRI)	II-30
Table SEIS II-2. Revised Riparian Reserve Land Cover Conditions – Site Scale Analysis Area	II-38

LIST OF FIGURES

CHAPTER I NONE

CHAPTER II

Figure SEIS II-1. Local Population Area	II-10
Figure SEIS II-2. Current Condition of Fisher Habitat Within the Local Population Area	II-12
Figure SEIS II-3. Fisher Habitat Effects	II-14
Figure SEIS II-4. Potential Fisher Dispersal - Current Condition	II-15
Figure SEIS II-5. Traffic Effects	II-18
Figure SEIS II-6. Foreseeable Federal Projects within the Fisher Local Population Area	II-24
Figure SEIS II-7. Management Strategy 26 within Special Use Permit Area and Site Scale	II-28
Figure SEIS II-8. Ashland Municipal Watershed within Special Use Permit Area	II-29
Figure SEIS II-9. Riparian Reserve including LHZ 2 (not previously included) at Site Scale	II-34
Figure SEIS II-10. Summary of Riparian Reserve Land Cover Conditions, Site Scale Analysis Area	II-35
Figure SEIS II-11. Supplemental Land Allocations	II-36

This page left intentionally blank

CHAPTER I - INTRODUCTION

The Forest Service has prepared this Draft Supplemental Environmental Impact Statement (DSEIS) in response to a September 24, 2007 Opinion of the Ninth Circuit Court of Appeals concerning Mt. Ashland Ski Area Expansion.

This DSEIS is prepared in accordance with the National Environmental Policy Act (NEPA) and the regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508; 36 CFR 220). This DSEIS documents analysis and supplemental information designed to correct specific violations identified by the Court of Appeals for a ski area expansion decision made on September 13, 2004. The Forest Service issued a Final Environmental Impact Statement (FEIS) in August 2004. This DSEIS analysis supplements, is tiered to, and incorporates by reference the Administrative Record and Supplemental Administrative Record for the 2004 *Final Environmental Impact Statement* (FEIS) and its *Record of Decision* (ROD) for Mt. Ashland Ski Area Expansion.

A. BACKGROUND

The Mt. Ashland Ski Area (MASA) is an existing winter sports recreation area located within the Siskiyou Mountains in Southern Oregon on National Forest System Lands, and is operated under special use authorization issued and administered by the Rogue River-Siskiyou National Forest, Siskiyou Mountains (formerly Ashland) Ranger District. A small portion of the ski area is located on the Klamath National Forest. MASA is located about 7 air miles south of the City of Ashland, primarily within the Ashland Creek Watershed. The Mt. Ashland Association currently leases the ski area from the City of Ashland, holder of the Forest Service Special Use Permit for the MASA. According to its bylaws, Mt. Ashland Association operates the ski area for the City of Ashland as “a non-profit corporation organized under the laws of the State of Oregon exclusively to provide educational and recreational opportunities in Jackson County, Oregon, to members of the general public.”

Construction of the present ski area commenced in 1963; the area opened in 1964. During its first three decades, the ski area was operated by a succession of private, for-profit companies, for whom it proved a financial disappointment. In 1992, the private operator decided to close the ski area. Plans were drawn up to dismantle the chair lifts and other improvements (Mt. Ashland Ski Area Restoration EA--AR¹ 4784-4837). The City of Ashland then interceded, acquiring the Special Use Permit and facilities (AR 4921-43). The City leased the ski area, for a nominal sum, to the Mt. Ashland Association (MAA), a non-profit entity established for the purpose of operating the ski area (AR 4862-4920).

All analysis documented in the 2004 FEIS and ROD assumes and includes the area within the 1991 expanded Special Use Permit Area at the corrected figure of 960 acres. This includes 888 acres on the Rogue River-Siskiyou National Forest and 72 acres on the Klamath National Forest.

¹ Administrative Record

The current operational ski area occupies about 287 acres. The currently existing ski area development consists of a day lodge, a ski rental shop building, ancillary structures, four chairlifts, and approximately 125 acres of ski runs. A parking lot for approximately 550-600 vehicles is located south of the lodge along Forest Road 20. The legal location description for all actions associated with the 2004 ROD is T. 40 S., R. 1 E., within portions of sections 15, 16, 17, 20, 21, and 22, W.M., Jackson County, Oregon.

1. Expansion History under the NEPA

Expanding the Mt. Ashland ski area is not a new idea. Various plans have been proposed over the past 40 years. In 1991, the Forest Service approved expansion of the ski area in concept. Mount Ashland Ski Area Master Plan Record of Decision ("1991 Master Plan", AR 4404-23; see also AR 4131-4403 - Final Environmental Impact Statement for 1991 Master Plan). Additional environmental analysis was planned to consider the details, such as the precise location of each component and the construction design (AR 4411).

The City's lessee, MAA, submitted a new expansion proposal in 1998. A draft environmental impact statement (EIS) was circulated in January 2000 (AR 12569-13208). It generated considerable public comment, in part because the only two action alternatives evaluated were perceived as too similar (AR 19354- 62, 22130-32). A new draft EIS was circulated in 2003 (AR 22140-23222).

The Forest Service has studied the proposal and its impact for years via the Environmental Impact Statement process and considered thousands of pages of public comment. The Forest Service issued a Final Environmental Impact Statement (FEIS) in 2004. In the FEIS, the Forest Service studied six alternatives (SAR 191-311). It discussed the affected environment and environmental consequences in depth. The Forest Service analyzed, for example, issues of climate, avalanche and natural hazards, minerals and seismic conditions, soil processes including erosion and sedimentation, watershed resources, water quality, aquatic conservation, air quality, landscape ecology, current vegetation conditions, outstanding or unusual plant communities, and wildlife species (SAR 108-16, 315-521, 528-703).

The Forest Service issued a Record of Decision and approved a "Modified Alternative 2" in September 2004 (SAR 1-97). Alternative 2 and Alternative 6 are the only two expansion alternatives relevant to this DSEIS and were the only alternatives considered by the Court of Appeals². Alternative 2 contemplates the MAA constructing two new chair-lifts and two new surface lifts, clearing seventy-one acres for new ski runs, and clearing four additional acres for lift corridors and staging areas, primarily within the western half of the Special Use Permit area. The proposed ski run development would require the removal of approximately sixty-eight acres of trees, which would generate 1,822 board feet of commercial grade timber. Additionally under Alternative 2, watershed restoration projects would be implemented, including structural storm water control and non-structural controls, such as the controlled placement of woody material. Alternative 6, which is a variant of Alternative 2, envisioned limiting the environmental consequences of expansion in the Middle Fork area by requiring MAA to use a lightweight, low ground pressure machine to clear ski runs and lift runs.

The Forest Service received twenty-eight notices of appeal to the ROD (AR 28574). In December 2004, the Regional Forester denied all administrative appeals (36 CFR 215) to the ROD.

² Court of Appeals Opinion at 13057.

2. Litigation History

In January 2005, Oregon Natural Resources Council, the Sierra Club and Headwaters (collectively ONRC) filed suit in federal district court against the Forest Service and Regional Forester Linda Goodman seeking declaratory and injunctive relief on the grounds that the MASA expansion project violated both the NEPA and the NFMA. Specifically, ONRC contended that the Forest Service failed: (1) to ensure the viability of the Pacific fisher, a sensitive species; (2) to adequately consider and disclose the direct and cumulative impacts on the Pacific fisher; (3) to analyze whether the expansion will comply with wetlands laws; (4) to adhere to Rogue River Land and Resource Management Plan (LRMP) and Northwest Forest Plan (NWFP) standards and guidelines for protecting watersheds and riparian areas; (5) to disclose a potentially high rate of error in the model that it used to estimate sediment impacts on the municipal watershed; and (6) to adequately disclose cumulative water quality impact by utilizing a computer model without disclosing its flaws, rather than cataloging and analyzing specific projects.

On February 9, 2007, after considering cross-motions for summary judgment, the district court entered summary judgment against ONRC. The court found that the Forest Service's disclosure of potential erosion and water quality impacts in the FEIS complied with the NEPA, and that the Forest Service did not violate the NEPA³ or the NFMA⁴ by failing to discuss compliance with applicable laws governing wetlands in the FEIS. It also found the Forest Service's failure to classify Land Hazard Zone 2 terrain as Riparian Reserve was harmless and concluded that the proposed expansion satisfied the principal Rogue River LRMP and NWFP requirements for land designated Restricted Watershed and Riparian Reserve. Lastly, the district court held that ONRC's allegations regarding the Pacific fisher "mostly rely on extra-record materials that I have stricken, and events that post-date final approval of the ROD."

ONRC filed a timely notice of appeal to the Ninth Circuit Court of Appeals to the district court's judgment. The Court of Appeals granted a stay of the district court's judgment for the duration of the appeal. On September 4, 2007 the Court of Appeals issued its ruling (CV-05-03004-PA), upholding the Forest Service on several counts, yet finding that the agency "failed to properly evaluate the impact of the proposed MASA expansion on the Pacific Fisher" and failed "to appropriately designate Riparian Reserves and Restricted Watershed terrain, as required by the Rogue River National Forest Land and Resource Management Plan." (Opinion at 13055-13056)

³ The National Environmental Policy Act (NEPA) mandates that covered governmental entities take a "hard look" at the environmental consequences of certain proposed actions. The NEPA requires federal agencies to prepare an EIS for "major Federal actions significantly affecting" the environment. 42 U.S.C. § 4332(2)(C). An EIS is a thorough analysis of the potential environmental impacts that "provide[s] full and fair discussion of significant environmental impacts and . . . inform[s] decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment." 40 C.F.R. § 1502.1

⁴ The National Forest Management Act (NFMA) imposes constraints on the Forest Service's management of national forests. Procedurally, it requires the Forest Service to develop a land and resource management plan, also referred to as a "forest plan," for each forest it manages. 16 U.S.C. § 1604(a). The NFMA also requires that a forest plan "provide for diversity of plant and animal communities," *id.* § 1604(g)(3)(B), and that "[f]ish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area," 36 C.F.R. § 219.19 (2000). Any action taken by the Forest Service in a managed forest must comply with the NFMA and must also be consistent with the governing forest plan.

3. Evaluation of New Information and/or Changed Conditions

Forest Service policy for implementing regulations under the NEPA outlines a procedure for review of actions that are awaiting implementation when new information or changes occur and should be considered for correction, supplementation, or revision; Forest Service Handbook (FSH) 1909.15, section 18. If new information or changed circumstances relating to the environmental impacts of a proposed action or decision come to the attention of the responsible or deciding official after a decision has been made and prior to implementation, the official must review the information carefully to determine its importance. If, after an interdisciplinary review and consideration of new information within the context of the overall project or decision, the Responsible Official determines that a correction, supplement, or revision to an environmental document is not necessary, implementation should continue and the results of the interdisciplinary review is to be documented in the project file (FSH 1909.15, section 18.1).

On July 2, 2007, the Forest Service documented an evaluation of new information and changed circumstances for potential relevance to the September 2004 decision. A number of items evaluated there had been raised by Oregon Natural Resources Council (ONRC) at that time. Some of those same issues were raised again on September 5, 2008 by Tom Dimitre, Chair of the Rogue Group of the Sierra Club. On September 22, 2009, the Forest Service documented an additional evaluation of claims of new information and changed circumstances for potential relevance to the September 2004 decision. These evaluations are contained in Appendix A to the DSEIS and are incorporated by reference.

The relevant information evaluated by the agency or claims submitted as noted above in these evaluations did not present a substantially different picture of the environmental consequences of the Mt. Ashland Ski Area Expansion Project from what was already presented and considered in the 2004 FEIS. On February 2, 2010, the Forest Supervisor filed a letter to the record documenting that these evaluations did not identify any claims of new information or changed circumstances that would warrant preparation of a correction, supplement, or revision to the Final Environmental Impact Statement for the Mt Ashland Ski Area Expansion, as documented in August 2004 (FSH 1909.15, section 18.1). This letter also confirmed that the Forest Supervisor decided to prepare a Supplemental Environmental Impact Statement to address matters identified by the Ninth Circuit Court of Appeals.

B. WHAT THE COURT OF APPEALS FOUND DEFICIENT

The Court of Appeals found that the Forest Service failed to properly evaluate the impact of the proposed MASA expansion on the Pacific fisher, in violation of both the NEPA and the NFMA, and that it violated the NFMA by failing to appropriately designate Riparian Reserves and Restricted Watershed terrain.

1. Pacific Fisher - NFMA Claims

No Compliant Biological Evaluation

The Court of Appeals found that the Forest Service's evaluation of the Pacific fisher in the MASA expansion area does not comply with the requirements of the Rogue River LRMP, does not include a compliant Biological Evaluation⁵ for the Pacific fisher and, therefore, violates the NFMA.

⁵ The Ninth Circuit Court of Appeals found that the Forest Service did not update or amend its 1999 Biological Evaluation for terrestrial species (Opinion at 13062).

Inappropriate Use of Habitat as a Proxy for Population Viability

The Court of Appeals found that species viability may be met by estimating and preserving habitat “*only where both the Forest Service’s knowledge of what quality and quantity of habitat is necessary to support the species and the Forest Service’s method for measuring the existing amount of that habitat are reasonably reliable and accurate.*” Therefore the Forest Service’s use of habitat as a proxy for population viability violated the NFMA.

Biological Evaluation Process for Habitat Analysis Insufficient

The Court of Appeals found that the Forest Service had insufficient data and knowledge regarding (1) the population of the Pacific fisher, and (2) the quantity and quality of habitat preferred by the Pacific fisher to justify using habitat as a proxy for population. Therefore the Forest Service’s habitat analysis was insufficient to satisfy the demands of the Rogue River LRMP Biological Evaluation process, and is in violation of the NFMA.

2. Pacific Fisher - NEPA Claims

Impacts to Corridor Not Disclosed

The Court of Appeals found that the Forest Service violated the NEPA when it failed to disclose the potential impact of displacing the fisher and damaging habitat in the corridor linking the Klamath-Siskiyou region and the Southern Cascades.

Cumulative Effects from Other Projects Not Considered

The Court of Appeals found that the Forest Service violated the NEPA when it failed to discuss the cumulative effects on the Pacific fisher from future projects in the vicinity of the MASA expansion area, including the Ashland Forest Resiliency Project, the Ashland Watershed Protection Project, and the Mt. Ashland Late-successional Reserve Habitat Restoration and Fuels Reduction Project (on the south side of Mt. Ashland on the Klamath National Forest).

3. Restricted Riparian and Restricted Watershed Terrain - NFMA Claims

Failure to Designate Restricted Riparian (MS 26) and Restricted Watershed (MS 22)

The Court of Appeals found that Forest Service violated the NFMA by failing to appropriately designate “Riparian Reserves” and “Restricted Watershed” terrain as required by the Rogue River LRMP and the Northwest Forest Plan (NWFP).

The rules governing the Forest Service’s designation and management of Riparian Reserves and watersheds are complex and overlapping. The principal source of these rules is the NWFP itself, and, derivatively, the Aquatic Conservation Strategy (ACS) adopted pursuant to the NWFP. Accordingly, the Forest Service must also comply with the Rogue River LRMP’s more restrictive standards and guidelines for lands designated Restricted Riparian, Management Strategy 26 (MS 26) and for lands designated Restricted Watershed, Management Strategy 22 (MS 22). These standards and guidelines include the protection of all terrain within 100 feet horizontal distance of perennial streams, wetlands and associated riparian vegetation (Restricted Riparian MS 26), and all acres “designated as suitable for Municipal Supply Watershed” (Restricted Watershed⁶ MS 22).

⁶ The Court of Appeals Opinion at 13068 stated “Restricted Riparian MS 22”; in this SEIS, this reference is taken to mean Restricted Watershed, the accurate title of land allocation MS 22.

Failure to Evaluate Soils Standards and Guidelines for MS 26 and MS 22

The Court of Appeals found that the Forest Service violated the NFMA by failing to ensure that the expansion will comply with the Rogue River LRMP standards and guidelines. The Rogue River LRMP includes specific soil disturbance standards and guidelines and requires compliance for management activities for areas designated as Restricted Riparian (MS 26), and Restricted Watershed (MS 22) terrain.

4. Riparian Reserves - NFMA Claim

Failure to Designate Landslide Hazard Zone 2 as Riparian Reserve

The Court of Appeals found that the Forest Service failed to designate the Landslide Hazard Zone 2 (LHZ) land as Riparian Reserve and this failure results in violations of the Rogue River LRMP, the NWFP (and ACS), and the NFMA, because a proper designation as Riparian Reserve would compel specific management practices to ensure that the terrain is appropriately protected.

5. Restricted Watershed Terrain - NFMA Claim

No Forest Plan Amendment to Exclude Restricted Watershed (MS 22) from SUP Area

The Court of Appeals found no explanation in the record that would resolve the conflict between the 2004 FEIS statement that the 1994 NWFP “amended” existing Rogue River LRMP designations to “Administratively Withdrawn (Special Management)” and that “this allocation is complimentary to the Developed Recreation Rogue River LRMP allocation.” Because there is no amendment to the Rogue River LRMP in the record permitting the contemplated change to the Watershed, the Court of Appeals found that the Forest Service violated the NFMA by failing to ensure that the expansion will comply with the Rogue River LRMP standards and guidelines.

C. WHAT THE COURT OF APPEALS FOUND SUFFICIENT

New Developed Recreation Site

The Court of Appeals found that Forest Service did not violate the Rogue River LRMP and the NFMA by authorizing development facilities in currently undeveloped riparian habitat in the Middle Fork. ONRC had argued that the Rogue River LRMP explicitly prohibits “new developed recreation sites” on Restricted Riparian.⁷ The Court of Appeals agreed that since ski area construction began in 1963, the project is not a “new” recreation site but the expansion of an existing site, and that the restriction does not apply.

In addition to being fully supported by the Restricted Riparian language of the Rogue River LRMP, this conclusion is also fully consistent with treatment of this issue in the Restricted Watershed terrain portion of the Rogue River LRMP. In the standards and guidelines for Restricted Watershed MS 22, the Rogue River LRMP provides that “[n]ew developed recreation sites will not be constructed. Expansion of existing recreation sites will be analyzed in project environmental analysis.” The Court of Appeals found that while the second sentence does not appear in the standard and guidelines for Riparian Reserve MS 26, the two treatments are consistent and there is no reason to treat them differently.

⁷ The Court of Appeals Opinion at 13072 stated “Riparian Reserves”; in this SEIS, this reference is taken to mean “Restricted Riparian (MS 26) where at standard and guideline 8, page 4-299, it explicitly states “Prohibit new developed recreation sites.” The standard and guidelines associated with NWFP Riparian Reserve contains no such stipulation.

The Court of Appeals therefore holds that the term “new” is intended to have a uniform meaning throughout the Rogue River LRMP and that the prohibition therein of new developed recreation sites in Restricted Riparian and Restricted Watershed does not apply to the MASA expansion.

Compliance with State of Oregon Wetland Laws and Regulations

The Court of Appeals found that the Forest Service did not violate NEPA requirement and that the 2004 FEIS discusses or analyzes all federal, state and local laws, which include Oregon state wetland laws and regulations. The Court of Appeals found that the Forest Service included in the FEIS a discussion of whether the proposed expansion would violate federal and state laws, and explicitly noted that state and local agencies would have regulatory responsibilities for many activities and actions in the expansion project. Although the FEIS does not specifically address Oregon’s unique regulatory program for wetlands, the FEIS is clear that state approval is a condition of the project.

Disclosure of Limitations of Water Erosion Prediction Project Model

The Court of Appeals found that that the Forest Service’s FEIS adequately disclosed the shortcomings in the Water Erosion Prediction Project (WEPP) models used to estimate sediment impacts on the municipal watershed and, therefore, complied with NEPA. The NEPA does not require the reviewing court to “decide whether an [EIS] is based on the best scientific methodology available; rather the question is whether the FEIS adequately disclosed the model’s potential weakness. In Appendix H to the FEIS, the Forest Service outlined several limitations of the WEPP model: its failure to account for the higher erosion rates that typically occur during the first two years after disturbance; the fact that its components are reasonably effective on the agricultural rangelands for which the WEPP model was designed, but that it has limitations when applied to forest lands; and the fact that no watershed template is currently available.

Use of Equivalent Roadless Area Model for Cumulative Watershed Impacts

The Court of Appeals found that that the Forest Service did not violate the NEPA by using the Equivalent Roadless Area (ERA)⁸ model to analyze the cumulative watershed impact of the MASA expansion. The Court of Appeals noted that the Forest Service relied upon the ERA model, to address cumulative watershed effects. The ERA model simulates the current condition of the terrain in the watershed which reflects the impact of past projects, and the FEIS describes the ERA methodology and the results of the analysis in detail. The Court of Appeals did not question the methodology, but “deferred instead to the agency’s expertise in developing the model,” an analysis that “consider[s] cumulative watershed effects and provide[s] a significant amount of quantified and detailed information” satisfies the NEPA.

D. PURPOSE AND NEED FOR THIS SUPPLEMENT

The purpose and need for this supplement is to analyze and correct specific violations identified by the Ninth Circuit Court of Appeals which will allow a determination on whether and to what extent analysis of supplemental information might alter the decision to allow ski area expansion. This action is needed to address the appropriateness of the previous decision and to be responsive to the Court of Appeals Opinion and district court injunction.

⁸ Court of Appeals Opinion at 13074 stated “Equivalent Roadless Area” in referencing the ERA model. In this SEIS, this reference is taken to mean Equivalent Roaded Area (see FEIS IV-94).

1. What This Supplement Does

This DSEIS document is designed to supplement the existing 2004 FEIS document by adding information and analysis to Chapter III (Affected Environment) and Chapter IV (Environmental Consequence) to address matters identified by the Ninth Circuit Court of Appeals. In some cases (as noted), it will replace certain sections of these FEIS chapters. Because the decision made in September 2004 approved a “Modified Alternative 2”, Alternative 2 and Alternative 6 are the only two expansion alternatives relevant to this DSEIS and were the only alternatives considered by the Court of Appeals.

This supplemental process will then allow the latest and most complete information and analysis to include the 2004 FEIS concurrent and integrated with this 2009 supplemental information and analysis for the 2004 decision. As previously noted, this SEIS tiers to the existing 2004 FEIS. This NEPA strategy is designed primarily to analyze and correct specific violations identified by the Ninth Circuit Court of Appeals

2. What This Supplement Does Not Include

For this process, it is equally important to understand what this supplemental document does not include. For this process, there is no “Proposed Action”. The action being processed under the requirements of NEPA is to follow appropriate procedures, including public notification, about the intent to prepare a Supplemental EIS. There is no proposal to change the proposed action that triggered the Draft and Final EIS for Ski Area Expansion. This supplement will allow review of the appropriateness of the previous decision.

For this process, there is no “Scoping”. Under 40 CFR 1502.9(c)(4), there is no formal scoping period for this action. Appropriate procedures under NEPA require a Notice of Intent (NOI) to prepare a Supplemental EIS; this notice was published in the Federal Register on March 9, 2010. The Supplemental EIS process is being guided by the Opinion of the Ninth Circuit Court of Appeals.

For this process, there are no “issues”. Concurrently, there are no alternatives being proposed or analyzed. All analysis and documentation will focus on the deficiencies identified by the Court of Appeals.

E. DECISION FRAMEWORK

The Forest Service Responsible Official will use the results of this supplemental analysis to determine if and how the violations identified by the Ninth Circuit will affect the 2004 decision. The Forest Service will decide whether to withdraw the 2004 decision, or issue a new or supplemental decision. If a new or supplemental decision is issued following preparation of the Final Supplemental Environmental Impact Statement, that decision will be subject to appeal in accordance with 36 CFR 215.

F. OVERVIEW OF WHAT THIS SUPPLEMENT INCLUDES

This section of the DSEIS highlights what this supplement includes and what and how it will be addressed in DSEIS Chapter II.

Pacific Fisher - NFMA Claims

This DSEIS will explain how the 1999 Biological Evaluation was updated and incorporated into the 2004 FEIS. It will supplement the current conditions for the fisher population in and around Mt. Ashland and will identify current amount and types of habitat. It will present a summary of the latest research on the Pacific fisher species biology and habitat requirements. This will allow use of habitat as a proxy for population viability. The effects on fisher species and habitat from ski area expansion will be disclosed. The supplemental sections will include all steps of the Biological Evaluation process required by the LRMP, for the Pacific fisher.

Pacific Fisher - NEPA Claims

This DSEIS will supplement the disclosure of impacts to the corridor linking the Klamath-Siskiyou region and the Southern Cascades, from ski area expansion. It will supplement the analysis for cumulative effects on the Pacific fisher from future projects in the vicinity of the MASA expansion area, including the Ashland Forest Resiliency Project, the Ashland Watershed Protection Project, and the Mt. Ashland LSR Habitat Restoration and Fuels Reduction Project.

Restricted Riparian and Restricted Watershed Terrain - NFMA Claims

This DSEIS will identify appropriate areas and analyze the effects of expansion against the standards and guidelines for Restricted Riparian (MS 26) and Restricted Watershed (MS 22). The supplement will present effects in regard to specific soils standards and guidelines for these allocations.

Riparian Reserves - NFMA Claim

This DSEIS will include Landslide Hazard Zone 2 as part of the Riparian Reserve, and analyze and disclose the land cover effects of expansion against revised Riparian Reserves.

This page left intentionally blank

CHAPTER II - SUPPLEMENTAL INFORMATION

A. INTRODUCTION

The Forest Service has prepared this Draft Supplemental Environmental Impact Statement (DSEIS) in response to a September 24, 2007 Opinion of the Ninth Circuit Court of Appeals concerning Mt. Ashland Ski Area Expansion. This DSEIS documents analysis and supplemental information designed to correct specific violations identified by the Court of Appeals for a ski area expansion decision made on September 13, 2004. The Forest Service issued a Final Environmental Impact Statement (FEIS) in August 2004.

This DSEIS document is designed to supplement the existing 2004 FEIS document by adding information and analysis to Chapter III (Affected Environment) and Chapter IV (Environmental Consequence) to address matters identified by the Court of Appeals. In some cases (as noted), it will replace certain sections of these 2004 FEIS chapters. Because the decision made in September 2004 approved a “Modified Alternative 2”, Alternative 2 and Alternative 6 are the only two expansion alternatives relevant to this DSEIS.

B. SUPPLEMENTAL INFORMATION - PACIFIC FISHER

1. Pacific Fisher - NFMA Claims

This section of the DSEIS will explain how the 1999 Biological Evaluation was updated and incorporated into the 2004 FEIS. It will supplement the current conditions for the fisher population in and around Mt. Ashland and will identify current amount and types of habitat. It will present a summary of the latest research on the Pacific fisher species biology and habitat requirements. This will allow use of habitat as a proxy for population viability. The effects on fisher species and habitat from ski area expansion will be disclosed. The supplemental sections will include all steps of the Biological Evaluation process required by the LRMP, for the Pacific fisher.

a. No Compliant Biological Evaluation

The Court of Appeals found that the Forest Service’s evaluation of the Pacific fisher in the MASA expansion area does not comply with the requirements of the Rogue River LRMP, does not include a compliant Biological Evaluation for the Pacific fisher and, therefore, violates the NFMA.

Supplemental Information

The 2003 Draft EIS was designed as a complete replacement for the previous (2000) Draft EIS. In the 2000 Draft EIS, a Biological Evaluation document (dated August 1999) for terrestrial wildlife was contained as Appendix E. In the 2003 Draft EIS, the Biological Evaluation processes and documentation were designed to be included within the body of the EIS, and not contained as “stand alone” documents. The 2004 Final EIS strategy for all biological resources was designed to continue that process; for example, see FEIS page III-105 for Sensitive Plants which states: “A Biological Evaluation process was conducted for Threatened, Endangered, and Sensitive (TES) Plant species; all information and findings are included within this Final EIS.”

Also see FEIS page IV-124; “A Biological Evaluation (BE) process was conducted for this project and is described herein.” For Aquatic Resources, page IV-172 states; “A Biological Evaluation process was conducted for species and habitat listed under the Endangered Species Act and Magnuson Stevens Act; all information and findings are included within this Final EIS.”

This Supplemental EIS will clarify the 2004 Final EIS strategy for terrestrial wildlife. The following shaded text *replaces* the first two paragraphs on page IV-145 for Section D, subsection 10, and 10a, 2004 FEIS Chapter IV:

10. Effects on Terrestrial Wildlife Species

Activities associated with proposed ski area expansion may affect several species of terrestrial wildlife listed as Proposed, Endangered, Threatened, or Sensitive (PETS) under the Endangered Species Act or Forest Service Regional directives. Effects to other terrestrial species are also discussed in this Section.

a. Summary of Effects to Proposed, Endangered, Threatened, or Sensitive Species (PETS)

In compliance with Section 7 of the Endangered Species Act (ESA)(1973 *et seq.*) and Forest Service Policy (FSM 2672.2) a Biological Evaluation (BE) process was conducted for this project and is described herein for PETS wildlife species. All information and findings are included within this Final EIS. Lists for the RRNF, Pacific Northwest Region (R6), and the KNF, Pacific Southwest Region (R5) were reviewed in regard to potential effects on any of these species by actions within the Special Use Permit area and larger Analysis Area associated with ski area expansion on Mt. Ashland. Pre-field and reconnaissance results are discussed and summarized in Chapter III (see Table III-28).

b. Insufficient Biological Evaluation Process and Habitat Analysis

Background

The Court of Appeals found that the Forest Service had insufficient data and knowledge regarding (1) the population of the Pacific fisher, and (2) the quantity and quality of habitat preferred by the Pacific fisher to justify using habitat as a proxy for population. Therefore the Forest Service’s habitat analysis was insufficient to satisfy the demands of the Rogue River LRMP Biological Evaluation process, and is in violation of the NFMA.

The Court of Appeals found that species viability may be met by estimating and preserving habitat “*only where both the Forest Service’s knowledge of what quality and quantity of habitat is necessary to support the species and the Forest Service’s method for measuring the existing amount of that habitat are reasonably reliable and accurate.*” Therefore the Forest Service’s analysis process for use of habitat as a proxy for population viability was improper and violated the NFMA.

Biological Evaluation Direction from LRMP

As stated in the RRNF Land and Resource Management Plan:

LRMP MS 4: page 4-55

LRMP MS 22: page 4-266

LRMP MS 26: page 4-300

Biological evaluations (FSM 2672.2) shall be prepared for each project authorized, funded or conducted on the Forest. The biological evaluation shall be used to determine the possible effects the proposed activity will have on listed and PETS species. The biological evaluation consists of five steps:

- (a) Pre-field review of existing information;
- (b) Field reconnaissance of the project area;
- (c) Determination of whether local populations of listed and PETS species will be affected by a project;
- (d) Analysis of the significance of project effects on local and total populations of listed and PETS species;
- (e) When step four (d) cannot be completed due to lack of information, a biological or botanical investigation is conducted to gather the information needed to complete step four (d).

Supplemental Information

The following supplemental sections to the 2004 FEIS will include all steps of the Biological Evaluation process required by the LRMP, for the Pacific fisher.

SUPPLEMENTAL BIOLOGICAL EVALUATION – PACIFIC FISHER

Biological Evaluation Step (a): Pre-field review of existing information

The following shaded supplemental text *replaces* FEIS pages III-131 for the Pacific fisher. Supplemental information is based on additional Pacific fisher analysis conducted for the Mt. Ashland Ski Area Expansion and Ashland Forest Resiliency.

The effects analysis process was conducted by the Forest Wildlife Biologist (David Clayton) and the District Biologist for the High Cascades Ranger District (Jeff von Kienast), the most experienced mammal biologists on the Forest. They first completed an extensive review of all Pacific fisher scientific literature. They then interviewed all local and regional carnivore and fisher experts as well as those currently conducting research on fisher in the Pacific Northwest.

The entire analysis process and documentation was then peer reviewed by two researchers considered to be fisher experts, William Zielinski, Research Ecologist of the Forest Service Pacific Southwest Research Station, and Keith Aubry, researcher with the Forest Service Pacific Southwest Research Station. Their comments were then incorporated into the final analysis and documentation.

Pacific Fisher Biology

Description

Pacific fisher: *Martes pennanti*

The rarely encountered Pacific fisher is in the family Mustelidae, the largest member of the genus *Martes*. The only other North American member of the genus *Martes* is the American marten (*M. americana*).

Fishers are medium-sized carnivores with a general weasel shape but lacking the extreme elongation of the weasels. The fisher has a long body with short legs and a long bushy tail. Their tail constitutes about one third total body length. Their faces are triangular with muzzles less pointed than those of foxes. The fisher's ears are wide and rounded. Fishers are digitigrades with five toes on each large, well-furred paw. Claws are sharp, curved, and semi-retractable but not sheathed.



The fisher is light brown to dark blackish brown with the face, neck, and shoulders sometimes being slightly gray. The chest and underside often has irregular white patches. At 6.6 to 13.2 pounds, male fishers weigh about twice as much as females (3.3 to 5.5 lbs). Males range in length from 35 to 47 inches while females range from 29 to 37 in long. Fishers are estimated to live up to 10 years (Powell 1993).

Range And Distribution

According to literature reviews, the fisher occurs from southern Yukon and southwestern Northwest Territories southeast through British Columbia and possibly extreme southeastern Alaska, Alberta, Saskatchewan, Manitoba, Ontario, southern Quebec, and New Brunswick to Nova Scotia. Its distribution extends south through several forested areas of the northeastern United States including Maine, New Hampshire, Vermont, northern New York, Pennsylvania, western Massachusetts, the upper peninsula of Michigan, and northern Wisconsin and Minnesota. There is also a population in West Virginia. In the western United States, fisher populations are known to occur in western Montana, the Idaho panhandle, the southern Sierra Nevada of California, the Klamath and Siskiyou mountains of northwestern California and extreme southwestern Oregon, and the southern Cascade Range of southwestern Oregon. The fisher may be extirpated from Washington (Meyer 2007). However, there has been a recent fisher reintroduction effort in the Olympic Peninsula in 2007 and 2008 (Happe et al. 2008).

The geographic distribution of fishers in the Pacific Coast states has been greatly reduced in extent from pre-settlement conditions. Prior to extensive European settlement, the fisher occupied most coniferous forest habitats in Washington, Oregon, and California (Aubry and Lewis 2003). Persistence of fishers in Washington is questionable. Lewis and Stinson (1998) reported that the fisher is very rare in Washington. Extensive surveys by the Washington Dept. of Fish and Wildlife and the US Forest Service have failed to locate a fisher population, or confirm the presence of a fisher in areas where recent reports are concentrated (Lewis and Stinson 1998).

One telemetry study and several surveys conducted by various agencies and individuals have documented fishers in the southern Oregon Cascades and Siskiyou Mountains (Aubry et al. 1997, Slauson and Zielinski 2001, Aubry and Raley 2006, E. Weir 2003, Aubry et al. 2005, Farber and Criss 2006). The presence of fishers in California is well-documented (Zielinski et al. 1995, Farber and Franklin 2005, Farber and Criss 2006).

Reproduction

Fishers exhibit intrasexual territoriality, where individuals defend a home range against members of the same sex, but there is considerable overlap between sexes. These territories are maintained year-round except at times during the breeding season when males may trespass on each other's territories while they search for receptive females (Powell 1993).

In Oregon, the breeding season begins in early February when adult males became more active and start to make longer distance movements. Males sometimes moved well beyond their non-breeding season home ranges, presumably to find reproductive females (Aubry et al. 2004). Mating occurs shortly after parturition, although the fertilized eggs do not implant for approximately 10 months. Active pregnancy typically begins in February and lasts until March or early April, when fishers give birth to an average of 2 to 3 kits (Meyer 2007). In southwestern Oregon, adult females gave birth to kits from about 17 March to 5 April, and the natal denning period lasted until late-May or the beginning of June (Aubry and Raley 2006).

Home Range, Movement, and Dispersal

The size of fisher home ranges varies both regionally and by habitat condition, although male home ranges are generally larger than those of females. Home range size for fishers is likely related to the availability of resources, including abundance and diversity of prey and suitable habitats for den and rest sites. Male home range sizes may also be influenced by the availability of females.

Mean home range sizes of males in the southern Cascades of Oregon was 147 km² during the breeding season and 62 km² during the non-breeding season compared to female home ranges of 25 km² (Aubry and Raley 2006). Male home ranges near the north coast of California averaged 58 km² compared to 15 km² for females (Zielinski et al. 2004).

Seasonal movements are generally related to the breeding period for males. In southwest Oregon, male home ranges were twice as large during the breeding season compared to the non-breeding season (Aubry and Raley 2006). One adult male who resided on the east slope of the Cascade Range during the non-breeding season traveled approximately 30 km across the Cascade crest to the west slope during 3 successive breeding seasons (Aubry et al. 2004). Aubry and Raley (2006) used fixed-wing aircraft to monitor two adult males during the breeding season and reported that a 3 year old male occupied a 226 km² area, and a 6 year old male occupied a 100 km² area. The younger male made excursions far to the south of his non-breeding season home range, and the older male moved primarily within his non-breeding home range with some excursions beyond his usual activity area.

During the denning season, females on the Hoopa Reservation used an average of 3.1 dens per season and moved kits a cumulative average distance of 871 m with a range of 85-2,228 m. Dens were located an average of 414 m apart. Despite the distance between den structures, dens used each year were located within a small, concentrated area of each females home range (Mathews 2006). In southwestern Oregon, when females moved their kits from the natal den, subsequent use of maternal dens was variable. Females that only had 1 kit were relatively mobile and few maternal dens were found. In contrast, when females had ≥ 2 kits, maternal dens were found regularly and at least some of the dens were used for >2 weeks (Aubry and Raley 2006).

At 2-3 months of age, juveniles begin foraging for themselves, though they remain on their mother's home range until they disperse at 6-12 months of age (Powell 1993). Riparian corridors (Heinemeyer and Jones 1994) and forested saddles between major drainages (Buck 1983) may provide important dispersal habitat or landscape linkages for fishers.

Reported dispersal distances for fishers vary. In a study in Maine, dispersal distances ranged from 4 to 19 km, and there was no significant difference in dispersal distances between males and females (Arthur et al. 1993). The authors believed that these dispersal distances were short compared to the size of an adult home range, and probably resulted from the study population being trapped, creating many unoccupied home ranges. However, these dispersal distances are not greatly different from those reported in Oregon and California. In the southern Oregon Cascades, Aubry and Raley (2006) documented 7 juvenile dispersals (4 females, 3 males). By approximately the end of May, most 1-year-old fishers had settled into the area where they eventually established a home range. Males dispersed an average of 29 km, mean dispersal distance of females was 6 km. Two of the 4 females did not disperse from their natal areas; these females appeared to establish home ranges adjacent to and slightly overlapping their mother's home range (Aubry and Raley 2006).

On the Hoopa Reservation in northern California, 1 female dispersed 1-2 km from her natal den and set up a home range. Another female moved up to 10 km from her natal den and was apparently moving toward her mother's home range when she died. One male dispersed 3-4 km from his natal den and set up a home range. There has been high turnover in female fishers in recent years on the Hoopa Reservation, suggesting that there are a high percentage of vacant home ranges that could be occupied by dispersing individuals (M. Higley 2007, pers. comm.).

Fisher Diets

Powell (1993) reported that the primary prey of fishers throughout most of their range is snowshoe hares (*Lepus americanus*) and porcupines (*Erethizon dorsatum*). Although the fisher is reported to be a specialist in late-seral, mixed conifer-hardwood forests, recent analysis of the diet of fishers in the southern Sierra Nevada portray an opportunistic predator with a diverse diet. Zielinski et al. (1999) characterized fisher diet by analyzing 201 fisher scats and found that mammals were the most frequent food item. Reptiles (20.4%) and insects (55.7%) were also major components in the diet (Zielinski et al. 1999).

In southwest Oregon Aubry and Raley (2006) analyzed 303 scats from 11 female and 84 scats from 8 male fishers. Food items from 5 major taxa groups were identified; Mammalia (female 85%, male 76%), Aves (female 28%, male 27%), Reptilia (females 7%, males 5%), Insecta (females 25%, males 27%), and Planta (females 14%, males 13%). Their results suggested that female fishers were capturing smaller-bodied prey more frequently than larger-bodied prey, and males were capturing larger-bodied prey more frequently. Aubry and Raley (2006) also found evidence that males, but not females were preying upon porcupines. These findings suggest that fishers, at least in the western states, are a generalist predator.

Pacific Fisher Habitat Needs

The fisher is one of the most habitat-specialized mammals in western North America (Buskirk and Powell 1994). Specialization appears to be tied primarily to denning and resting habitats. The varied diet of fishers suggests they may forage in a variety of habitats.

Fishers use landscapes at different spatial scales for different behaviors and activities (Powell 1994, R. Weir and Harestad 2003). For example, fishers may establish their home ranges at the landscape scale, forage at the patch scale, and select habitat for resting or denning at the patch scale as well as at a finer scale of habitat characteristics of elements within a patch (Powell 1994, Powell and Zielinski 1994, R. Weir and Harestad 2003).

Rest Structures

Several studies have shown that fishers appear to be highly selective of resting structures. In California, Zielinski et al. (2004) found that resting structures were in the largest diameter trees available. Average diameter breast height (dbh) for live conifers was 117 cm for live conifers, 120 cm dbh for conifer snags, and 69 cm dbh for hardwoods. On the Hoopa Valley, and Shasta-Trinity study areas, Yeager (2005) determined that rest trees used by fisher had a substantially larger dbh than the average dbh of the four largest trees on the rest site plots. In the Hoopa Valley, the rest tree was one of the four largest trees on 91 percent of the rest site plots measured, and was the single, largest tree on 46 percent of the rest site plots. In southwest Oregon, Aubry and Raley (2006) reported that the average diameter of live trees used by females for resting was slightly greater than those used by males: 88 cm dbh versus 64 cm dbh.

In California, Zielinski et al. (2004) found that fishers select rest sites with substantially higher canopy closure immediately adjacent to the rest site (93.4%) when compared to random sites (88.8%). Yeager (2005) reported that on the Hoopa Valley study area, 86.8% of all rest sites had more than 50% canopy cover and 59.7% had greater than 75% canopy cover. At Shasta-Trinity 97.6% of all rest sites had more than 50% canopy cover and 87.5% had greater than 75% canopy cover. In southwest Oregon, fishers selected rest sites with canopy closure greater than 80% (Aubry and Raley 2006).

In the southern Oregon Cascades, Aubry and Raley (2006) located and typed 641 different resting structures. Fourteen percent of the rest structures were reused by the same animal on more than 1 occasion, and 3% were used by another radio-collared fisher at some time during the study. Both male and female fishers primarily used live trees for resting. Use of logs and cull piles by females and males was similar. Females used a greater proportion of snags for resting than males. Both male and female fishers used mistletoe brooms in live trees more than any other micro-site (females 31%, males 21%). Mistletoe brooms in live trees were suspected rest sites for an additional 44% of live trees used by females, and 33% of live trees used by males. Rodent nests were used in 24% of the trees used by male fishers.

Cavities in both conifers and hardwoods are used by fishers for resting. However, to create suitable rest cavities, trees must be old enough to have suffered the type of stresses that create infection courts for heartrot fungi, and large enough to form cavities large enough to be used by fishers (Zielinski et al. 2004). Large trees also provide platform-type resting structures such as mistletoe brooms, clumped branches that support rodent nests, or rust brooms that can support the weight of fishers. Once these large trees die and fall, they become the type of log that fishers have been known to use as rest sites. Removal of understory and mid-story canopies around large structures may also reduce the effectiveness of the structure as a secure rest site because they contribute to the microclimate of the site. Under- and mid-story canopies probably also provide some protection for female and juvenile fishers from predation or harassment by large raptors and mobbing by corvids because sight distance is reduced in dense, multi-storied stands.

Den Structures

As with resting structures, both conifers and hardwoods provide habitat for fisher dens. Yeager (2005) categorized 18 fisher dens in the Hoopa and Shasta-Trinity study sites. Sixteen were located in hardwoods, and 2 in conifers. Of these 18 dens, all but 3 were located in live trees. On both study areas, black oaks were used in 50% of all dens categorized. Other species used were tanoak, white oak, canyon live oak, chinquapin, Douglas-fir, and ponderosa pine.

In southwestern Oregon, Aubry and Raley (2006) located 13 natal and 18 maternal dens. For natal dens, fishers used both live trees and snags with openings that accessed hollows created by heartwood decay. The most commonly used tree species were incense cedar, true fir, and western white pine. Douglas-fir, incense cedar and true firs were used as maternal dens. Structures used for maternal dens were more variable than those used for natal dens, and included cavities in the bole or butt of large live trees and snags, and large hollow logs (Aubry and Raley 2006). Natal den trees need to be large enough to accommodate a cavity capable of containing an adult female fisher and multiple kits (Aubry and Raley 2006). In the southern Cascades of Oregon, the average dbh and height of live trees used for natal dens was 92 cm and 40 m respectively. The average dbh and height of snags used for natal dens was 89 cm and 26 m respectively (Aubry and Raley 2006).

Foraging Habitat

Based on their diverse diet, fishers appear to be a generalist predator that is opportunistic in its foraging strategies (Aubry and Raley 2006, Zielinski and Duncan 2004, Aubry et al. 2002, Zielinski et al. 1999, Powell 1993). There is some indication of seasonal variation in the fisher's diet (Zielinski et al. 1999) which is likely linked to seasonal abundance of prey and forage species. While fishers require structures provided by older aged or residual stands for denning and resting, they appear to use a broad array of stand conditions for foraging.

R. Weir and Harestad (2003) found that fishers exhibited selectivity for stands and patches with high volumes of coarse woody material (CWM) and specific closures of high and low shrub layers. However, they hypothesize that an overly complex forest floor may affect the hunting success of fishers by reducing the likelihood of capturing prey. Fishers avoided stands with >80% closure of the low shrub layer. Jones and Garton (1994) found that fishers did not use non-forested sites while resting or hunting, but did use pole-sapling forests for hunting substantially more than for resting. The inclusion of berries in the fisher's diet suggests that they do forage, at least occasionally or seasonally, in forest gaps or along edges of forested stands where many fruit-bearing shrubs and forbs are found.

Pacific Fisher Listing Status

The Pacific fisher was petitioned for listing by the Center for Biological Diversity and several other environmental organizations in November 2000. After a 12-month review, the US Fish and Wildlife Service found Pacific fisher to be a distinct population segment (DPS) and gave a "warranted but precluded" decision to the petition, designating the West Coast DPS a Federal Candidate species (USDI Fish and Wildlife Service 2004). Other rankings include: USDA Forest Service, Region 6 – Sensitive, Region 5 - Sensitive; USDI Bureau of Land Management, Oregon – Sensitive, California - Sensitive; Oregon State Sensitive – Critical species, California State – Species of Special Concern. The Natural Heritage Program ranks this species as Globally demonstrably widespread (G5), Oregon State (S2) imperiled because of rarity or other factors, and ORNHIC List 2.

Biological Evaluation Step (b): Field reconnaissance of the affected area

The following shaded supplemental text *replaces* FEIS pages III-132 for the Pacific fisher. Supplemental information is based on the latest information and history of surveys, and local knowledge.

During the winter of 2001/2002, a biology student associated with Southern Oregon University (Eugene Weir¹) located and photographed an adult Pacific fisher using carnivore bait stations which were placed to protocol in the MASA Special Use Permit area. Fisher were repeatedly photographed between February – late April 2002, at a site in proposed Run 12. Mr. Weir's findings at that time were an elevation record for the species in the Siskiyou Mountains. In 2003, Mr. Weir found evidence of fisher in the Special Use Permit area during snow track surveys and he also documented fisher in the adjacent Neil Creek drainage.

¹ Eugene Weir worked as a fisheries technician conducting field inventory work for the Forest Service, Ashland Ranger District under volunteer and small service agreements during the summer of 2000 and 2001, while attending Southern Oregon University.

Snow conditions in the Siskiyou Mountains are typically of higher density, likely due to lower elevations, precipitation patterns, and wide temperature differences. This may account for why fisher are able use habitats at higher elevations than in other parts of their range where deep, powdery snow limits their use of higher elevations.

In addition, during the winter of 2001/2002 (late December to late April), a second Southern Oregon University student (Brian Schroeder) also conducted a photo point study of fisher activity, on the western side of the Applegate River drainage. He had six fixed camera sets out at one time, and used the cameras at 10 different sites. In December 2001, he recorded one visit by a fisher to a site near the southern tip of Applegate Lake at an elevation of 2,200 feet. At a site near Browntown, he recorded 31 visits by a fisher in January 2002, at an elevation of 3,400 feet.

Fishers have been documented in the Ashland Watershed (E. Weir 2003), and adjacent areas (Was 1995, Schroeder 2001, Stevens, unpublished data, Aubry et al. 2005, Farber and Criss 2006). These documented observations suggest Pacific fisher are in the Siskiyou Mountains, and specifically the MASA Special Use Permit area.

Two recent surveys that have incorporated hair snaring and subsequent DNA analysis as a component have identified fishers near the Ashland Watershed as members of the indigenous population (Aubry et al. 2005, Farber and Criss 2005). There have also been documented records of fisher in the Applegate river watershed within the Kinney Creek drainage and recently (June 2009) for the Brush Creek area on FS Road 1010. Another recent report of fisher was a few miles north of Grayback Mountain on BLM lands (S. Niemela, ODFW June 2009).

Biological Investigation

Because there is incomplete and a lack of precise information on local and total populations of Pacific fisher and the effects of ski area expansion, **a biological investigation was conducted to gather and predict the significance of effects (LRMP biological evaluation step 4 [d])**. This investigation includes a prediction of the local and total populations, and an investigation of effects based on habitat analysis using satellite imagery (habitat as proxy for population data and knowledge); see next steps.

Biological Evaluation Step (c): Determination of whether local populations of Pacific fisher will be affected by MASA Expansion

The 2004 FEIS (page IV-152), concluded that “All Action Alternatives would likely have some effect on fisher use of the areas where new ski runs would be built.” This was based on the fact that fisher were located within the Special Use Permit area and within runs that would be cleared for ski area expansion. This supplemental biological investigation includes a prediction of the local and total populations, and a prediction of effects based on habitat analysis using satellite imagery (use of habitat as proxy for population data and knowledge).

The following shaded supplemental text *replaces* FEIS pages IV-152, IV-153 for the Pacific fisher. Supplemental information is based on the supplemental biological investigation.

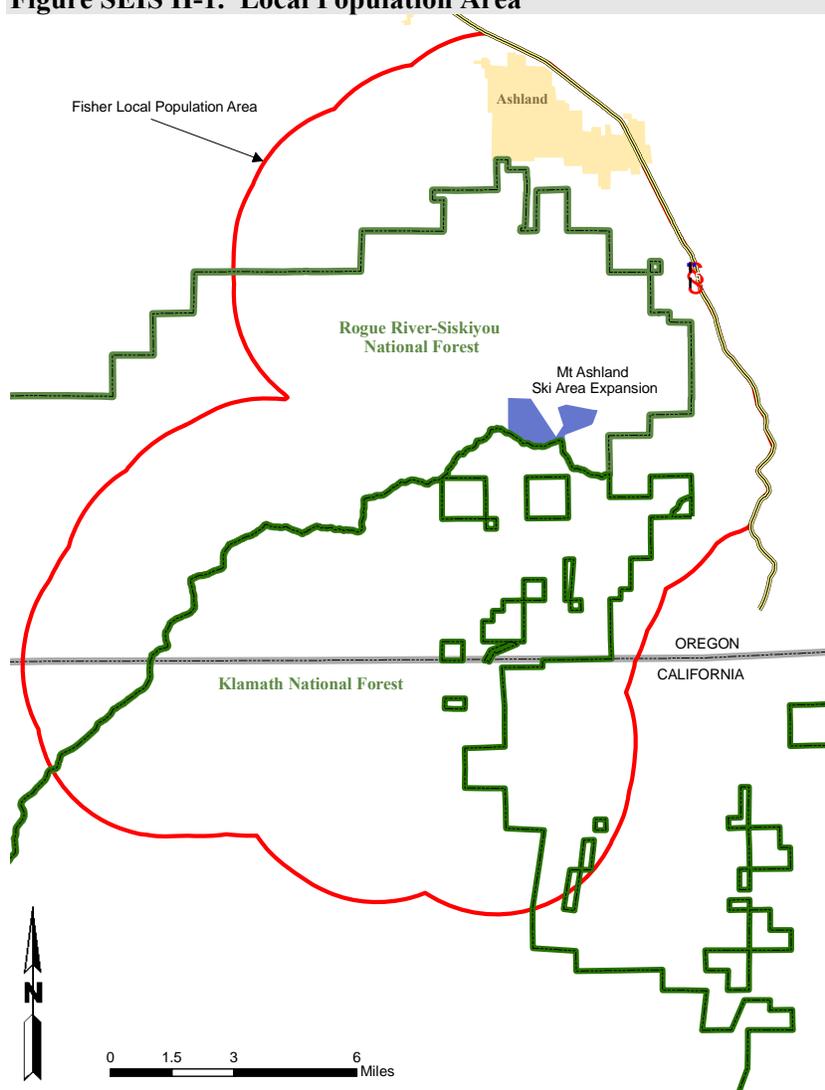
Populations

The US Fish and Wildlife Service has determined that fishers in the Cascade Range and all areas west, to the coast in Oregon and Washington; and in California, the North Coast from Mendocino County north to Oregon, east across the Klamath Mountains, across the southern Cascade Range and south through the Sierra Nevada as the West Coast Distinct Population Segment (USDI Fish and Wildlife Service 2004).

Currently, there are two documented populations in southern Oregon which appear to be genetically isolated from each other (Aubry et al. 2004). This is considered to be due to the presence of potentially strong ecological and anthropogenic barriers including the white oak savanna habitat of the Rogue Valley and Interstate 5. Based on DNA analyses, individuals in the southern Oregon Cascades appear to be descendents of animals re-introduced from British Columbia and Minnesota during the late 1970s and early 1980s by the Oregon Department of Fish and Wildlife (Drew et al. 2003). Animals in the eastern Siskiyou Mountains of Oregon are genetically related to individuals in the northwestern California population, which is indigenous (Wisely et al. 2004, Farber and Franklin 2005).

This fisher biological investigation defines the **local population area** as those individuals residing within the entire Mt. Ashland Late-Successional Reserve (LSR), and on Federal lands within 5 km of the LSR boundary, except on the eastern edge, where Interstate 5 defines the edge of the fisher local population area (see Figure SEIS II-1) due to its potential to act as a barrier to movement and dispersal (see also cumulative effects). This buffer is derived from reported dispersal distances for female fishers in California and Oregon in the scientific literature and personal communications with researchers which have conducted fisher studies in southern Oregon and northern California.

Figure SEIS II-1. Local Population Area



This fisher biological investigation defines **the total population** as all individuals residing in the Klamath-Siskiyou and California Coast Regions. Fishers in these 2 areas have been shown to be closely related through genetic analyses (Wisely et al. 2004). Fishers in the southern Oregon Cascade Range are introduced and not considered to be part of the total population. Estimates of fisher population size are based on 1) the cumulative mean home range size of female fishers (10 km²) reported in 7 studies in northern California, and 2) generally, fisher home range sizes increase in size from south to north (S. Yeager, unpublished data). Female dispersal distances are analyzed because dispersal distances for juvenile male fishers are widely variable, are likely influenced by intra-specific competition with resident males, and males in some populations have been shown to have non-breeding season home ranges separate from the general population (Aubry and Raley 2006).

Because the local population being analyzed is at the northern extreme of the California population, female fisher home ranges are expected to vary from 10-20 km² in size, and male home ranges to vary from 25-45 km² in size. The local population area defined is 653 km². This equates to approximately 33-65 female home ranges and 15-26 male home ranges within the local population area. Assuming the habitat is fully occupied by both male and female fishers, there is no overlap of territories within sexes, and there is complete overlap between sexes, **the local population estimate is 48-91 resident fishers**. This is likely a liberal estimate of population size because generally, not all suitable habitat within an extant population's range is occupied. **Carlos Carroll estimated the entire northern California-southwestern Oregon (total) fisher population as 1,000-2,000 individuals** (Center for Biological Diversity 2000).

Biological Evaluation Step (d): Analysis of the significance of project effects on local and total populations of Pacific fisher

This supplemental biological investigation includes a prediction of effects on the local and total populations based on habitat analysis using satellite imagery (use of habitat as proxy for population data and knowledge). The following shaded supplemental text *replaces* FEIS pages IV-152, IV-153 for the Pacific fisher. This supplemental information describes the direct and indirect effects on Pacific fisher based on the supplemental biological investigation.

Baseline Habitat Conditions

Habitat data for fisher analyses was derived from Geographic Information System (GIS) coverages. This analysis is based on satellite imagery. The use of satellite imagery allows large areas to be assessed on a consistent basis and is considered the "best available" data that maps and provides consistent vegetation characteristics throughout the analysis areas regardless of ownership. Other vegetation maps either stopped at the National Forest boundary or consisted of interpreted data (assumptions of conditions made from aerial photos).

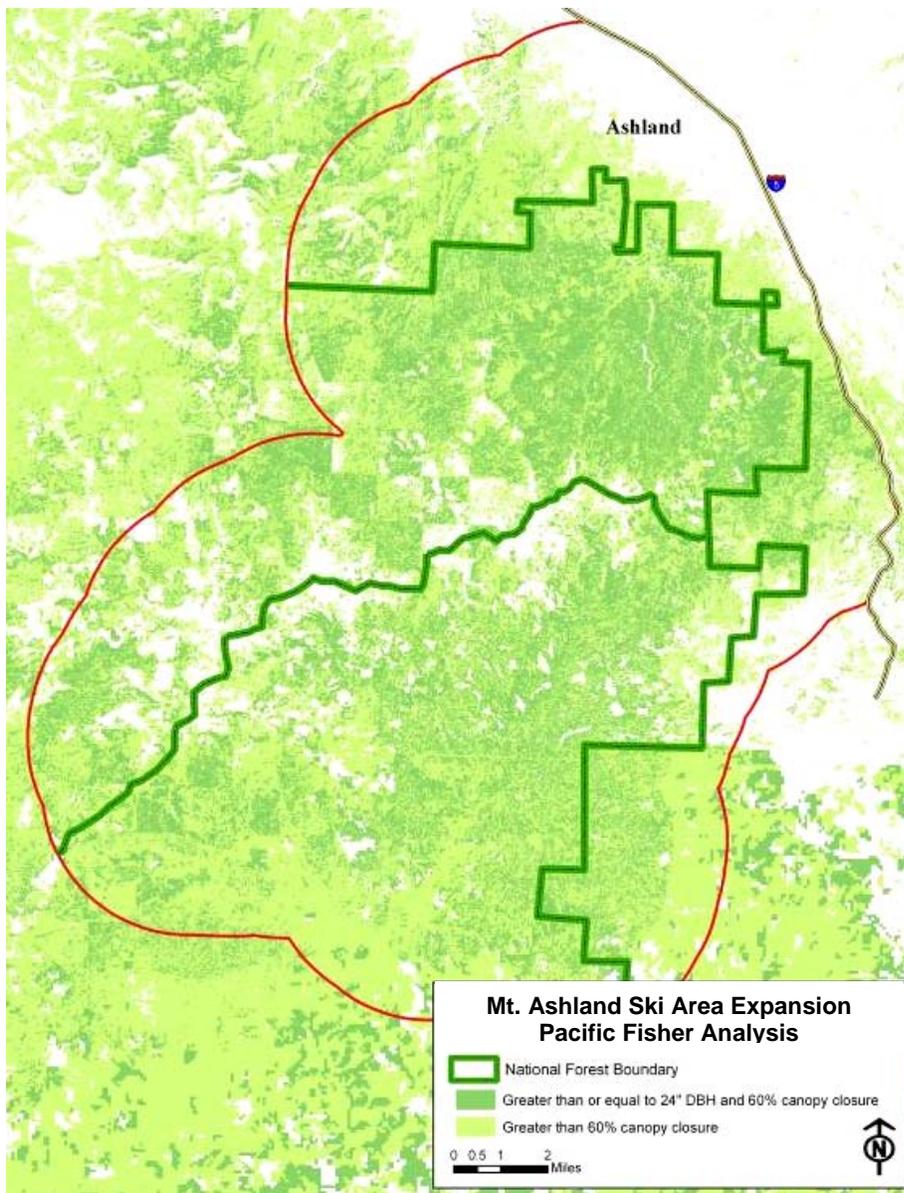
Satellite imagery utilized for this fisher biological investigation was developed by Geographic Resource Solutions in 1994 in conjunction with the Applegate Adaptive Management Area, designated under the Northwest Forest Plan. The area covered by this imagery includes the area within the local population area. An accuracy assessment for this imagery was performed in the Applegate Watershed (immediately west of the Ashland Watershed) and determined the imagery to be 86+% accurate (Hill 1996). When used at the landscape scales, local Forest Service experience has shown the reliability of the imagery to be relatively high (Boucher pers. obs. 2005).

Accuracy for satellite imagery utilized for this biological investigation is assumed to be 80+%. It is important to note some limitations in terms of the satellite imagery used for this analysis. The imagery was classified over a large area and as such, individual pixels of data may not exactly match on the ground. Though, when viewed at the landscape scale, the imagery presents a consistent “snapshot” which is useful for planning and analysis.

For the purpose of this biological investigation, fisher denning/resting habitat is defined as coniferous forest with $\geq 60\%$ overstory canopy closure and a quadratic mean of ≥ 24 " dbh. Fisher dispersal/foraging habitat is defined as coniferous forest (sapling/pole or larger) with $\geq 60\%$ canopy closure.

Based on these assumptions, as derived from satellite imagery, within the local population area there are 161,349 acres of habitat considered suitable for fisher (denning/resting and dispersal/foraging). National Forest System lands comprise 105,402 acres of the local population area (Figure SEIS II-2).

Figure SEIS II-2. Current Condition of Fisher Habitat Within the Local Population Area



There are 50,386 acres within the local population area that do not have overstory canopy (trees) with $\geq 60\%$ canopy closure. However, some of these areas do have shrub or sapling pole habitats that provide approximately 60% canopy closure and fishers may use them for traveling and foraging.

As previously stated, for the purpose of analyzing effects on fisher populations resulting from the MASA expansion, this fisher biological investigation defines the local population area as those individuals residing within the entire Mt. Ashland Late-Successional Reserve (LSR), and on Federal lands within 5 km of the LSR boundary, except on the eastern edge, where Interstate 5 defines the edge of the fisher local population area (see Figure SEIS II-2) due to its potential to act as a barrier to movement and dispersal. This buffer is derived from reported dispersal distances for female fishers in California and Oregon in the scientific literature and personal communications with researchers which have conducted fisher studies in southern Oregon and northern California.

Effects from Ski Area Expansion

Effects Related to Direct Habitat Removal

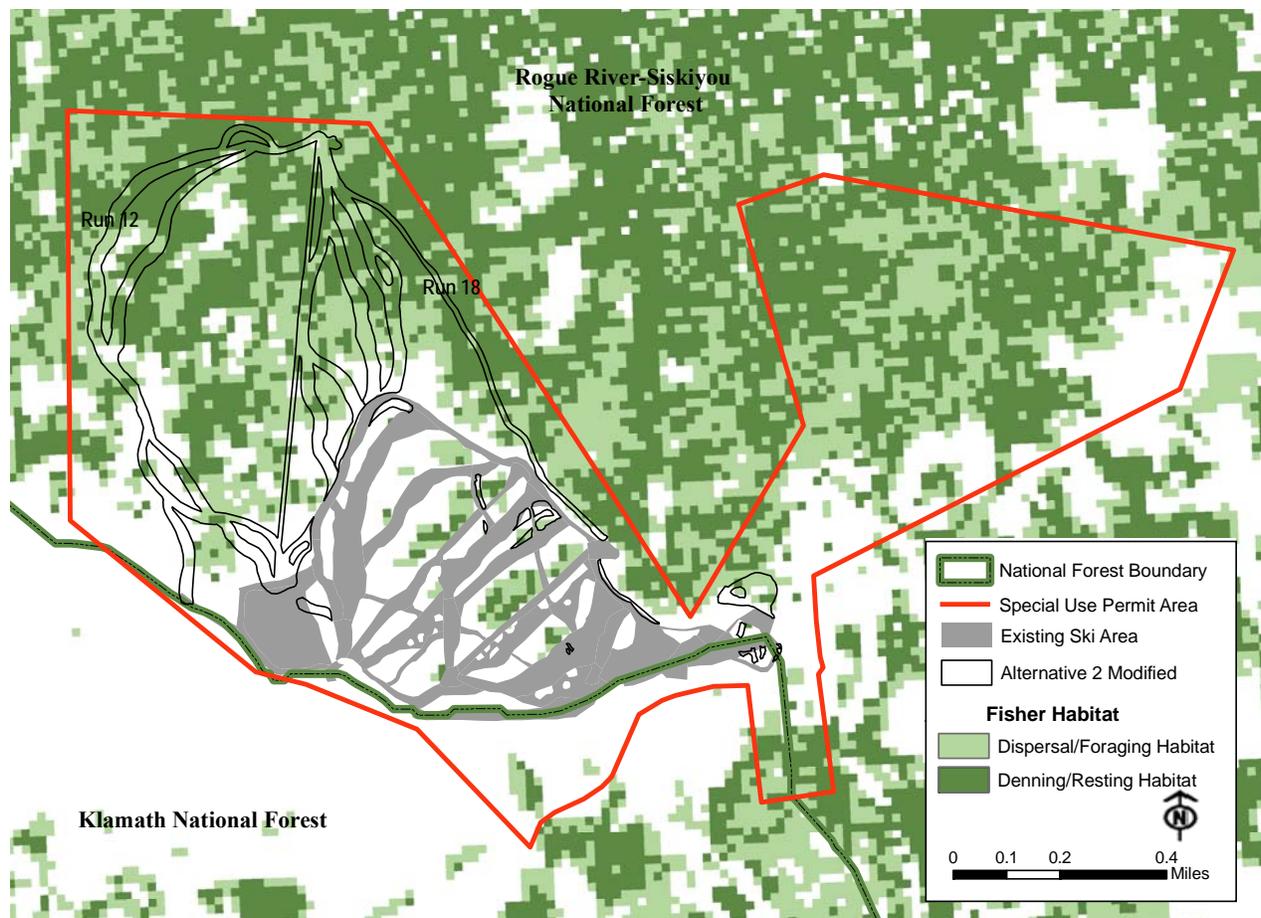
The [decision for] the Mt. Ashland Ski Area Expansion project would remove 44 acres of denning/resting habitat (coniferous forest with $\geq 60\%$ overstory canopy closure and a quadratic mean of ≥ 24 " dbh) and an additional 17 acres of dispersal/foraging habitat for fishers (coniferous forest - sapling/pole or larger) with $\geq 60\%$ canopy closure: see SEIS Figure II-3). Specifically, removal of habitat describes management activities which would reduce canopy closure to below a level which fishers would be expected to continue to use the affected habitat at the patch scale. Additionally, removal of these habitats would reduce or eliminate coarse wood, snags, microsite conditions, and structural complexity. Where denning/resting or dispersal/foraging habitat is removed, it is unlikely that fisher would continue to use the site. At the site scale for example, the area where a fisher was photographed in proposed Run 12, fisher would be unlikely to use that site after the project is implemented; canopy cover would be reduced to below minimum guidelines, coarse wood, snags, micro site conditions, and structural complexity would be lost.

For fisher at the proposed project scale, the total area impacted by the [decision for] the Mt. Ashland Ski Area Expansion project is considered to be 220 acres because Runs 12, 15, 18 and Surface Lift 15 fragment this area from the remaining habitats within the local population area due to removal of trees. Implementation of this project would create openings that average 125 ft. wide on the proposed ski runs, which are likely to create barriers to fisher movement. Therefore, the entire 220 acres is unlikely to function as fisher habitat or be included in an individual's home range.

Within this 220-acre area, approximately 66 acres are currently non-habitat (non-forest or $< 40\%$ canopy closure), 66 acres are foraging habitat (coniferous forest (sapling/pole or larger) with $\geq 60\%$ canopy closure), and 88 acres are resting/denning habitat (coniferous forest with $\geq 60\%$ overstory canopy closure and ≥ 24 " dbh).

The [decision for] the Mt. Ashland Ski Area Expansion project therefore is likely to remove suitable denning/resting and dispersal/forage habitat from within the home range of up to 1 female fisher and 1 male fisher causing these animals to avoid the entire 220 acre expansion impact area. Effects to the fisher would include loss of potential denning and forage areas, as well as human disturbance from the proposed activity.

Figure SEIS II-3. Fisher Habitat Effects



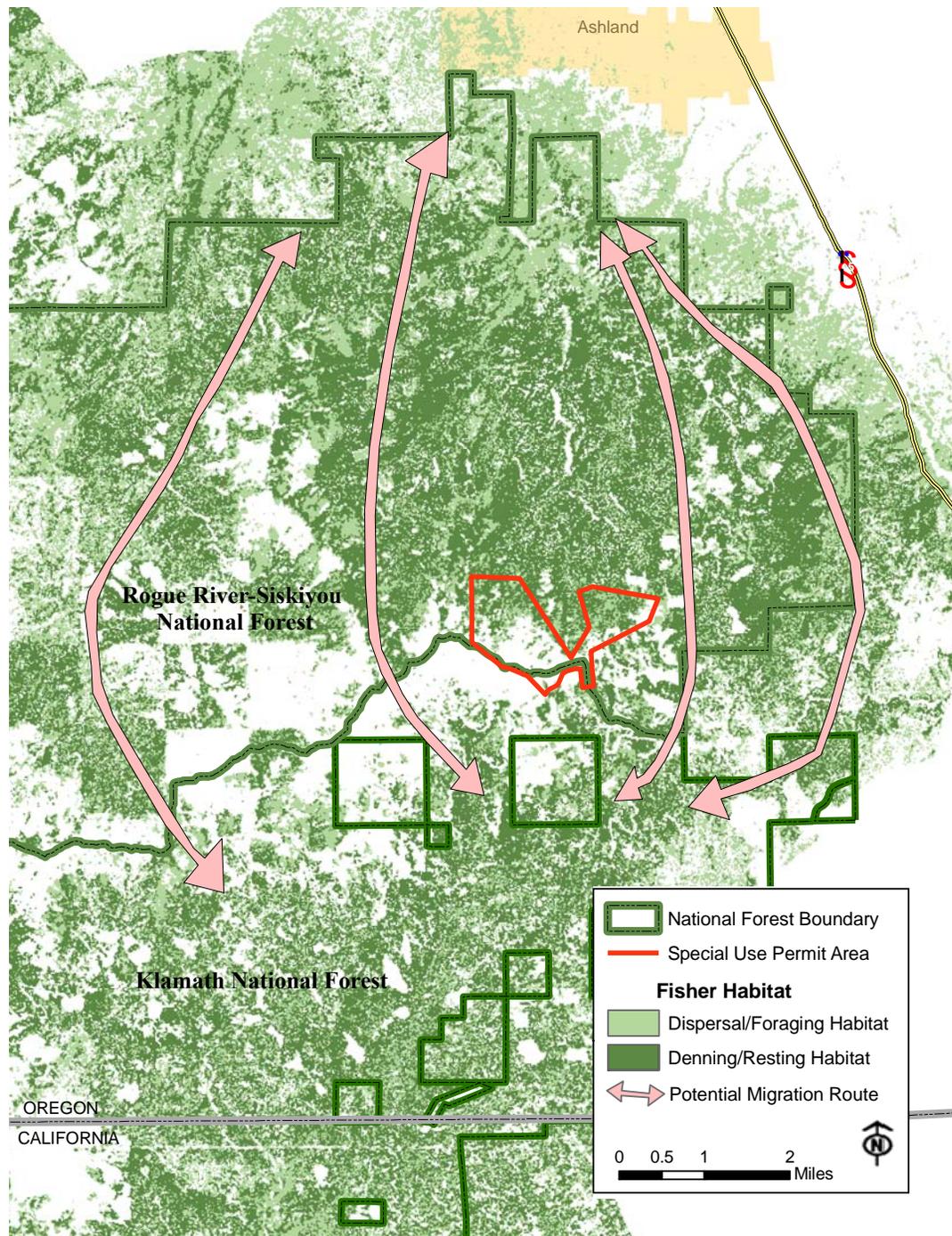
Effects Related to Dispersal Opportunities

Currently, forested areas east and west of the Mt. Ashland summit provide opportunities for movement and dispersal of fishers while it is likely that dispersal opportunities are somewhat limited near the summit of Mt. Ashland due to a lack of suitable dispersal habitat generally due to much of this area being naturally in a non-forested condition. Implementation of the [decision for] the Mt. Ashland Ski Area Expansion project is not expected to prevent movement and dispersal of fishers within the local or total population area because the summit of Mt. Ashland is already a natural opening and is not likely providing connectivity for fishers traveling north and south due to their avoidance of non-forested habitats.

Currently, emigration, immigration, and movement by fishers north to south likely occurs within forested areas both east and west of the Special Use Permit area (see Figure SEIS II-2), and these habitats would remain untreated for the foreseeable future. In addition, due to the potential for fragmentation and disturbance resulting from the expansion, it is unlikely that fisher would use the 220 acre impact area associated with the expansion area.

The local population area has been defined and, for this analysis, is considered to occur at the landscape scale. After implementation of ski area expansion, remaining habitats would continue to allow fishers to emigrate and immigrate from north to south to interact with and exchange genetic material with animals in northern California (Figure SEIS II-4). The area surrounding the summit of Mt. Ashland is a natural opening and fishers tend to avoid non-forested areas. However, there are opportunities both immediately east and west of the summit for fishers to move and disperse through forested habitats.

Figure SEIS II-4. Potential Fisher Dispersal - Current Condition



Effects Related to Disturbance

Impacts to fisher from human activities are not well documented. However, it can be expected that fishers, as with most wild animals, would exhibit aversive reactions to direct human contact or unnaturally loud noises. It can also be expected that avoidance reactions to human-caused disturbance would be elevated for females in dens or accompanied by young kits. Aubry and Raley (2006) identified the seasonal activity patterns for fishers in the southern Oregon Cascades. Females give birth in late March and generally move kits from the natal den to maternal dens at about 8-10 weeks. Near the end of July when kits are approximately 4 months old, they are more mobile and begin to travel with their mothers.

Activities associated with ski area expansion implementation such as felling, skidding, hauling, piling of fuels, and burning are likely to have the greatest adverse effects on reproductive females during the denning and early kit rearing periods. There could also be indirect effects from disturbance over the long-term because, if implemented, the ski runs and lifts and associated human activities would likely cause fisher to avoid the area entirely, thereby removing the ability for fisher to use the expansion impact area for the foreseeable future. There would be no foreseeable additional effects to fisher from disturbance in the summer months as no increased use of the proposed expansion area is expected or authorized.

Effects to Large Snags

Reduction of large snags can also reduce the availability of fisher den sites. Aubry and Raley (2006) found that large snags were used for both natal and maternal den sites in southern Oregon. Snag retention within the expansion impact area and within the proposed runs themselves is unlikely due to implementation and human safety concerns; there would likely be minimal snag retention within the expansion impact area. This would potentially remove habitat for denning or resting for fisher within the cleared run and lift areas but not the entire Special Use Permit area itself.

Effects to Coarse Woody Material

Down logs are important for fishers and their prey. Construction of the runs and lifts would remove most large wood from within those areas for the foreseeable future, thereby reducing denning/resting and forage opportunities for fisher.

Effects on Prey Species

Effects on prey species from ski area expansion are variable. Because fishers are known to prey upon a wide variety of small mammal species, it is difficult to quantify how expansion activities may affect their prey base. Small mammals occupy a wide variety of habitat types; some species are considered to be associated with late-successional or closed canopy habitats, while others are generally associated with early successional habitats. Other species are considered habitat generalists. The effects on small mammal populations are dependent on numerous factors which include amount of remaining canopy closure, coarse woody material (CWM), shrub and forb layers, and fungi. Regardless of species, it is likely that small mammal populations would be reduced within the expansion impact area given that the habitats described above would be reduced.

2. Pacific Fisher - NEPA Claims

This section of the DSEIS will supplement the disclosure of impacts to the corridor linking the Klamath-Siskiyou region and the Southern Cascades, from ski area expansion. It will supplement the analysis for cumulative effects on the Pacific fisher from future projects in the vicinity of the MASA expansion area, including Ashland Forest Resiliency, the Ashland Watershed Protection Project, and the Mt. Ashland LSR Habitat Restoration and Fuels Reduction Project, as well as other projects with potential for cumulative effects.

a. Impacts to Corridor Not Disclosed

The Court of Appeals found that the Forest Service violated the NEPA when it failed to disclose the potential impact of displacing the fisher and damaging habitat in the corridor linking the Klamath-Siskiyou region and the Southern Cascades.

Supplemental Information

The 2004 FEIS discussed effects of terrestrial wildlife habitat (primarily late-successional forests) in an Other Issue titled “Effect on terrestrial Wildlife Habitat” (FEIS page IV-144). Effects to connectivity (fragmentation) from ski area expansion were discussed in the 2004 FEIS at page IV-144, in a subsection of cumulative effects. This discussion primarily focused on the north-south corridors along the Siskiyou Crest. Supplemental information derived from the biological investigation described above, found that currently, forested areas east and west of the Mt. Ashland proposed expansion area provide opportunities for movement and dispersal of fishers while it is likely that dispersal opportunities for forest associated species are limited near the summit of Mt. Ashland due to a lack of suitable dispersal habitat generally due to much of this area being high elevation and naturally in a non-forested condition.

The local population area has been defined and, for this supplemental analysis, is considered to occur at the landscape scale. After implementation of ski area expansion, remaining habitats would continue to allow fishers to emigrate and immigrate from north to south to interact with and exchange genetic material with animals in northern California (Figure SEIS II-3). The area surrounding the summit of Mt. Ashland is a natural high elevation opening and fishers tend to avoid non-forested areas. However, there are opportunities both immediately east and west of the proposed expansion area for fishers to continue to move and disperse through forested habitats.

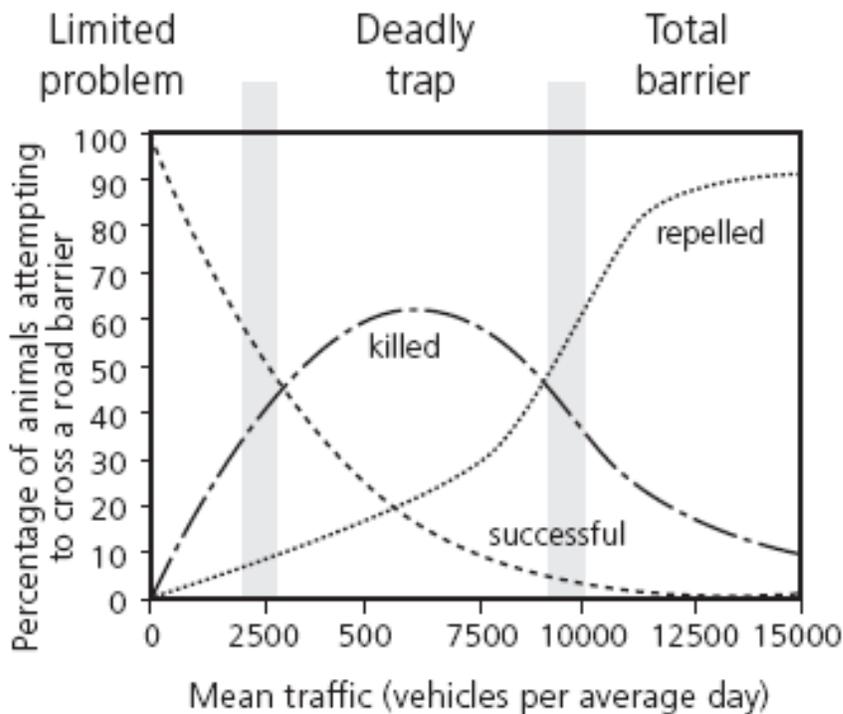
The Court of Appeals found that the Forest Service violated the NEPA when it failed to disclose the potential impact of displacing the fisher and damaging habitat in the corridor linking the Klamath-Siskiyou region and the Southern Cascades. This corridor would represent an east-west link, which would include crossing the Interstate 5 corridor.

The following shaded supplemental text *supplements* FEIS pages IV-152, IV-153 for the Pacific fisher. This supplemental information describes the situation regarding the Klamath-Siskiyou region and the Southern Cascades (east-west) Interstate 5 corridor and the effects of traffic on Pacific fisher based on the supplemental biological investigation.

Interstate 5

Traffic has a considerable effect on population and community dynamics through the disruption and fragmentation of habitat and traffic mortality (van Langevelde and Jaarsma 2004). There are at least 4 adverse effects of traffic on animals; 1) destruction or alteration of habitat due to construction, 2) disturbance of habitat along the road or railway (noise, vibrations, car visibility, etc.), 3) barriers created by the road or railway (increased resistance for movements), and 4) barriers by traffic (collision risk during crossing) van Langevelde and Jaarsma (1997). Generally, as traffic volume increases, mortality increases roughly proportionally until the intimidation factor causes animals to cease attempting to cross, whereupon mortality decreases with an associated increase in the barrier effect (Jacobson 2007) (see Figure SEIS II-5).

Figure SEIS II-5. Traffic Effects



At low traffic intensity (<2,500) the small proportion of fauna casualties and animals repelled causes limited impact on the proportion of animals successfully crossing a road barrier. At medium traffic intensity (2,500-10,000) casualties are high, the numbers of animals repelled by the infrastructure increased and the proportion of successful crossings decreased. At high traffic intensity (>10,000) a large proportion of animals are repelled and despite a lower proportion of fauna casualties there is only a small proportion of successful crossings (graph by Andreas Seiler, unpublished).

Aubry and Raley (2006) described seasonal activity patterns of fishers in the southern Oregon Cascade Range. Their observations showed that fisher activity increases during the months of February thru April. During this period, males become more active and start to move beyond their non-breeding home ranges and juveniles begin to disperse. Average Daily Traffic on Interstate 5, 3 miles south of Ashland, OR, ranges from 13,000 – 16,000 vehicles/day between February and April (www.oregon.gov/ODOT). This presents a formidable challenge, if not a complete barrier, to movement across the Interstate for nearly all cursorial species including fishers. Fishers have been documented 2 miles west of Interstate 5 near the Siskiyou Summit (J. Stephens, pers. comm.). There is a potential for fishers to cross I-5 at 3 underpasses south of the town of Ashland.

Micro-satellite DNA evidence indicates that fishers in the Siskiyou Mountains and those in the southern Cascades are distinct populations and are genetically isolated from each other (Aubry et al. 2004). Jeff Stephens of the Medford BLM obtained photographic evidence of fishers on the Dead Indian Memorial Plateau, east of Interstate 5 in 2006. The RRSNF conducted hair-snaring surveys in this area in early 2008 in an attempt to obtain DNA to identify which population the fisher(s) are from. Fishers were not detected.

As discussed in the biological investigation, the local population area was defined as those individuals residing within the entire Mt. Ashland Late-Successional Reserve (LSR), and on Federal lands within 5 km of the LSR boundary, except on the eastern edge, where Interstate 5 defines the edge of the fisher local population area (see Figure SEIS II-2) due to its potential to act as a barrier to movement and dispersal. Therefore, based on the biological investigation, the potential for displacing the fisher from damaging habitat in the corridor linking the Klamath-Siskiyou region and the Southern Cascades is not influenced by the [decision for] the Mt. Ashland Ski Area Expansion project; it continues to be influenced by the existing barrier created by human infrastructure and traffic utilizing Interstate Highway 5.

b. Cumulative Effects from Other Projects Not Considered

The Court of Appeals found that the Forest Service violated the NEPA when it failed to discuss the cumulative effects on the Pacific fisher from future projects in the vicinity of the MASA expansion area, including the Ashland Forest Resiliency Project, the Ashland Watershed Protection Project, and the Mt. Ashland Late-successional Reserve Habitat Restoration and Fuels Reduction Project (on the south side of Mt. Ashland on the Klamath National Forest).

The Court of Appeals stated at 13066-13067; “We cannot excuse the Forest Service from the NEPA requirement to include an adequate cumulative impact analysis in the 2004 FEIS. Two future projects, the Ashland Forest Resiliency Project (a logging project²), and the Ashland Watershed Protection Project (a habitat restoration and fuel reduction project³), are scheduled to occur in the vicinity of the proposed MASA expansion. Though the Forest Service generally addressed the impact of these projects elsewhere in the FEIS, it failed to discuss in detail their impact upon the fisher as part of the cumulative impact analysis required by NEPA.”

The Court of Appeals Opinion at 13065-13066 also found that the Forest Service’s 2004 FEIS violates the NEPA because it fails to adequately discuss the impact on the Pacific fisher of two future projects: (1) the construction of nine miles of new logging roads within three miles of the project area, which will require the cutting of approximately 4,250 acres on the south side of Mount Ashland⁴ and (2) a habitat restoration and fuel hazard reduction treatments, which include controlled fires.

² Ashland Forest Resiliency is a project designed under the Healthy Forests Restoration Act (HFRA) of 2003. The stated purpose and need for action is “. . .urgent reduction of the potential for large-scale, high-severity wildland fire in the Upper Bear Analysis Area. The Purpose of the action is to protect Values At Risk, reduce hazardous fuels, reduce crown fire potential, and obtain conditions that are more resilient to wildland fires.”

³ The purpose and need for the Ashland Watershed Protection project was essentially the same as Ashland Forest Resiliency. It preceded the HFRA project, partially occurs with the same area but did not propose treatments on a landscape scale, as does Ashland Forest Resiliency.

⁴ This reference is to the Mt. Ashland Late-successional Reserve Habitat Restoration and Fuels Reduction Project (on the south side of Mt. Ashland on the Klamath National Forest).

Supplemental Information

The 2004 FEIS considered and discussed cumulative effects on terrestrial PETS species beginning at page IV-150. The potential effects of the Ashland Watershed Protection Project, and Ashland Forest Resiliency were discussed there. The Mt. Ashland Late-successional Reserve Habitat Restoration and Fuels Reduction Project (on the south side of Mt. Ashland on the Klamath National Forest) was not included in the 2004 cumulative effects analysis. This project was in the initial planning stages at the time of the FEIS and ROD and the extent of potential habitat modifications was unknown at that time because no proposed action had been identified⁵.

The following shaded supplemental text *supplements* FEIS pages IV-150 for the Pacific fisher. This supplemental information is based on the latest (2010) situation and is discussed in detail as part of the cumulative impact analysis for Pacific Fisher.

Ashland Watershed Protection Project

A Record of Decision was signed in May 2001 for the Ashland Watershed Protection Project (AWPP). The current situation for Ashland Forest Resiliency suggests that only the manual treatments under AWPP will be enacted, and that mechanical treatments will be incorporated into Ashland Forest Resiliency. This will result in less cumulative effects (because of the lack of cumulative treatments) than was assumed in the 2004 FEIS for ski area expansion. None of the manual treatments will remove or degrade late-successional habitat.

Ashland Forest Resiliency

The Rogue River-Siskiyou National Forest completed a Final EIS (September 2008) for Ashland Forest Resiliency (AFR). The Objection Process under 36 CFR 218 was conducted for this project and a Record of Decision selecting the Preferred Alternative was issued in October 2009. In the Final EIS for Ashland Forest Resiliency, the Forest Service developed and analyzed an additional Action Alternative, designed and identified as the Preferred Alternative. This alternative was developed from the results of analysis of the two Action Alternatives analyzed in detail in the Draft EIS, further collaboration with the City of Ashland and their representatives, and the extensive comments received on the Draft EIS during the Comment Period.

Regarding AWPP (see above), under collaborative discussions, the Forest Service and City agreed that the Forest Service should plan the entire landscape based on its current condition at the time of implementation of Ashland Forest Resiliency, and not defer treatments until after AWPP treatments are completed.

The Preferred Alternative was designed to include the most effective and efficient treatment methodologies, in the most strategic locations. The Preferred Alternative identifies approximately 7,600 acres of treatment, which is less than the Proposed Action (8,150 acres). Actions associated with Ashland Forest Resiliency (AFR) would occur within the Neil Creek and Ashland Creek watersheds; analysis for both projects concluded that there would be no risk for adverse cumulative effects to these watersheds from these actions.

⁵ Reasonably foreseeable future actions are those federal or non-federal activities not yet undertaken, for which there are existing decisions, funding, or identified proposal. Identification of Forest Service actions are described in §220.4(a)(1).

As is the case for ski area expansion, habitat data for fisher analyses was derived from Geographic Information System (GIS) mapping. For the purpose of this analysis, fisher denning/resting habitat was also defined as coniferous forest greater than 60% canopy closure and greater than 24 inch diameter trees. Fisher dispersal and foraging habitat is coniferous forest (sapling/pole or larger) greater than 60% canopy closure. In addition, for the purpose of analyzing effects to fisher populations as a result of the proposed project, the local population was defined as those individuals residing within the entire Mt. Ashland Late-Successional Reserve plus Federal lands within 5 kilometers of the LSR, except on the eastern edge, where Interstate 5 defines the edge of the fisher analysis area due to its potential to act as a barrier to movement and dispersal.

Effects to fisher from the Preferred Alternative are as follows: in stands where treatments reduce overall canopy closure to approximately 60%, opportunities for fishers to locate suitable areas for den and rest sites within the stand may be reduced. However, due to variation in canopy closure at a fine-scale within a stand after treatment, and mitigation measures provided for fisher throughout the project areas, clumps of large trees with canopy closures greater than 80% would still remain within the stand. Therefore, stands that are reduced to approximately 60% canopy closure overall would retain patches of trees and snags that provide den and rest sites for fisher.

In stands where treatments reduce overall canopy closure to between 40% and 60%, opportunities for fishers to locate suitable areas for den and rest sites within the stand become more limited. Mitigation measures for fisher require retaining a minimum of one ½-1 acre untreated patch per 40 acre block of the largest diameter trees, snags, and coarse woody material where the overstory canopy closure is greater than 80%.

The Preferred Alternative would result in the loss of some large trees which may reduce resting and denning opportunities for fishers. Research has shown that fishers use the largest trees available for both natal and maternal dens and rest sites (Aubry and Raley 2006, Yaeger 2005). Treatments from the Preferred Alternative are designed to retain the largest trees. It is estimated that a maximum of 0-3 trees/acre greater 24 inches in diameter and 0-13 trees/acre 17-24 inches in diameter would be cut.

Surface fuel treatments, particularly underburning, pile burning, and the associated smoke could have adverse effects to fishers during the denning period. In southwest Oregon, the denning period is from approximately late March when females give birth to late July when juveniles are more mobile and able to travel with their mothers (Aubry and Raley 2006).

Effects of smoke production on denning fishers and their young have not been described. However, it is assumed that heavy smoke concentrations could cause females to move their kits or could cause mortality in the young through excessive smoke inhalation or destruction of the den structure by the fire. Because burning restrictions would be required within ¼ mile of nine spotted owl nest sites, this would provide benefits for denning fishers in these areas. In addition, efforts would be made to reduce impacts to the ½-1 acre untreated patches during underburning operations.

The Ashland Forest Resiliency project would reduce fisher habitat ($\geq 60\%$ canopy closure) by 1,292 acres. These acres are widely dispersed across 7,600 acres. Late-successional habitats on south and west facing slopes in the Ashland Research Natural Area and northernmost portions of the project area would be most affected due to reduction of canopy closure and fuels projects.

Within these areas, there may be some shifting or expansion of fisher home ranges from reductions in habitat quality. This could potentially influence 2-3 female home ranges and 1-2 male home ranges. This approximates 5-10% of the estimated local population, and 0.25-0.5% of the estimated total population.

Mt. Ashland Late-successional Reserve Habitat Restoration and Fuels Reduction Project

The Mt. Ashland LSR Habitat Restoration and Fuels Reduction Project was in the initial planning stages and the extent of potential habitat modifications was unknown at the time of Mt. Ashland Ski Area expansion ROD (2004) because no proposed action had been identified.

This project was proposed by the Klamath National Forest, Oak Knoll Ranger District. The Notice of Intent (NOI) for a forthcoming EIS was published on October 7, 2005 Vol. 70, Number 194. No new road construction was identified in the NOI and the acreage stated was 5,013 acres. This Klamath NF project is almost entirely within previously managed stands less than 80-90 years of age which are not be considered suitable habitat for fisher and therefore should have little to no cumulative effect to the fisher.

The May 2008 Record of Decision for this project includes 0.2-0.3 mile of temporary road within 3 miles of the expansion area. As temporary roads, road density would not be permanently increased, and the project would actually decrease existing road density via road decommissioning. The Mt. Ashland LSR Habitat Restoration and Fuels Reduction Project FEIS included consideration and calculation for ski area expansion actions conditionally authorized by the Rogue River-Siskiyou NF at Mt. Ashland.

Based on the 2008 Record of Decision, the Klamath National Forest will enact thinning and fuel reduction treatments in the southern portion of the Mt. Ashland LSR. Treatments are designed to promote the development of late-successional habitat and reduce the potential of stand-replacement fire. Thinning designed to promote the development of late-successional habitat will not remove important structural components of late-successional habitat such as large-diameter trees, snags, and coarse woody material. Trees infected with mistletoe may be removed; however silvicultural prescriptions have been designed to ensure that this habitat component will remain well distributed across the landscape. Silvicultural prescriptions have also been designed to retain 60 percent canopy cover in suitable spotted owl habitat. Prescriptions for underburning have been designed to imitate low-intensity fire, thus, underburning is not expected to significantly impact the amount and distribution of large snags and coarse woody material.

Other fuel reduction treatments such as hand piling and burning of fuels and mastication will retain Mt. Ashland Late-Successional Reserve Assessment recommendations for snags and coarse woody material. Because the structural elements of late-successional habitat will be retained, thinning designed to promote the development of late-successional habitat and fuels reduction treatments are not expected to remove late-successional habitat.

Because the only proposed silvicultural prescription is thinning, stands will be thinned to a variable density including 15 percent of each stand to remain un-thinned, an average of 60 percent canopy closure will be retained in true fir stands and the lower half of north and east facing slopes, an average of 40 to 60 percent canopy closure will be retained on south and west facing slopes, and 60 percent canopy cover will be retained on all other aspects.

Thinning prescriptions are designed to promote the development of late-successional habitat and will not create large openings or significantly reduce forest cover and will retain a high level of habitat connectivity. Additionally, actions within one site potential tree of riparian reserves are limited to pre-commercial thinning which is not expected to affect the connectivity function of these areas.

Under the 2008 decision, thinning to create the Siskiyou Gap Defensible Fuel Profile Zone (DFPZ) will downgrade approximately 4 acres of late-successional habitat in stand 339 by reducing canopy cover to 40 percent. While thinning in DFPZs may remove discrete structural components of late-successional habitat outside of stand 339, silvicultural prescriptions have been designed to retain late-successional habitat where it occurs within DFPZs, ensuring that these activities will not remove any additional late-successional habitat. Additionally, the removal of large snags or groups of snags within DFPZs will be limited to situations where they pose a hazard to operations.

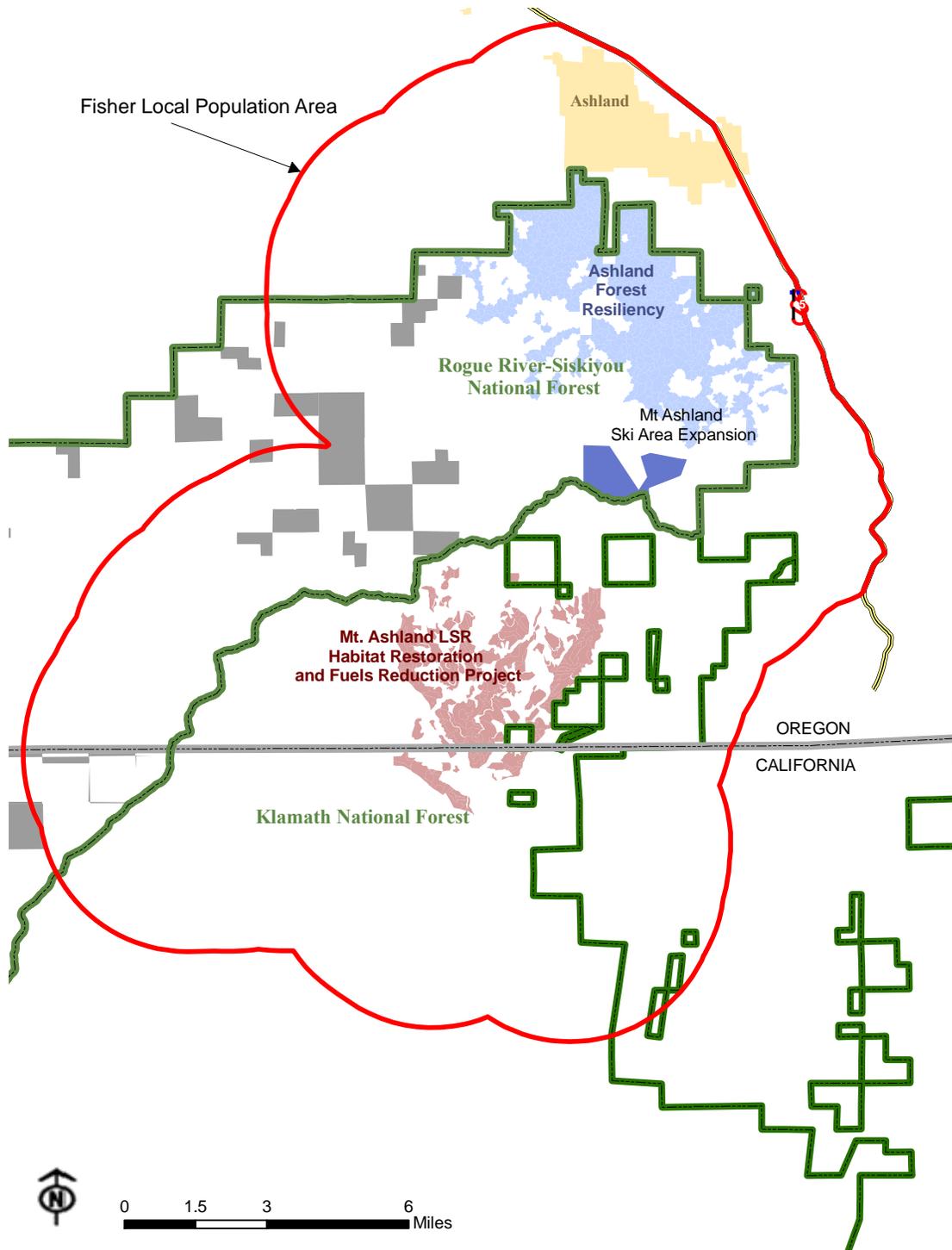
In the long term, thinning and fuel reduction treatments are expected to have substantial benefits to late-successional species by increasing the amount and distribution of late-successional habitat and by reducing fuels to a level that would result in an acceptable fire behavior and post fire stand condition. Forest Vegetation Simulation (FVS) modeling indicates that 50 years post thinning the average tree diameter within a stand would increase to between 24 and 27" and 14 to 15 trees per acre >30" would be expected. More large stems per acre would also increase recruitment of large snags and coarse woody material. Stands with this type of structural complexity contain the specific habitat requirements for this species. The fuels extension of FVS modeling indicates that thinning and subsequent fuels treatment will generally reduce crown fire potential and maintain a surface fire type and substantially reduce predicted stand mortality in the event of a fire start. These factors indicate that stands will be more resistant to large-scale fires but will burn with sufficient intensity to create small openings within forested habitat. This type of pattern, would create a mosaic of stands in different successional stages, and be consistent with patterns under historic fire regimes. This pattern of successional stages would likely benefit late-successional species by creating horizontal diversity of habitat across the landscape.

Between 0.2 to 0.3 miles of temporary road construction is proposed in late-successional habitat. Because construction of temporary roads would remove large diameter trees and create approximately a thirty foot gap in the canopy, it is expected that this activity would remove between 0.7 and 1.1 acres of late-successional habitat. To ensure that impacts to late-successional habitat are minimized, all trees >24" that need to be felled during temporary road construction will be left on site. One landing is proposed to be constructed in late-successional habitat, resulting in the removal of 0.5 acre of late-successional habitat.

Road-related activities, including maintenance, closures, and decommissioning are not expected to remove any important structural components of habitat. Combined, thinning to create the Siskiyou Gap DFPZ and construction of temporary roads and landings would be expected to remove between 0.7 and 5.5 acres or 0.05 to 0.43 percent of the extant late-successional habitat in the Project area. Proposed actions are not expected to affect habitat connectivity.

The Ashland Watershed Protection Project, Ashland Forest Resiliency, and the Mt. Ashland Late-successional Reserve Habitat Restoration and Fuels Reduction Project, as well as the Mt. Ashland Ski Area expansion are shown in the context of the Fisher local population are on figure SEIS II-6.

Figure SEIS II-6. Foreseeable Federal Projects within the Fisher Local Population Area



Wagner Gap Timber Sale

An additional project, the Wagner Gap Timber Sale thinned (in 2009) 417 acres of overly dense young stands located on the Siskiyou Mountains Ranger District. Based on canopy reductions associated the Wagner Gap sale, fisher would not likely continue to use approximately 324 acres of affected stands. This would result in a short term reduction of fisher habitat within the local population area and could affect up to one female and one male fisher.

Private Timber lands

There are approximately 5,700 acres of privately owned lands within the local fisher population area, some of that is industrial timber lands that are subject to frequent harvest. The amount of late-successional habitat on private land is unknown, though it is likely to be relatively low. Under the harvest regimes usually carried out in the Rogue Valley and surrounding area, the typical rotation age is 40 to 60 years.

The Forest assumes that these past management practices will continue and reduce the amount of late-successional habitat on non-federal lands over time. Harvest activities on state and private lands can be expected to impact late-successional species located within adjacent federal lands by removing and fragmenting habitat.

3. Determinations - Pacific Fisher

The supplemental analysis documented in this DSEIS has explained how the 1999 Biological Evaluation was updated and incorporated into the 2004 FEIS. This DSEIS has supplemented the current conditions for the fisher population in and around Mt. Ashland and identified current amount and types of habitat. It presents a summary of the latest research on the Pacific fisher species biology and habitat requirements. This is designed to allow use of habitat as a proxy for population viability. The effects on fisher species and habitat from ski area expansion are disclosed. The supplemental sections include all steps of the Biological Evaluation process required by the LRMP, for the Pacific fisher. This DSEIS has supplemented the disclosure of impacts to the corridor linking the Klamath-Siskiyou region and the Southern Cascades, from ski area expansion. It has supplemented the analysis for cumulative effects on the Pacific fisher from future projects in the vicinity of the MASA expansion area, for impacts to the local fisher population area.

a. Sensitive Species Determination

Table IV-24, at page IV-146 of the 2004 FEIS documented a determination of effect for the Pacific fisher as “**MIHH**” (defined in the table footnote as) “**May impact individuals or habitat, but will not likely contribute to a trend toward federal listing or cause a loss viability to the population or species.**” This determination was applicable to both Alternative 2 and 6, as analyzed in the 2004 FEIS.

The following shaded supplemental text *supplements* FEIS pages IV-152 for the Pacific fisher:

The 2010 supplemental analysis found that the [decision for] the Mt. Ashland Ski Area Expansion project would remove 44 acres of denning/resting habitat and an additional 17 acres of dispersal/foraging habitat for fishers. Within these areas, there may be some shifting or expansion of fisher home ranges resulting from reductions in habitat quality. This could potentially influence 1 female home range and 1 male home range. This approximates 1% of the estimated local population, and 0.25-0.5% of the estimated total population.

The total area impacted by the [decision for] the Mt. Ashland Ski Area Expansion project is considered to be 220 acres because Runs 12, 15, 18 and Surface Lift 15 fragment this area from the remaining habitats within the local population area due to removal of trees. Therefore, the entire 220 acres is unlikely to function as fisher habitat or be included in an individual’s home range.

Due to reductions in the extent of denning/resting and dispersal/foraging habitat for fisher within the local population area, as a Forest Service Sensitive species, the Mt. Ashland Ski Area Expansion project is “**MIIH - May impact individuals or habitat, but will not likely contribute to a trend toward federal listing or cause a loss viability to the population or species.**” The [decision for] the Mt. Ashland Ski Area Expansion would not likely result in a loss of viability within the local population area nor cause a trend to federal listing or a loss of species viability range wide” for Pacific fisher.

For the selected alternative in the 2004 ROD, supplemental analysis has identified a more precise prediction of impacts, including a slightly refined (increased) extent of habitat change. However, this supplemental analysis identifies an identical finding to that predicted in the 2004 FEIS, for which the 2004 ROD was based, for the Pacific fisher, as a Forest Service Sensitive species.

b. Cumulative Effects

Cumulatively, all the past, current, and foreseeable future projects could impact a small portion of the fisher within the local population. Federal actions could reduce resting and denning habitat by up to 1,620 acres from both Klamath NF (4 acres) and Rogue River-Siskiyou NF (1,616 acres) projects. Past activities on non-federal lands have likely reduced habitat for fisher on up to 5,700 acres within the local population area.

The loss of up to approximately 7,320 acres of habitat within the local population area could impact up to 11 female and 6 male fisher; potentially impacting up to 39-19 percent of the local fisher population and up to 1.7-0.8 percent of the entire fisher population NW California and SW Oregon (see page II-11 for population size estimates). Ski area expansion would potentially cause some loss of forage and denning/resting habitat and cause some shifting of home ranges. The project biologists estimate that these animals would not likely be precluded or reduced within the local population; they would merely avoid those areas without habitat,

C. SUPPLEMENTAL INFORMATION - RIPARIAN RESERVES AND RESTRICTED WATERSHED TERRAIN

1. Restricted Riparian and Restricted Watershed Terrain - NFMA Claims

This Section of the DSEIS for analysis purposes will identify portions of the Special Use Permit area as Restricted Riparian (MS 26), and Restricted Watershed (MS 22) and analyze the effects of expansion against applicable (soils) standards and guidelines.

a. Failure to Designate Restricted Riparian (MS 26) and Restricted Watershed (MS 22)

The Court of Appeals found that Forest Service violated the NFMA by failing to appropriately designate “Riparian Reserves” and “Restricted Watershed” terrain as required by the Rogue River LRMP and the Northwest Forest Plan (NWFP).

The rules governing the Forest Service’s designation and management of Riparian Reserves and watersheds are complex and overlapping. The Court of Appeals noted that the principal source of these rules is the NWFP itself, and, derivatively, the Aquatic Conservation Strategy (ACS) adopted pursuant to the NWFP. Accordingly, the Forest Service must also comply with the Rogue River LRMP’s more restrictive standards and guidelines for lands designated Restricted Riparian, Management Strategy 26 (MS 26) and for lands designated Restricted Watershed, Management Strategy 22 (MS 22)⁶.

Supplemental Information

The following shaded supplemental text *supplements* FEIS Chapter III, Sections 8 and 9 (pages III-44 through 70, for Watershed Resources and Water Quality).

RESTRICTED RIPARIAN (MS 26)

Portions of the Special Use Permit area for analysis purposes are considered to be allocated to Restricted Riparian (MS 26). According to **DESCRIPTION (LRMP page 4-298)**:

“This strategy can be applied only to those acres designated as suitable for riparian habitat. This area includes all perennial streams, Class I, II and III in the Forest Service classification system and their associated riparian habitat.

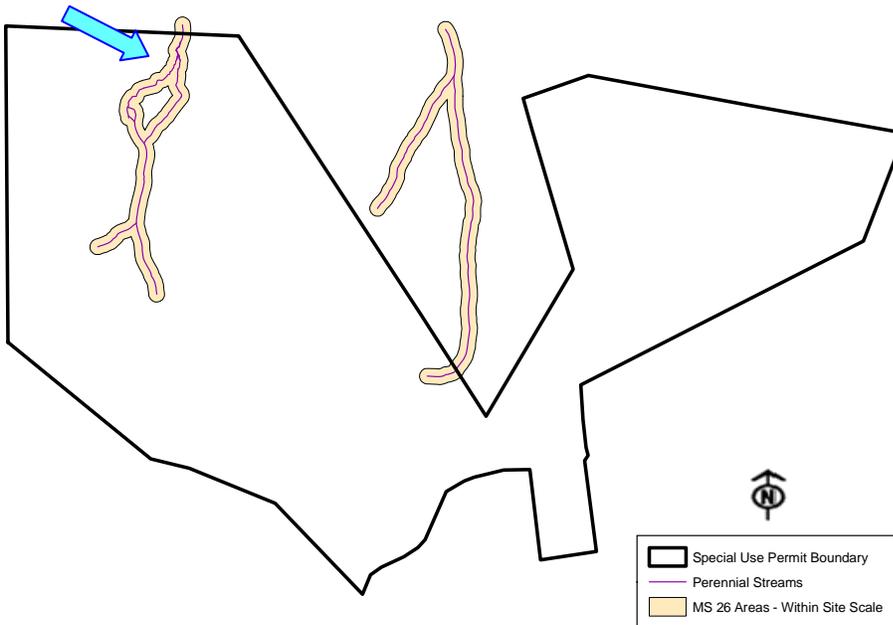
Areas managed for restricted riparian include lakes and perennial streams and wetlands, and at a minimum, land within 100 feet horizontal distance from them or the riparian vegetation associated with them. Geographical boundaries of these areas are determined by on-site characteristics of soil and vegetation.”

The following supplemental information will map all perennial streams within the Special Use Permit Area as Restricted Riparian (MS 26). Perennial streams are based on the actual on-the-ground inventory conducted by SE Group in 2002, and documented in the Wetland and Stream Survey, contained in the 2004 FEIS as Appendix E. According to the LRMP, lands within 100 feet horizontal distance from perennial stream and wetlands define the area that will be evaluated for the appropriate standards and guidelines for MS 26.

⁶ Court of Appeals Opinion at 13068

Based on this supplemental analysis, the following figure (Figure SEIS II-7) shows MS 26 areas within the Special Use Permit area, and at the Site Scale Analysis Area⁷:

Figure SEIS II-7. Management Strategy 26 within Special Use Permit Area and Site Scale



Based on supplemental analysis, there is a total of 48.8 acres of Restricted Riparian (MS 26) terrain within the Site Scale Analysis Area; 27.9 acres of this are within the Special Use Permit area.

The area of MS 26 impacted by the 2004 Decision for ski area expansion involves Run 12, Lower Wetlands Bridge Construction, at one location (blue arrow). The width of Restricted Riparian at this crossing (perpendicular to stream course) is projected at 300 total feet; the width of the proposed ski run at this location is 120 feet. This equates to 0.83 acres of action within MS 26. The disturbance from this action will be discussed further in this supplemental analysis (page II-39, 40).

Supplemental Information

The following shaded supplemental text *supplements* FEIS Chapter III, Sections 8 and 9 (pages III-44 through 70, for Watershed Resources and Water Quality.

RESTRICTED WATERSHED (MS 22)

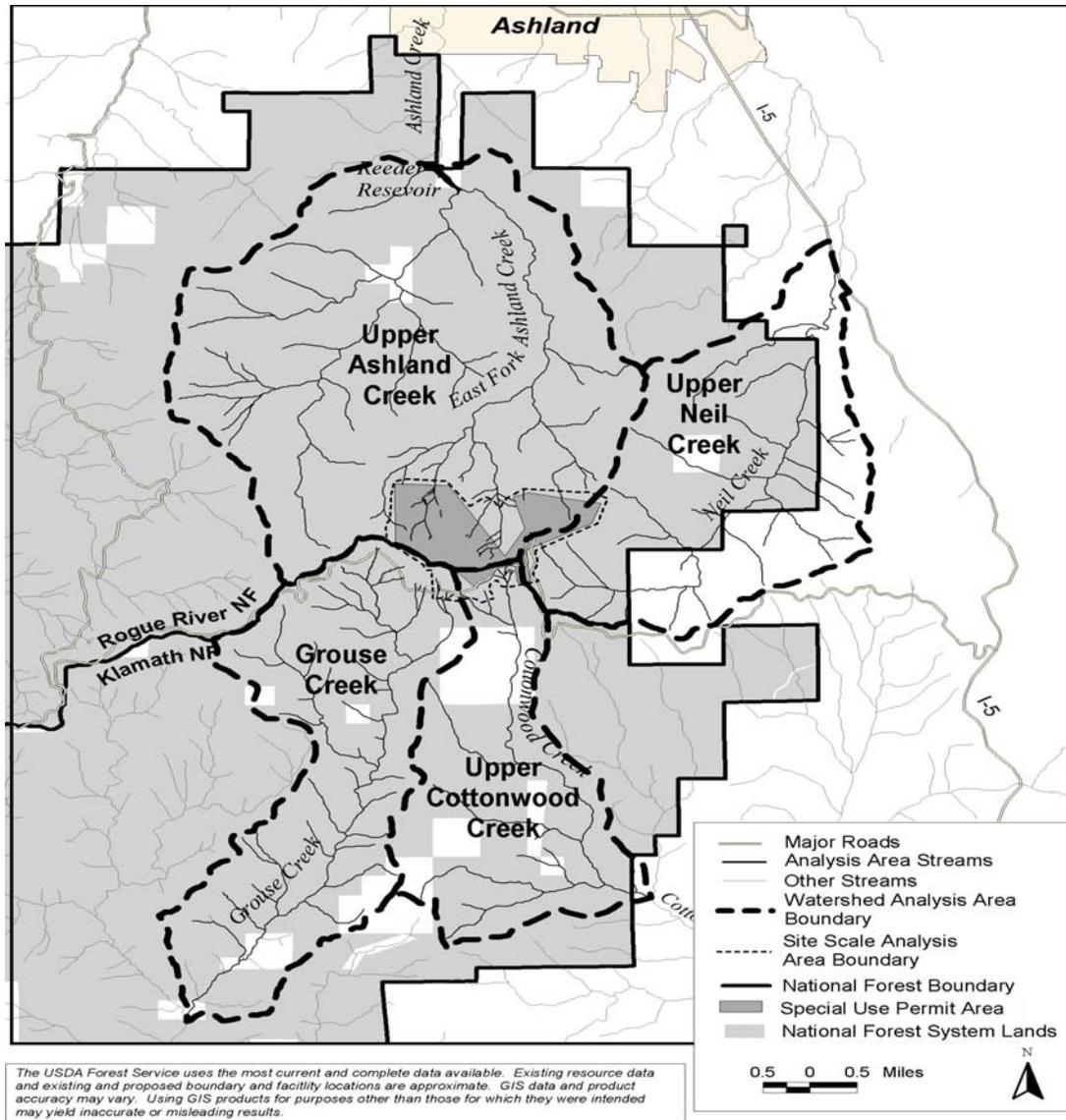
Portions of the Special Use Permit area for analysis purposes are considered to be allocated to Watershed (MS 22). According to **DESCRIPTION (LRMP page 4-265)**:

“This strategy can be applied only to those acres designated as suitable for Municipal Supply Watersheds. These areas are Medford, Ashland and Talent watersheds.”

⁷ The Site Scale Analysis Area includes the entire MASA Special Use Permit area and additional, adjacent area outside of the SUP area. This additional area was included to provide the basis of analysis of watershed conditions that may be affected by proposed expansion activities (see more complete definition of analysis area scales at FEIS page III-40).

As described and shown at FEIS Chapter III, page III-42, 43 (and included here), approximately 796 acres of the Special Use Permit area are within the Upper Ashland Creek watershed. This area is within the Ashland Municipal Watershed and subject to standards and guidelines for MS 22:

Figure SEIS II-8. Ashland Municipal Watershed within Special Use Permit Area



Site Scale and Watershed Scale Analysis Areas (from 2004 FEIS page III-43)

b. Failure to Evaluate Soils Standards and Guidelines for MS 26 and MS 22

The Court of Appeals found that the Forest Service violated the NFMA by failing to demonstrate compliance with the Rogue River LRMP standards and guidelines. The Rogue River LRMP includes specific soils disturbance standards and guidelines and requires compliance for management activities in areas designated as Restricted Riparian (MS 26), and Restricted Watershed (MS 22) terrain.

Supplemental Information

The LRMP directs the use of the Soil Resource Inventory for designing and evaluating projects. As documented in the 2004 FEIS (page IV-18), soils within the Special Use Permit area occur on eight landtype units. These units correspond to mapping done for the *Soil Resource Inventory for the Rogue River National Forest* (Badura and Jahn 1977) but at a more detailed scale based on recent (2002) site-specific field surveys. Landtypes are mapping units of a land classification system used in mountainous terrain. They are a product of the interaction between soils, geology, landforms, vegetation and climate. Soils are discussed in relationship to the landtypes where they occur (FEIS Table III-7).

These revised landtypes are portrayed on FEIS Map III-4. FEIS Table III-7 describes inherent physical properties, and displays the acreage within each landtype, for the Site Scale Analysis Area. This table did not include soil erosion potential as extracted from the Soil Resource Inventory because specially designed and more restrictive thresholds for soils, erosion and site productivity were designed for ski area expansion activities, as documented in the 2004 Record of Decision, Attachment C, Monitoring Plan (see pages C-16 through 19).

The following shaded supplemental text *supplements* FEIS Chapter III, Sections 5 and 6 (pages III-18 through 32, for Soil Processes: Erosion and Sedimentation, and specifically for soils standards and guidelines for Restricted Riparian and Restricted Watershed:

SOILS STANDARDS AND GUIDELINES for MS 26 and MS 22

The following table portrays the soil erosion potential rating from the Soil Resource Inventory, Table of Erosion and Hydrologic Interpretations, page 117-119), for the revised landtypes within the Special Use Permit Area.

Table SEIS II-1. Soil Erosion Potential from Soil Resource Inventory (SRI)

SRI Landtype	SRI Soil Erosion Potential
52	Slight
80	Moderate – severe
80a	Severe
83	Slight
93	Not applicable
94	Variable
95a	Variable
95b	Variable

The following shaded supplemental text *supplements* the 2004 FEIS, Chapter III and IV, Section C, 3 and 5; it provides the text from the soils standards and guidelines (bold) for Restricted Riparian (MS 26) and Restricted Watershed (MS 22) and presents compliance information for impacts associated with the [decision for] the Mt. Ashland Ski Area Expansion project:

Standards and Guidelines – SOILS: LRMP page 4-307 for MS 26

- 1. Address the potential for detrimental soil displacement, compaction, puddling, severe burning, mass wasting and surface soil erosion in project environmental analysis.**

For ski area expansion, the potential for detrimental soil displacement, compaction, puddling, severe burning, mass wasting and surface soil erosion are addressed in FEIS Chapter III and IV, Section C, 5.

- 2. Alternative management practices will be developed or mitigating measures planned and implemented when activities are likely to result in detrimental displacement, compaction, mass wasting or erosion.**

For ski area expansion, specially designed mitigation measures for displacement, compaction, mass wasting or erosion are presented in FEIS, Chapter II, Section 8, a, b, c.

- 3. No more than 10 percent of an activity area should be compacted, puddled or displaced upon completion of project (not including permanent roads or landings). No more than 20 percent of the area should be displaced or compacted under circumstances resulting from previous management practices, including roads and landings. Permanent recreation facilities or other permanent facilities are exempt.**

For the [decision for] the Mt. Ashland Ski Area Expansion project regarding MS 26, the “activity area” is assumed to be the area of impact for run clearing (0.83 acres; see SEIS Page II-28 and Figure SEIS II-11). Clearing for ski area expansion would not compact, puddle or displace more than 10 percent of this activity area because of mitigation measures including the use of low ground pressure construction equipment. The specially designed thresholds for activities within wetlands is 1% (see 2004 Table ROD C-3; Soils and Site Productivity Thresholds, page C-17).

There is no previous management in this area from roads or landings; the 20 percent standard would not apply. Note that the ski area is considered a permanent recreation facility and could therefore be considered exempt from this portion of the standard and guideline.

- 4. Landslide hazard evaluation will be used to assess potential mass wasting risk by the project. The Rogue River National Forest landslide, slope stability and hazard rating maps will be used to determine need for detailed slope stability mapping.**

Evaluation for ski area expansion utilized the Forest’s Landslide Zonation And Risk Evaluation (LAZARE) technique as documented at FEIS Chapter III and IV, Section C, 3.

- 5. Design management activities to retain effective ground cover. The mineral soil exposure should not exceed the following limits overall, based on the erosion hazard rating of the soil type, as defined in the Rogue River National Forest Soil Resource Inventory:**
 - (a) Twenty percent mineral soil exposed on soils classed as very slight, slight, low or moderate erosion hazard soils.**
 - (b) Ten percent exposure on high or severe erosion hazard soils.**
 - (c) Seven percent exposure on very high or very severe erosion hazard soils.**

As noted above, the area of impact for run clearing within MS 26 is 0.83 acres. The [decision for] the Mt. Ashland Ski Area Expansion would occur within Landtype 52. The standard for MS 26 within Landtype 52 is twenty percent. The mineral soil exposure from ski area expansion is projected as 0.06 acre within this 0.83 acre area within MS 26, or 7.2 %.

Ski area expansion activities were designed to retain effective ground cover (FEIS Chapter II). As noted above, the specially designed thresholds for maximum bare soil from ski run construction is 10% (see Table ROD C-3. Soils and Site Productivity Thresholds, page C-17)

6. Rehabilitate adversely impacted sites.

The decision for ski area expansion includes several restoration projects, as documented in FEIS Chapter II, Section F, 7.

Standards and Guidelines – SOILS: LRMP page 4-272 for MS 22

1. Address the potential for detrimental soil displacement, compaction, puddling, severe burning, mass wasting and surface soil erosion in project environmental analysis.

For ski area expansion, the potential for detrimental soil displacement, compaction, puddling, severe burning, mass wasting and surface soil erosion are addressed in FEIS Chapter III and IV, Section C, 5.

2. Alternative management practices will be developed or mitigating measures planned and implemented when activities are likely to result in detrimental displacement, compaction, mass wasting or erosion.

For ski area expansion, specially designed mitigation measures for displacement, compaction, mass wasting or erosion are presented in FEIS, Chapter II, Section 8, a, b, c.

3. Prohibit more than 10 percent of an activity area to be compacted, puddled or displaced upon completion of project. A maximum of 20 percent can be displaced or compacted under circumstances resulting from previous management practices and/or unique topographic conditions. This 20 percent includes roads and landings built into roads. Permanent recreation facilities and other permanent facilities that operate on a seasonal basis are exempt.

For the [decision for] the Mt. Ashland Ski Area Expansion project regarding MS 22, the “activity area” is assumed to be the total area of impact for run and lift clearing for ski area expansion within the Upper Ashland Creek watershed. FEIS Table IV-7 predicted the impact for all affected watersheds to be 20% for Alternative 2; 15% for Alternative 6. The 2004 Record of Decision disclosed an estimated percent of detrimental conditions at 16.5% for Modified Alternative 2 (the decision). This figure includes some construction within previously impacted areas such as the Arrival Services Building, Skier Plaza, and road reconstruction in the Comer Chairlift area (within Ashland Creek watershed).

Effects from compaction, puddling or displacement are minimized because of mitigation measures including the use of low ground pressure construction equipment. There is some previous management (clearing for ski runs and lifts) in this area. The flatter portions of the ridge between the Klamath and Rogue River watersheds can be considered a unique topographic condition, therefore allowing detrimental conditions to approach 20%. Note that the ski area is considered a permanent recreation facility, operates on a seasonal basis and could be considered exempt from this portion of the standard and guideline.

4. **Landslide hazard evaluation will be used to assess potential mass wasting risk by the project. The Rogue River National Forest landslide, slope stability and hazard rating maps will be used to determine need for detailed slope stability mapping.**

Evaluation for ski area expansion utilized the Forest's Landslide Zonation And Risk Evaluation (LAZARE) technique as documented at FEIS Chapter III and IV, Section C, 3.

5. **Design management activities to retain effective ground cover. The mineral soil exposure should not exceed the following limits overall, based on the erosion hazard rating of the soil type, as defined in the Rogue River National Forest Soil Resource Inventory:**

- (a) **Forty percent mineral soil exposed on soils classed as very slight, slight, low or moderate erosion hazard soils.**

- (b) **Thirty percent exposure on high or severe erosion hazard soils.**

- (c) **Fifteen percent exposure on very high or very severe erosion hazard soils.**

The [decision for] the Mt. Ashland Ski Area Expansion project occurs within several landtypes; the majority of clearing activities occur within Landtype 80, considered the most restrictive, which has a standard of thirty percent. FEIS Table IV-7 predicted the impact for all affected watersheds to be 20% for Alternative 2; 15% for Alternative 6. The 2004 Record of Decision disclosed an estimated percent of detrimental conditions at 16.5% for Modified Alternative 2 (the decision). This figure includes some construction within previously impacted areas such as the Arrival Services Building, Skier Plaza, and road reconstruction in the Comer Chairlift area (within Ashland Creek watershed).

6. **Rehabilitate adversely impacted sites.**

The decision for ski area expansion includes several restoration projects, as documented in FEIS Chapter II, Section F, 7.

2. Riparian Reserves - NFMA Claim

a. Failure to Designate Landslide Hazard Zone 2 as Riparian Reserve

The Court of Appeals found that the Forest Service failed to designate the Landslide Hazard Zone 2 (LHZ) land as Riparian Reserve and results in violations of the Rogue River LRMP, the NWFP (and ACS), and the NFMA. For analysis purposes, this section of the DSEIS will include Landslide Hazard Zone 2 as part of the Riparian Reserve, and analyze and disclose the land cover effects of expansion against revised Riparian Reserves.

Supplemental Information

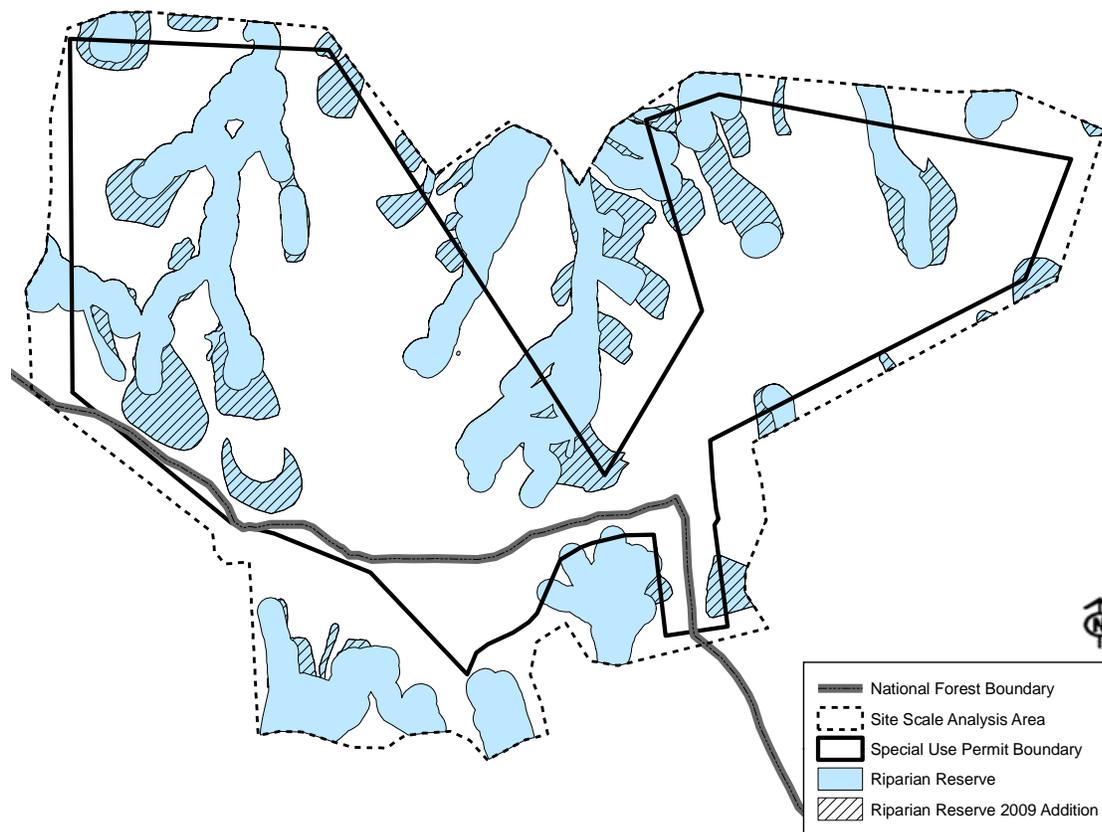
The 2004 FEIS displays Landslide Hazard Zonation at MAP III-3, page III-16. A summary of the acreage within the four Landslide Hazard Zones, within the Site Scale Analysis Area was presented at FEIS page III-15.

The Court of Appeals found that Landslide Hazard Zone 2 should be included within the Riparian Reserve allocations as associated with the Northwest Forest Plan. The following shaded supplemental text *supplements* FEIS Chapter III and IV, Section 3 (pages III-12 through 17, and IV-10 through 20, for Geologic Slope Stability, and FEIS Chapter III and IV, Section 10, pages III-76 through 86, and IV-98 through 107 for Aquatic Conservation Strategy.

LHZ 2 as RIPARIAN RESERVE

The following figure (SEIS II-9) portrays revised Riparian Reserve delineation based on inclusion of Landslide Hazard Zone 2. At the Site Scale Analysis Area, this equates to an increase of 145.13 acres (from 333.34 to 478.47). This is an approximate 44% increase over the 2004 FEIS. Note that the total acres of LHZ 2 as discussed in the 2004 FEIS do not all directly add to the Riparian Reserve; this is because some of the LHZ 2 acres were already included in the Riparian Reserve.

Figure SEIS II-9. Riparian Reserve including LHZ 2 (not previously included) at Site Scale



Supplemental Information

Riparian Reserves are established as a component of the Aquatic Conservation Strategy, designed primarily to restore and maintain the health of aquatic systems and their dependent species. Riparian Reserves also help to maintain riparian structures and functions and conserve habitat for organisms dependent on the transition zone between riparian and upland areas. The width of the Riparian Reserves for wetlands and streams on the RRNF and the KNF in the Site Scale Analysis Area was determined based on the rationale presented in FEIS Table III-19.

The following shaded supplemental text *supplements* FEIS Chapter III and IV, Section 10, pages III-76 through 86, and IV-98 through 107 for Aquatic Conservation Strategy.

RIPARIAN RESERVE LAND COVER CONDITIONS

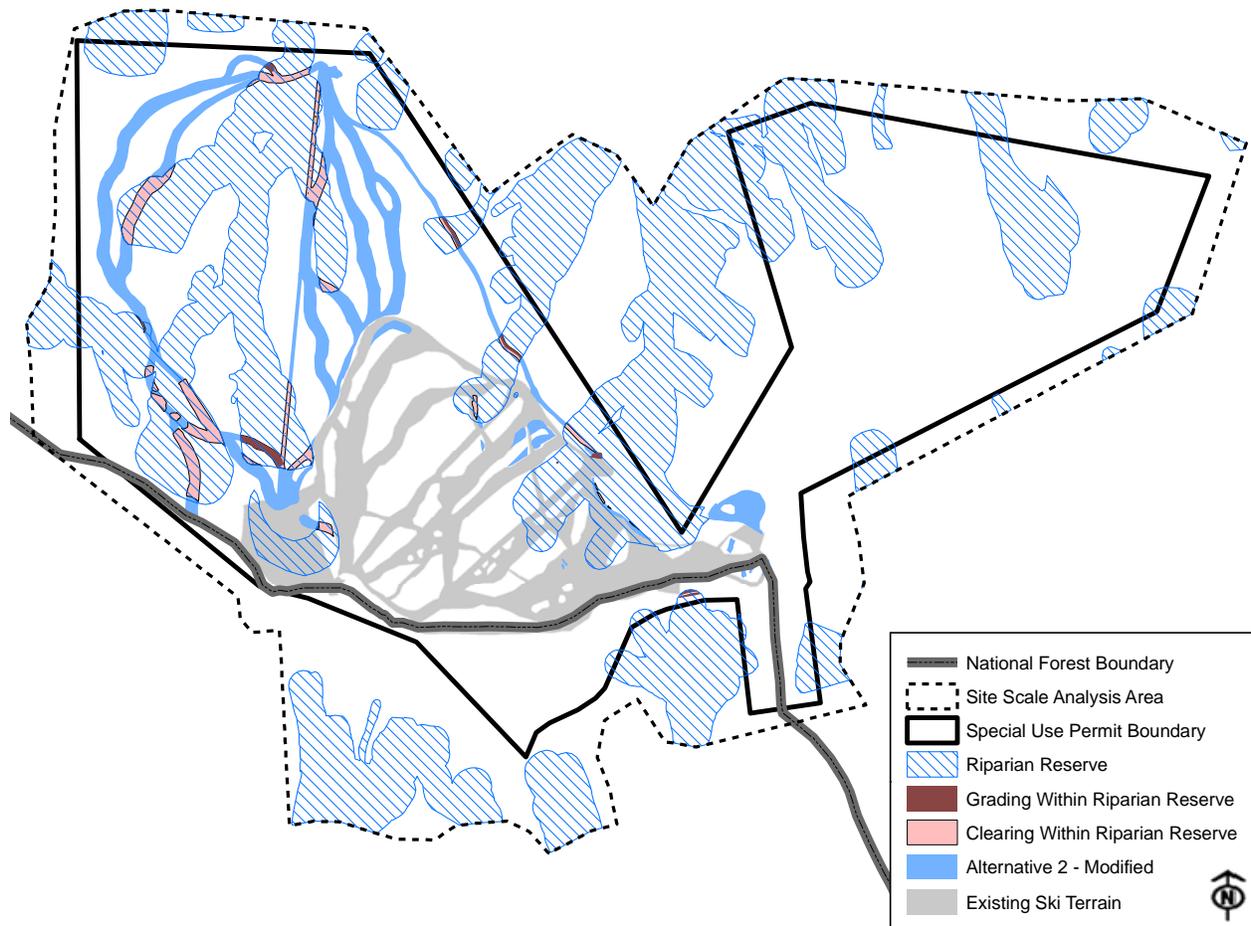
The current (revised) areas of Riparian Reserves within the Site Scale Analysis Area, with inclusion of LHZ 2 lands not previously included, are summarized in Table SEIS II-2, as well as the degree to which (revised) Riparian Reserves are changed under the [decision for] the Mt. Ashland Ski Area Expansion project.

Table SEIS II-2. Revised Riparian Reserve Land Cover Conditions – Site Scale Analysis Area

Parameter	Current Condition 2004 FEIS	2004 Decision (Modified Alternative 2)	Effects From Modified Alternative 2 - Revised 2009 for inclusion of LHZ 2
Acres of Riparian Reserves (acres)	333.34		478.47
Proposed Clearing in Riparian Reserves (acres)	0.0	4.74	14.82
Proposed Grading in Riparian Reserves (acres)	0.0	1.24	1.80
Land Cover within Riparian Reserves:			
Forested Cover (acres)	218.67	213.55	363.76
Percent change in Forested Cover	0.0	-2.3%	-3.9%

As can be seen from the table above, inclusion of LHZ 2 not previously included into the Riparian Reserve, amounts to a 1.6% additional change, over the conditions as documented in the 2004 FEIS. These revised conditions are shown on the following supplemental figure, Figure SEIS II-10:

Figure SEIS II-10. Summary of Riparian Reserve Land Cover Conditions, Site Scale Analysis Area



Supplemental Information

As noted above, this SEIS has identified for analysis purposes, several land allocation changes based on the Court of Appeals Opinion. The following shaded supplemental text *supplements* FEIS Chapter I and replaces the 2004 FEIS MAP I-3 (page I-20):

SUPPLEMENTAL LAND ALLOCATIONS

The following includes the addition of Restricted Riparian (MS 26) and Landslide Hazard Zone 2 to the Riparian Reserves. Note that the Upper Ashland Watershed portion of the Special use Permit area is also considered to be Restricted Watershed (MS 22), but is not included in this figure.

Figure SEIS II-11. Supplemental Land Allocations



3. Determinations - Riparian Reserves and Restricted Watershed Terrain

The supplemental analysis documented in this DSEIS has analyzed portions of the Special Use Permit area as Restricted Riparian (MS 26), and Restricted Watershed (MS 22) and has analyzed the effects of expansion against applicable (soils) standards and guidelines. This DSEIS has analyzed Landslide Hazard Zone 2 as part of the Riparian Reserve, and analyzed and disclosed the land cover effects of expansion against revised Riparian Reserves.

a. Restricted Riparian (MS 26)

Based on supplemental analysis, there is a total of 48.8 acres of Restricted Riparian (MS 26) terrain within the Site Scale Analysis Area; 27.9 acres of this are within the Special Use Permit area subject to applicable (soils) standards and guidelines.

For the [decision for] the Mt. Ashland Ski Area Expansion project regarding MS 26, the “activity area” is assumed to be the area of impact for run clearing (0.83 acres). Clearing for ski area expansion would not compact, puddle or displace more than 10 percent of this activity area because of mitigation measures including the use of low ground pressure construction equipment. This less than one acre area is a wetland meadow. The specially designed threshold for activities within wetlands is 1% (see 2004 Table ROD C-3: Soils and Site Productivity Thresholds, page C-17).

The ski area expansion decision would occur within Landtype 52. The standard for MS 26 within Landtype 52 is twenty percent. The mineral soil exposure from ski area expansion is projected as 0.06 acre within this 0.83 acre area within MS 26, or 7.2%. Ski area expansion activities were designed to retain effective ground cover (FEIS Chapter II). The specially designed thresholds for maximum bare soil from ski run construction is 10% (see 2004 Table ROD C-3; Soils and Site Productivity Thresholds, page C-17)

b. Restricted Watershed (MS 22)

Based on supplemental analysis, there are approximately 796 acres of the Special Use Permit area are within the Upper Ashland Creek watershed. This area is within the Ashland Municipal Watershed and subject to (soils) standards and guidelines for Restricted Watershed (MS 22).

For the [decision for] the Mt. Ashland Ski Area Expansion project regarding MS 22, the “activity area” is assumed to be the total area of impact for run and lift clearing for ski area expansion within the Upper Ashland Creek watershed. Effects from compaction, puddling or displacement are minimized because of mitigation measures including the use of low ground pressure construction equipment. The 2004 Record of Decision disclosed and supplemental analysis confirms an estimated percent of detrimental conditions at 16.5% for Modified Alternative 2 (the decision). This figure includes some construction within previously impacted areas, therefore allowing detrimental conditions to approach 20%.

For MS 22, the ski area expansion decision would occur within several landtypes; the majority of clearing activities occur within Landtype 80, considered the most restrictive, which has a mineral soil exposure standard of thirty percent. The 2004 Record of Decision disclosed and supplemental analysis confirms an estimated percent of detrimental conditions at 16.5% for Modified Alternative 2 (the decision).

c. Landslide Hazard Zone 2 as Riparian Reserve

The supplemental analysis documented in this DSEIS has determined a revised Riparian Reserve delineation based on inclusion of Landslide Hazard Zone 2. At the Site Scale Analysis Area, this equates to an increase of 145.13 acres (from 333.34 to 478.47). This is an approximate 44% increase over the 2004 FEIS. Note that the total acres of LHZ 2 as discussed in the 2004 FEIS do not all directly add to the Riparian Reserve; this is because some of the LHZ 2 acres were already included in the Riparian Reserve.

Based on inclusion of Landslide Hazard Zone 2 as Riparian Reserve, supplemental analysis has determined that the [decision for] the Mt. Ashland Ski Area Expansion project would affect an additional 10.08 acres with proposed clearing (Figure SEIS II-10). As seen in FEIS MAP III-3, this clearing would occur primarily within upper portions of LHZ 2, not associated with streams or wetlands. Much of this area is non- or sparsely forested (see Figure SEIS II-3).

Supplemental analysis determined an additional 0.56 acres of grading within Riparian Reserve; as seen in Figure SEIS II-14, this grading is near the top of the proposed C-6 Lift, relatively high on the slope and primarily in open dry areas and not associated with streams or wetlands. Overall, inclusion of LHZ 2 not previously included into the Riparian Reserve amounts to a 1.6% additional change, over the conditions as documented in the 2004 FEIS.

CHAPTER III - REFERENCES

- Arthur, S.M., T.F. Paragi, and W.B. Krohn. 1993. Dispersal of juvenile fishers in Maine. *Journal of Wildlife Management* 57(4):868-874.
- Aubry, K.B. and C. Raley. 2006. Ecological characteristics of fishers (*Martes pennanti*) in the southern Oregon Cascade Range. USDA Forest Service. Olympia Forestry Sciences Laboratory. Olympia, WA.
- Aubry, K.B. and J.C. Lewis. 2003. Extirpation and reintroduction of fishers (*Martes pennanti*) in Oregon: implications for their conservation in the Pacific states. *Biological Conservation* 114 (1):79-90.
- Aubry, K.B., C.M. Raley, T.J. Catton, and G.W. Tomb. 2002. Ecological characteristics of fishers in the southern Oregon Cascade Range: final progress report: 1 June, 2002. USDA Forest Service, Pacific Northwest Research Station, Olympia, WA.
- Aubry, K.B., F.E. Wahl, J. von Kienast, T.J. Catton, and S.G. Armentrout. 1997. Use of remote video cameras for detecting forest carnivores and in radio-telemetry studies of fishers. *In*: Proulx, G., H.N. Bryant, and P.M. Woodard, (Eds.), *Martes: Taxonomy, Ecology, Techniques, and Management*. Provincial Museum of Canada, Edmonton, Alberta, pp. 350-361.
- Aubry, K.B., J. von Kienast, and D. Clayton. 2005. Remote camera surveys and non-invasive genetic sampling of fishers in the northern Siskiyou Mountains of Oregon. Final report. USDA Forest Service, Rogue River-Siskiyou National Forest, High Cascades Ranger District.
- Aubry, K.B., S.M. Wisely, C.M. Raley, and S.W. Buskirk. 2004. Zoogeography, spacing patterns, and dispersal in fishers: insights gained from combining field and genetic data.
- Bailey, V. 1936. The mammals and life zones of Oregon. *North American Fauna*, 55:1-416.
- Boucher, D. 2005. Personal communication regarding accuracy of satellite imagery.
- Buck, S.G., C. Mullis, and A.S. Mossman. 1983. Corral Bottom-Hayfork Bally fisher study: Final report. Humboldt State University, USDA Forest Service, Arcata, California, USA.
- Buskirk, S.W. and R.A. Powell. 1994. Habitat ecology of fishers and American martens. *In*: Buskirk, S.W., Harestad, A.S., Raphael, M.G., Powell, R.A. (Eds.), *Martens, Sables, and Fishers: Biology and Conservation*. Cornell University Press, Ithaca, NY, pp. 283-296.
- Center for Biological Diversity. 2000. Petition to list the fisher (*Martes pennanti*) as an endangered species in its west coast range. Center for Biological Diversity, Tucson, Arizona, USA.
- Czech, B. and P.R. Krausman. 2001. *The Endangered Species Act; History, Conservation, Biology and Public Policy*. Johns Hopkins University Press. Baltimore, Maryland.

Drew, R.E., J.G. Hallett, K.B. Aubry, K.W. Cullings, S.M. Koepf, and W.J. Zielinski. 2003. Conservation genetics of the fisher (*Martes pennanti*) based on mitochondrial DNA sequencing. *Molecular Ecology* 8, 1351-1362.

Farber, S. and S. Criss. 2006. Cooperative mesocarnivore surveys for the upper and west fork of Beaver Creek watersheds in interior Northern California. Report to U.S. Fish and Wildlife Service. Yreka Field Office. Yreka, California.

Farber, S. and T. Franklin. 2005. Presence-absence surveys for Pacific fisher (*Martes pennanti*) in the eastern Klamath Province of interior northern California. Timber Products Company. Timberlands Office. Yreka, California.

Gitzen, R.A., S.D. West, C.C. Maguire, T. Manning, and C.B. Halpern. 2007. Response of terrestrial small mammals to varying amounts and patterns of green-tree retention in *Pacific* Northwest forests. *Forest Ecology and Management* 25:142-155.

Happe Patti, Jeff Lewis, and Kurt Jenkins. 2008. Olympic Fisher Reintroduction Update. 6 March 2008. Olympic National Park, National Park Service

Hart, M.M., J.P. Copeland, and R.L. Redmond. 1997. Mapping wolverine habitat in the northern Rockies using a GIS. A poster presented at the Wildlife Society's 4th Annual Conference. Snowmass Village, CO.

Heinemeyer, K.S., and J.L. Jones. 1994. Fisher biology and management in the western United States: a literature review and adaptive management strategy. Version 1.2. USDA Forest Service Northern Region and Interagency Forest Carnivore Working Group.

Hicks, Bill and Dan Sitton. 1998. "Landslide Mapping on the Rogue River National Forest" in *Environmental Groundwater and Engineering Geology: Applications from Oregon*. Scott Burns, editor. Association of Engineering Geologists. Star Publishing Company. Belmont, California.

Higley, J.M. 2007. Wildlife Biologist. Hoopa Valley Tribe. Hoopa, CA. Personal communications.

Higley, J.M., and S. Matthews. 2006. Demographic rates and denning ecology of female Pacific fishers (*Martes pennanti*) in northwestern California: Preliminary report October 2004-July 2006. Hoopa Valley Tribe, Hoopa.

Hill, Timothy B. 2004. Forest Biometrics From Space, Lead Remote Sensing / GIS Analyst Geographic Resource Solutions. 1125 16th Street, Suite 213. Arcata, CA 95521

Hornocker, M.G. and H.S. Hash. 1981. Ecology of the wolverine in northwestern Montana. *Canadian Journal of Zoology* 59:1286-1301.

Jacobson, S.L. 2007. Traffic volume effects to wildlife on the Lava Butte US 97 construction project. Unpublished Report. USDA Forest Service. Pacific Southwest Research Station.

- Jones, J.L. and E. O. Garton. 1994. Selection of successional stages by fishers in north-central Idaho. In: Buskirk, S.W., Harestad, A.S., Raphael, M.G., Powell, R.A. (Eds.), *Martens, Sables, and Fishers: Biology and Conservation*. Cornell University Press, Ithaca, NY, pp. 377-387.
- Lewis, J.C., and D.W. Stinson. 1998. Washington State status report for the fisher. Washington Department of Fish and Wildlife. Olympia, Washington, USA.
- Magoun, A.J., and J.P. Copeland. 1998. Characteristics of wolverine reproductive den sites. *Journal of Wildlife Management* 62(4):1313-1320.
- Manning, J.A. and W.D. Edge. 2008. Small mammal responses to fine woody debris and forest fuel reduction in southwestern Oregon. *Journal of Wildlife Management* 72:625-632.
- Marshall, D.B. 1989. Status of the wolverine in Oregon. Unpublished report. Oregon Department of Fish and Wildlife. Portland, OR.
- Mathews, S. 2006. Hoopa Valley Pacific fisher ecology and conservation project; August 2006 update. Hoopa Tribal Forestry. Hoopa, CA.
- Meyer, R. 2007. *Martes pennanti*. In: Fire Effects Information System, [Online]. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). Available: <http://www.fs.fed.us/database/feis/> [2007, December 11].
- Niemela, S. 2009. Oregon Department of Fish and Wildlife; personal communication.
- Powell, R.A. 1977. Hunting behavior, ecological energetics and predator-prey community stability of the fisher (*Martes pennanti*). Chicago, IL: University of Chicago. Ph.D. thesis. 132 pp.
- Powell, R.A. 1993. The fisher: life history, ecology and behavior. 2nd ed. Minneapolis: University of Minnesota Press.
- Powell, R.A. 1994. Effects of scale on habitat selection and foraging behavior of fishers in winter. *Journal of Mammology* 75 (2):349-356.
- Powell, R.A. and W.J. Zielinski. 1994. Fisher: Pages 38-73 in L.F. Ruggiero, K.B. Aubry, S.W. Buskirk, and W.J. Zielinski, editors. The scientific basis for conserving forest carnivores: American marten, fisher, lynx, and wolverine. USDA Forest Service, Rocky Mountain Forest and Range Experimental Station, Fort Collins, Colorado, USA.
- Schemp, P.F., and M. White. 1997. *The Status of Six Furbearer Populations in the Mountains of Northern California*. USDA Forest Service, Pacific Southwest Region, San Francisco, California.

Schroeder, B. 2001. Winter carnivore visitations to bait stations in the Applegate River Basin: target species, fisher (*Martes pennanti*). Unpublished report. Rogue River-Siskiyou National Forest. Applegate Ranger District.

Sitton, D. 2000. Relation of Hazard Zone 1 to Riparian Reserves. USDA Forest Service, Geologist.

Slauson, K. and W.J. Zielinski. 2001. Distribution and habitat ecology of American martens and Pacific fishers in southwestern Oregon. Unpublished Progress Report I, July 1 – November 15, 2001. USDA Forest Service, Pacific Southwest Research Station and Department of Forest Science, Oregon State University, Corvallis, OR 17p.

Steven, J. 2009. Personal communication regarding fisher sighting.

Thomas, J.W., E.D., Forsman, J.B. Lint, E.C. Meslow, B.R. Noon, and J. Verner. April 1990. A conservation strategy for the northern spotted owl: A report of the Interagency Scientific Committee to address the conservation of the northern spotted owl. USDA Forest Service, USDI Bureau of Land Management. Portland, Oregon. 427 pp.

Truex, R.L., W.J. Zielinski, R.T. Golightly, R.H. Barrett, and S.M. Wisely. 1998. A meta-analysis of regional variation in fisher morphology, demography, and habitat ecology in California. Draft report submitted to California Department of Fish and Game. USDA Forest Service, Pacific Southwest Research Station, Arcata, California, USA.

USDA Forest Service and USDI Bureau of Land Management. 1994. Record of Decision for amendments to Forest Service and Bureau of Land Management planning documents within the range of the northern spotted owl. Portland, OR. Includes standards and guidelines for management of late-successional – old-growth dependent species within the range of the northern spotted owl. US Government Printing Office, Portland, OR.

USDA Forest Service and USDI Fish and Wildlife Service. Rogue River/South Coast Biological Assessment and Biological Opinion. 2003. FY 04-08 for activities that may affect listed species in the Rogue River/South Coast Province for Medford BLM and the Rogue River-Siskiyou National Forests. USDA Forest Service, Rogue River-Siskiyou National Forest, Medford, OR.

USDA Forest Service. 2008a. Regional Forester's sensitive species list

USDA Forest Service. 2008b. Final EIS for the Ashland Forest Resiliency Project. Siskiyou Mountains Ranger District, Rogue River-Siskiyou National Forest

USDA Forest Service. 2008c. Final Biological Assessment for Threatened, Endangered, Proposed, and Sensitive Wildlife Species that May be Affected by the Mount Ashland Late-successional Reserve Habitat Restoration and Fuels Reduction Project. Oak Knoll Ranger District, Klamath National Forest.

USDA Forest Service. 2008c. Environmental Policy and Procedures Handbook. Forest Service Handbook 1909.15. Washington, D.C. July.

USDA Forest Service. 2004a. Record of Decision for Mt. Ashland Ski Area Expansion. Rogue River-Siskiyou National Forest, Ashland Ranger District, Ashland, OR.

USDA Forest Service. 2004b. Mt. Ashland Ski Area Expansion Final Environmental Impact Statement. Rogue River-Siskiyou National Forest, Ashland Ranger District, Ashland, OR.

USDA Forest Service. 2003. 2003 Upper Bear Assessment. USDA Forest Service, Rogue River-Siskiyou National Forest, Ashland Ranger District, Ashland, OR.

USDA Forest Service. 2001. Final Environmental Impact Statement and Record of Decision - Ashland Watershed Protection Project. Ashland Ranger District. Ashland, Oregon. January.

USDA Forest Service. 1998. Mt. Ashland Ski Area Expansion Biological Assessment. Medford, Oregon. August 28.

USDA Forest Service. 1995. Klamath National Forest Land and Resource Management Plan. Yreka, California.

USDA Forest Service. 1994. Forest Plan White Paper Number 36: Width Determination – Riparian Reserves. Rogue River National Forest. Medford, Oregon. May 3.

USDA Forest Service. 1991a. Record of Decision –Mt. Ashland Ski Area. Rogue River National Forest. Medford, Oregon. July.

USDA Forest Service. 1991b. Final Environmental Impact Statement – Mt. Ashland Ski Area. Rogue River National Forest. Medford, Oregon. July.

USDA Forest Service. 1996. The Mt. Ashland Late-Successional Reserve Assessment. Rogue River National Forest. Ashland Ranger District. Ashland, OR.

USDA Forest Service. 1995. Bear Watershed Analysis. Rogue River National Forest. Ashland Ranger District. Ashland, OR.

USDA Forest Service. 1990. Rogue River National Forest, Land and Resource Management Plan. United States Department of Agriculture. Pacific Northwest Region. Medford, OR.

USDA Forest Service. 1977. Soil Resource Inventory for the Rogue River National Forest. Badura, George J. and Philip N. Jahn. Medford, Oregon. June.

USDI Fish and Wildlife Service. 2004. Endangered and threatened wildlife and plants: 12-month finding for petition to list the West Coast distinct population segment of the fisher (*Martes pennanti*); Proposed Rule. Federal Register, 50 CFR 17:69. p.18,769-18,792.

van Langevelde, F. and C.F. Jaarsma. 1997. Habitat fragmentation, the role of minor rural roads and their traversability. In: Kanters, K.J., Piepers, A. and Hendriks-Heersma, D. (eds), Habitat fragmentation and infrastructure. Proceedings of the International Conference on Habitat Fragmentation, infrastructure and the role of ecological engineering. Maastricht/The Hague, Netherlands, pp. 171-182.

van Langevelde, F. and C.F. Jaarsma. 2004. Using traffic flow theory to model traffic mortality in mammals. *Landscape Ecology*. 19:895-907.

van Wagtenonk, J.W. 1996. Use of a deterministic fire growth model to test fuel treatments. In: Sierra Nevada Ecosystem Project: Final Report to Congress, vol. II. Assessments and Scientific Basis for Management Options. University of California, Davis. Centers for Water and Wildland Resources, pp. 1155-1165

Verts, B.J., and L.N. Carraway. 1998. Land mammals of Oregon. University of California Press. Berkeley, CA.

Was, N.W. 1995. Furbearer study. A joint study conducted for the Applegate and Ashland Ranger Districts. Rogue River National Forest. Supervisors Office. Medford, Oregon.

Weir, E. 2003. Ashland and Applegate Ranger District forest carnivore survey; summary of results for photographic bait station and snow tracking surveys conducted on the Ashland and Applegate Ranger Districts of the Rogue River National Forest. USDA Forest Service, Rogue River National Forest, Ashland Ranger District, Ashland, OR.

Weir, R.D. and A.S. Harestad. 2003. Scale-dependent habitat selectivity by fishers in south-central British Columbia. *Journal of Wildlife Management* 67(1):73-82.

Weir, R.D., and F.B. Corbould. 2008. Ecology of fishers in sub-boreal forests of north-central British Columbia. Peace Williston fish and Wildlife Compensation Program Final Report No 315, Prince George, British Columbia, Canada.

Wisely, S.M, S.W. Buskirk, G.A. Russell, K.B. Aubry, and W.J. Zielinski. 2004. Genetic diversity and structure of the fisher (*Martes pennanti*) in a peninsular and peripheral metapopulation. *Journal of Mammology* 85(4):640-648.

www.oregon.gov/ODOT/TD/TDATA/tsm/trendspage.shtml#2007_Monthly_Trends

Yeager, J.S. 2005. Habitat at fisher resting sites in the Klamath Province of northern California. Thesis, Humboldt State University, Arcata, California, USA.

Yeager, J.S. 2007. Wildlife Biologist. US Fish and Wildlife Service. Yreka, CA. Personal communication.

Zielinski, W.J. and N.P. Duncan. 2004. Diets of sympatric populations of American martens (*Martes americana*) and fishers (*Martes pennanti*) in California. *Journal of Mammology*, 85(3).

Zielinski, W.J., and T.E. Kucera. 1995. American marten, fisher, lynx, and wolverine: survey methods for their detection. USDA Forest Service. Pacific Southwest Research Station. General Technical Report PSW-GTR-157.

Zielinski, W.J., N.P. Duncan, E.C. Farmer, R.L. Truax, A.P. Clevenger, and R.H. Barrett. 1999. Diet of fishers (*Martes pennanti*) at the southernmost extent of their range. *Journal of Mammalogy*, 80(3):961-971.

Zielinski, W.J., R.L. Truax, G.A. Schmidt, F.V. Schlexer, and R.H. Barrett. 2004. Resting habitat selection by fishers in California. *Journal of Wildlife Management*, 68(3); 475-492.

Zielinski, W.J., T.E. Kucera, and R.H. Barrett. 1995. Current distribution of fisher (*Martes pennanti*) in California. *California Fish and Game* 81(3):104-112.

Zielinski, William J., R.L. Truex, G.A. Schmidt, F.V. Schlexer, K.N. Schmidt, R.H. Barrett, and T.J. O'Shea. 2004. Home range characteristics of fishers in California. *Journal of Mammalogy*. 85(4): 649-657.

This page left intentionally blank

CHAPTER IV - LIST OF PREPARERS AND CONTRIBUTORS

This Draft Supplemental EIS document was prepared by the USDA Forest Service, Rogue River–Siskiyou National Forest. A Forest Service Interdisciplinary Team (IDT) provided technical review of research and analysis. The following coordinators and resource specialists participated in the overall preparation of the Draft Supplemental EIS.

A. FOREST SERVICE CONTRIBUTORS

The following Rogue River–Siskiyou National Forest personnel (including contractors and former employees) provided leadership and input for this Draft Supplemental EIS. Responsibilities included conducting the supplemental environmental analysis process, organization of information and documentation under the National Environmental Policy Act (NEPA).

CONTRIBUTOR	EDUCATION & EXPERIENCE	CONTRIBUTION
Linda Duffy Forest Timber, Silviculture, Minerals and Planning Staff Officer	BS Applied Behavioral Science; 31 years FS; 12 years as District Ranger on Siskiyou Mountains (formerly Ashland) Ranger District.	Overall management of NEPA process and documentation.
Steve Johnson Recreation Specialist, Siskiyou Mountains Ranger District	BA English; graduate work in American Literature. 24 years FS; 17 years Snow Ranger/Permit Administrator/Winter Sports specialist	Interdisciplinary Team Leader and Project Coordinator.
Don Boucher Resource Planner and Analyst, Siskiyou Mountains Ranger District	Undergraduate studies Forestry and Engineering. 28 years FS; in FS planning, NEPA documentation and Geographic Information Systems.	Analysis of Pacific fisher effects; mapping and consequence analysis for land allocations, and analysis for compliance with standards and guidelines.
Ken Grigsby NEPA Contractor	BA Biology. 33 years in FS environmental planning, NEPA review, analysis and documentation (former Forest Planner, retired 2009).	Writer/Editor; overall document compilation, NEPA strategy and Forest Plan interpretation.
David Clayton Forest Biologist, Rogue River-Siskiyou National Forest	BS Biology. 13 years as FS Wildlife Biologist. 4 years with USFWS.	Pacific fisher analysis and documentation, including scientific literature review.
Jeff von Kienast Wildlife Biologist, High Cascades Ranger District	BS Fish and Wildlife; MS Wildlife. 18 years as Forest Service Wildlife Biologist.	Pacific fisher analysis and documentation, including scientific literature review
Dave Steinfeld Soil Scientist, FS Regional Office	BS Soil Science; post-graduate studies in geology. 13 years as FS soil scientist and 21 years at J. Herbert Stone Nursery	Analysis and documentation of soil processes including erosion, sedimentation, and standard and guideline compliance.
Peter Jones Geotechnical Engineer, FS Regional Office	BS Geology and MS Geological Engineering. 26 years primarily as geologist. Cert. Engineering Geologist, OR; Reg. Professional Geologist, OR.	Analysis of slope stability and LHZ 2.

This page left intentionally blank

CHAPTER V - LIST OF AGENCIES AND ORGANIZATIONS TO WHOM COPIES OF THE STATEMENT ARE SENT

This Draft Supplemental Environmental Impact Statement (DSEIS) has been prepared, circulated and filed in the same fashion (exclusive of scoping) as the draft and final statement (40 CFR 1502.9(c)). Copies of the DSEIS have been distributed to the following organizations and government agencies in the form of a hard copy, compact disc, or have been notified that the document is available on the Internet. Those individuals specifically requesting a copy of the DSEIS have also been mailed a hard copy or compact disc.

Copies of the DSEIS are available for review at the following locations:

Rogue River-Siskiyou National Forest
Supervisor's Office
Medford Interagency Office
3040 Biddle Road
Medford, OR 97504

Rogue River-Siskiyou National Forest
Siskiyou Mountains Ranger District
Ashland Ranger Station
645 Washington St.
Ashland, OR 97520

FEDERAL AGENCIES

Advisory Council on Historic Preservation

Agriculture, U.S. Department of
APHIS PPD/EAD
Forest Service, National Forest Supervisor's Offices (SO) and Ranger Districts (RD)
Klamath SO
Happy Camp RD
Fremont-Winema SO

Forest Service, Regional Office (Region 5)
Forest Service, Regional Office (Region 6)
Forest Service, Washington Office
National Agricultural Library
Natural Resource Conservation Service

Commerce, U.S. Department of
National Marine Fisheries Service
Habitat Conservation Division

Defense, U.S. Department of
Army Corps of Engineers

Environmental Protection Agency
Office of Federal Activities, EIS Filing Section
Region 10, EIS Review Coordinator

U. S. Coast Guard
Environmental Management

Interior, U.S. Department of the
Bureau of Land Management
Medford district Office
Fish and Wildlife Service
Office of Environmental Policy and Compliance

STATE AGENCIES

State of Oregon
Department of Environmental Quality
Department of Fish and Wildlife
Department of Forestry
Governor's Natural Resources Office
Water Resources Department

NATIVE AMERICANS

Confederated Tribes of Siletz Indians of Oregon
Confederated Tribes of the Grand Ronde Community of Oregon
Hoopa Valley Tribe
Karuk Tribe of California
Quartz Valley Indian Reservation
Yurok Tribe

ELECTED OFFICIALS

U.S. Senator Jeff Merkley (Oregon)
U.S. Senator Ron Wyden (Oregon)
U.S. Representative Greg Walden (Oregon)

COUNTY

Jackson County Administrator
Jackson County Board of Commissioners

CITY

City of Ashland
City of Medford
City of Yreka

LIBRARIES

Jackson County, Ashland
Jackson County, Medford
Siskiyou County, Yreka
Southern Oregon University

ORGANIZATIONS

Ashland Chamber of Commerce
Grants Pass/Josephine Chamber of Commerce
Klamath Siskiyou Wildlands Center
Mt. Ashland Association
National Ski Areas Association
Northwest Ecosystem Defense Center
Oregon Wild
 Portland
 Eugene
Pacific Northwest Ski Areas Association
Sierra Club
 Rogue Group
National Center for Conservation Science and Policy
Ski Area Citizen's Coalition
Soda Mountain Wilderness Council
Southern Oregon Nordic Club
Wild Wilderness

OTHERS

Ashland's Daily Tidings
Medford's Mail Tribune
Siskiyou Daily News

This page left intentionally blank

APPENDIX A

New Information and Changed Circumstances Evaluation

This page left intentionally blank



Forest
Service

Rogue River-Siskiyou
National Forest

3040 Biddle Road
Medford, OR 97504-4119
541-618-2200

File Code: 1950

Date: February 2, 2010

Subject: Evaluation of New Information or Changed Conditions

To: Mt. Ashland Ski Area Project Administrative Record

Forest Service policy is to review new information received after a decision has been made. If new information or changed circumstances relating to the environmental impacts of a proposed action or decision come to the attention of the responsible or deciding official after a decision has been made and prior to implementation, the official must review the information carefully to determine its importance (FSH 1909.15, section 18.1). This letter documents my review of the evaluation of new information or changed conditions as associated with the 2004 Record of Decision for Mt. Ashland Ski Area Expansion.

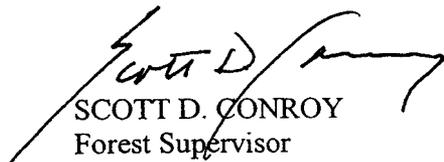
I have reviewed the evaluation of potentially new information and changed conditions prepared by the core leadership team on July 2, 2007. This evaluation was primarily based on claims submitted by Oregon Natural Resources Council Fund. I have also reviewed the evaluation of potentially new information and changed conditions prepared by a core leadership team on September 22, 2009. This evaluation was primarily based on claims submitted by Tom Dimitri, Chair of the Rogue Group of the Sierra Club. These evaluations are attached. I hereby adopt the findings and conclusions in these evaluations.

These evaluations did not identify any claims of new information or changed circumstances that would warrant preparation of a correction, supplement, or revision to the Final Environmental Impact Statement for the Mt. Ashland Ski Area Expansion, as documented in August 2004.

Oregon Natural Resources Council Fund (ONRC), Sierra Club, and the National Center for Conservation Science and Policy (formerly known as Headwaters), brought suit under NEPA and NFMA challenging the FEIS and the approval of the expansion on multiple grounds. The district court granted summary judgment in favor of the Forest Service. ONRC appealed to the Ninth Circuit Court of Appeals. On September 4, 2007 the Ninth Circuit issued its ruling, upholding the Forest Service on a number of counts, yet finding that the agency "failed to properly evaluate the impact of the proposed MASA expansion on the Pacific Fisher" and failed "to appropriately designate Riparian Reserves and Restricted Watershed terrain, as required by the Rogue River National Forest Land and Resource Management Plan."

A Supplemental Environmental Impact Statement (SEIS) process will be conducted to address matters identified by the Ninth Circuit Court of Appeals. Since a SEIS document will be prepared, a preliminary review of Pacific fisher and designation of Riparian Reserves and Restricted Watershed terrain in the September 22, 2009 evaluation document was not included.

Sincerely,


SCOTT D. CONROY
Forest Supervisor

cc: Steven R Johnson, Pamela S Olson



It's Cool to Be Safe

Printed on Recycled Paper



This page left intentionally blank

Mt. Ashland Ski Area Expansion

September 22, 2009

Additional evaluation of information to determine whether there are substantial changes in the proposed action that are relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and having a bearing on the authorized decision or its impacts.

I. INTRODUCTION

On July 2, 2007, the Forest Service documented an evaluation of new information and changed circumstances for potential relevance to the September 2004 decision. A number of items evaluated there had been raised by the Oregon Natural Resources Council (ONRC) at that time. Some of those same issues were raised again on September 5, 2008 by Tom Dimitre, Chair of the Rogue Group of the Sierra Club. This document will not repeat the evaluation of 2007 for those items. The 2007 evaluation stands as adequate consideration for those matters concerning the 2004 decision.

Oregon Natural Resources Council Fund (ONRC), Sierra Club, and the National Center for Conservation Science and Policy (formerly known as Headwaters), brought suit under NEPA and NFMA challenging the FEIS and the approval of the expansion on multiple grounds. The district court granted summary judgment in favor of the Forest Service. ONRC appealed to the Ninth Circuit Court of Appeals. On September 4, 2007 the Ninth Circuit issued its ruling, upholding the US Forest Service on a number of counts, yet finding that the agency “failed to properly evaluate the impact of the proposed MASA expansion on the Pacific Fisher” and failed “to appropriately designate Riparian Reserves and Restricted Watershed terrain, as required by the Rogue River National Forest Land and Resource Management Plan.”

II. PURPOSE OF THIS REVIEW

The Rogue River-Siskiyou National Forest will **complete a Supplemental Environmental Impact Statement (SEIS) to address those matters found inadequate by the Ninth Circuit Court of Appeals Opinion.** The purpose of this additional new information and changed circumstances review is to identify other matters that may be relevant to the 2004 Record of Decision that would appropriately need to be addressed in the SEIS at the same time.

Forest Service policy for implementing regulations under the National Environmental Policy Act (NEPA) outlines a procedure for review of actions that are awaiting implementation when new information or changes occur and should be considered for correction, supplementation, or revision (FSH 1909.15, section 18).

Forest Service policy is to review new information received after a decision has been made. If new information or changed circumstances relating to the environmental impacts of a proposed action or decision come to the attention of the responsible or deciding official after a decision has been made and prior to implementation, the official must review the information carefully to determine its importance (FSH 1909.15, section 18.1). If, after an interdisciplinary review and consideration of new information within the context of the overall project or decision, the Responsible Official determines that a correction, supplement, or revision to an environmental document is not necessary, implementation should continue and the results of the interdisciplinary review is to be documented in the project file (FSH 1909.15, section 18.1).

III. METHODOLOGY

To begin this additional review, a survey of Rogue River-Siskiyou National Forest resource specialists was conducted to elicit information they had concerning new information, research, or changed conditions that warrant consideration here. Additionally, District Ranger Linda Duffy sent emails to environmental organizations who have been active in this project in the past, soliciting their views concerning new information or changed circumstances worthy of review. As discussed above, some of the matters addressed in the 2007 review were raised again by these organizations and will not be repeated here. Other comments merit evaluation and are included in the list below.

The claims for new information and/or changed conditions was evaluated by a core team of project coordinators and interdisciplinary team leadership for the EIS and project development, including Steve Johnson (IDT Leader, Project Coordinator and Recreation Specialist), Don Boucher (Environmental Coordinator and Lead EIS Analyst), and Rob Shull (Forest Ecosystems Staff Officer).

As was done for the July 2007 review, interdisciplinary evaluation was done on each item or claim to determine whether it was sufficient (complete and accurate) to warrant consideration. If sufficient, the information was then evaluated to determine whether it was new, meaning it had not been considered in preparation of the MASA FEIS. The information was determined not to be new if it was directly addressed by text in the FEIS. If the information was determined to be new, it was then evaluated as to whether it was relevant to the project and the decision made for ski area expansion at MASA (i.e., if it has a bearing on decisions for actions and effects of ski area expansion). If the information was determined to be new and relevant, it was to be further evaluated to determine if it was significantly different from the information that was presented in the FEIS, i.e., is the new information significant?

IV. EVALUATION OF NEW INFORMATION OR CHANGED CIRCUMSTANCES

A. New information or changed circumstances identified by the Forest Service since the July 2007 review

As discussed above, the Ninth Circuit Court of Appeals found NEPA documentation deficiencies in the evaluation of the impact of the proposed MASA expansion on the **Pacific Fisher**, and in the **designation of Riparian Reserves and Restricted Watershed terrain**. Since a SEIS will be conducted to address these matters, a preliminary review of them in this document is unnecessary, and is not included here.

1. Ashland Forest Resiliency Project

The Forest Service, Rogue River-Siskiyou National Forest recently completed (September 2008) a Final EIS for Ashland Forest Resiliency Project. The Objection Process under 36 CFR 218 was conducted for this project and a Record of Decision is expected soon. The evaluation here will assume a decision adopting the Forest Service Preferred Alternative. In the Final EIS for Ashland Forest Resiliency, the Forest Service developed and analyzed an additional Action Alternative, designed and identified as the Preferred Alternative. This alternative was developed from the results of analysis of the two Action Alternatives analyzed in detail in the Draft EIS, further collaboration with the City of Ashland and their representatives, and the extensive comments received on the Draft EIS during the Comment Period. The Preferred Alternative was designed to include the most effective and efficient treatment methodologies, in the most strategic locations. The Preferred Alternative identifies approximately 7,600 acres of treatment, which is less than the Proposed Action (8,150 acres) for which was assumed in the cumulative effects analysis in the Mt. Ashland Ski Area Expansion FEIS.

This situation is sufficient because it is an accurate assessment of current conditions. It does not represent new information as the Ashland Forest Resiliency Project was contemplated and considered as foreseeable in the analysis for Mt. Ashland Ski Area Expansion. Actions associated with Ashland Forest Resiliency would occur within the Neil Creek and Ashland Creek watersheds; analysis for both projects concluded that there would be no risk for adverse cumulative effects to these watersheds from these actions. Environmental analysis as documented for the ski area expansion project remains adequate and there is nothing that a supplemental EIS could inform.

2. Latest Roadless Rule Situation and Court Rulings

In the July 2, 2007 new information review, the Forest Service evaluated the (then recent) reinstatement of the 2001 Roadless Rule by the U.S. District Court for the Northern District of California. Evaluation concluded that decisions regarding roadless area conservation since the 2004 Ski Area ROD was signed were primarily concerned with State's involvement in planning and designating actions within Inventoried Roadless Areas (IRAs). These previous roadless decisions would not have changed the authorized actions at Mt. Ashland. That court ruling removed these provisions and reinstated the 2001 Rule.

The 2001 Roadless Area Conservation Rule contains specific exemptions for ski areas. This ski area expansion decision qualifies for exemption, as discussed in FEIS I-25. Because the timber harvest resulting from ski expansion activities is incidental to the construction of new ski runs or ski lifts, and ski area development is not prohibited in this area under the RRNF LRMP, MASA Expansion meets the exemption criteria in FSM 1925 .04a, 2, (2), b (*cutting, sale, or removal of timber incidental to the implementation of a management activity not otherwise prohibited under the LRMP*). Therefore, delegation of authority to approve or disapprove timber harvest associated with this proposed expansion project (within a roadless area) remained unchanged by the roadless interim directive.

Since 2007, there have been numerous changes in policy and court orders affecting activities in Inventoried Roadless Areas. Following the order reinstating the Roadless Rule, the project was reviewed to determine whether it could go forward. The U.S. District Court for the District of Wyoming issued an injunction on August 12, 2008, finding the Roadless Rule to be invalid and enjoined the Roadless Rule nationwide. This situation puts the courts in conflict, with the Ninth Circuit that previously ruled that the Roadless Rule was illegally repealed, setting aside the State Petitions Rules, and reinstating the Roadless Rule nationwide.

On November 4, 2008, Barack Obama was elected President, establishing a new administration. On May 1, 2009, the Obama Administration requested more time to respond to the Roadless Rule situation. On May 28, 2009, USDA Secretary Thomas J. Vilsack reserved final decision authority over certain forest management and road construction projects in inventoried roadless areas. The Secretary's Memorandum 1042-154 was intended to assure the careful evaluation of actions in inventoried roadless areas while long term roadless policy is developed and relevant court cases move forward.

To Reiterate:

The Mt. Ashland ski Area Expansion is partially within the McDonald Peak Inventoried Roadless Area. The Forest Service (Forest Supervisor Scott Conroy) issued a Record of Decision for expansion activities in September 2004. Ski Area Expansion does not involve the construction/reconstruction of roads within the Roadless Area. It does involve the cutting of trees, administrative sale and removal of timber incidental to the implementation of an existing special use authorization (Ski Permit Area).

On August 3, 2009, the Forest Service received re-delegation of authority from the Secretary to authorize: "b) Approval of any timber cutting, sale, or removal in inventoried roadless areas incidental to the implementation of an existing special use authorization. Road construction/reconstruction is not authorized through this re-delegation without further project-specific review. The local line officer is delegated authority to make these decisions."

This latest situation regarding IRAs is sufficient because it is accurate to warrant consideration. It is new because these court rulings, change in administration and Forest Service policy in fact, have occurred after the ski area expansion ROD was issued. This situation is relevant because the ski area expansion is partially within an Inventoried Roadless Area, for which policy and directives are applicable.

Since ski area expansion was essentially and effectively planned and analyzed under the 2001 Roadless Rule, it is consistent and compliant with that rule (if it were to exist). Ski area expansion was designed to be sensitive to roadless area conservation (if the Roadless Rule does not exist) and the effects on roadless character were analyzed in the FEIS. Therefore this situation is not significantly different from the situation that was presented in the FEIS. The environmental analysis as documented remains adequate, this situation is not significant to the decision already made, and there is nothing that a supplemental EIS could inform regarding the effect on roadless character.

The concern for Inventoried Roadless Areas remains primarily a social-political issue, with the relevant concern at this time being the appropriate review of decisions and compliance with law and policy. The position of the Forest is that a ski area expansion decision has already been made, does not involve road construction or reconstruction, and that the approval of timber cutting, sale, or removal is incidental to the implementation of a ski area expansion decision under an existing special use authorization. The authority to enact ski area expansion implementation activities remain with the Forest Supervisor.

As discussed above, the Ninth Circuit Court of Appeals found NEPA documentation deficiencies in the evaluation of the impact of the proposed MASA expansion on the Pacific fisher, and in the designation of Riparian Reserves and Restricted Watershed terrain. As noted in the 2007 evaluation, a potential concern with ski expansion is the effect to connectivity corridors (i.e., links) along the Siskiyou Crest. Most of the Special Use Permit area is not currently a core area, but may provide some linkage to core areas such as those contained in the McDonald Peak IRA. Since a SEIS will be conducted to address the Pacific Fisher, this concern will be addressed there, as applicable.

Pending the results of the Supplemental EIS, it is at this time uncertain if a new Record of Decision would be issued to the Final Supplemental EIS and the existing FEIS, or if a determination will be made that the existing Record of Decision stands as adequate, based on the existing FEIS and the Final Supplemental EIS. That situation will include Forest Service Regional Office, Washington Office, Office of General Council and USDA Secretary review as necessary.

3. Situation regarding Survey and Manage

At this time, the Forest Service is aware that the March 22, 2004 ROD for the Final Supplemental Environmental Impact Statement *To Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* is under litigation. This litigation may result in the removal of this decision and may result in a requirement that projects that are within the range of the northern spotted owl be subject to the survey and management direction in the *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (USFS et al. 2001)(2001 ROD).

This latest situation regarding Survey and Manage is sufficient because it is accurate to warrant consideration. It is new because court rulings and Forest Service policy in fact may change, with this change occurring after the ski area expansion ROD was issued. This situation is relevant because the ski area expansion is within within the range of the northern spotted owl (Northwest Forest Plan).

Ski area expansion was essentially and effectively planned and analyzed under the 2001 ROD for Survey and Manage, and is consistent and compliant with that decision (if it were to be directed by the courts). Ski area expansion as documented in the 2004 FEIS discussed relevant species, their existence and habitat, as excerpted below from the 2004 FEIS pages IV-153-154:

“d. Direct, Indirect, and Cumulative Effects on Other Terrestrial Species

Under the March 22, 2004 ROD for the Final Supplemental Environmental Impact Statement *To Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines*, none of the species that were covered by the Survey and Manage Mitigation Measure standards and guidelines are listed as Threatened or Endangered under the Endangered Species Act, nor are any proposed for listing. All of the Survey and Manage species were evaluated for inclusion in the agencies' Special Status Species Programs.

This Section further discusses terrestrial wildlife species that were previously Survey and Manage species that are now not listed as Forest Service Sensitive. Also discussed are other terrestrial wildlife species of interest that may or may not be present in the SUP area.

Bats

Under Alternative 1, No-Action, there would be no change to bat habitat. The continued use of the existing ski area would not result in any adverse effects to bat habitat.

Under all Action Alternatives, potential bat roost habitat in the form of snags exists within the SUP area, primarily on ridge tops and near edge habitat. Proposed Run 12 construction (Alternatives 2 and 6) could affect these species by removing roost habitat from the ridge top; other run construction may also affect potential roost habitat. In addition, if this roost habitat is felled when the species are present within the roosts, it is likely that the individuals would not survive. To mitigate for this potential loss of suitable habitat for these species, hard snags that are not immediate hazards to safety on this ridge would be retained.

This project was analyzed for potential adverse cumulative effects along with other past, current, proposed, and reasonably foreseeable future actions. Proposed underburning associated with the Ashland Watershed Protection Project and Ashland Forest Resiliency could also affect bats by reducing potential snag roosts within the watershed, particularly along ridge tops.

In the post fire suppression era (since early 1900s), snag habitat along ridges has increased to high levels in the Ashland Watershed due to lack of stand maintenance from historical low intensity wildfires. This increase in snag density has benefited bats by increasing roost habitat. Many ridge tops within the Ashland Watershed would remain untreated by the proposed ski expansion, the Ashland Watershed Protection Project, or Ashland Forest Resiliency.

Great Gray Owl

See Sensitive species section.

Mollusks

The SUP area does not contain habitat for the mollusk species on the Ashland ranger district for which pre-project surveys were required (Version 3.0 protocol, February 2003) *Monadenia chacena*). Therefore, there would be no effects to this species from the ski area expansion proposal.

Red Tree Vole

Surveys for red tree vole are triggered on Federal lands below 5,500 feet in elevation, because the red tree vole is not generally known to occur above this elevation (Version 2.1 protocol, October 2002). The SUP area is above 5,500 feet in elevation, and therefore surveys for the red tree vole are not required. Surveys were accomplished in 2000 (under previous protocols) and no red tree voles were found. No effect to the red tree vole is expected from this proposed project. There are no cumulative effects because the SUP area is outside the defined range for the species.”

Therefore the current situation is not substantially different from the situation that was presented in the 2004 FEIS. The environmental analysis as documented remains adequate, this situation is not significant to the decision already made, and there is nothing that a supplemental EIS could inform regarding the effects on Survey and Manage species.

B. New information or changed circumstances claims raised by Tom Dimitre, Chair of the Rogue Group of the Sierra Club

The following claims were raised on September 5, 2008 by Tom Dimitre, Chair of the Rogue Group of the Sierra Club. As noted, on July 2, 2007, the Forest Service documented an evaluation of new information and changed circumstances for potential relevance to the September 2004 decision. A number of items evaluated there had been raised by the Oregon Natural Resources Council (ONRC) at that time. Some of those same issues were raised again and may warrant further discussion because of further change or further need for clarification. If no further discussion is needed regarding certain claims, this document will not repeat the evaluation of 2007 for those items.

1. The ODEQ has issued new TMDLs for Ashland Creek. It is our understanding that there can be no new, additional sediment placed into Ashland Creek.

The 2007 changed circumstances review discussed this claim as “DEQ states that it will be setting a TMDL for the currently impaired watershed”, and was discussed in section IV, A, 1 of that evaluation. This claim is based on the fact that TMDLs (Total Maximum Daily Loads) have actually been issued at this time. This information has been categorized as new since the 2004 decision.

The TMDL discussed here was approved by the US Environmental Protection Agency on October 2, 2007 and is now being implemented. It deals with the violation of three water quality parameters: bacteria, temperature and sedimentation. In the sedimentation TMDL, the pollutant is sediments that enter Ashland Creek and are deposited into Reeder Reservoir located above the City of Ashland. The sources for these additional sediments were identified as forest management, and road construction and maintenance practices that may destabilize slopes and increase the velocity of runoff. Excessive levels of sediment may result in impaired salmonid habitat or spawning.

The claim that raised this TMDL discussion as new information characterizes compliance as though “there can be no new, additional sediment placed into Ashland Creek.” The language in the TMDL, however, states that there is to be “no significant increased delivery of sediment to Reeder Reservoir over that which would occur naturally.” The difference is two fold, whereas the claim stated there is to be “no additional sediment,” the actual rule states “no significant increased delivery”. Also, the claim characterized the sediment delivery point to be Ashland Creek, whereas the actual rule cites Reeder Reservoir. This claim is therefore not accurate, but is considered sufficient for further evaluation.

To summarize, the new information is that the State of Oregon has issued a new TMDL limitation on sediment in the Ashland watershed that prohibits significant increased delivery of sediment into Reeder reservoir. The relevance of this information is that the ski area expansion would be new construction, and construction was specifically mentioned in the TMDL rule as a potential source of increased sediment. Since the information is new and relevant, the remaining question concerns whether or not the information is significant, i.e., whether the information is different than what was presented in the FEIS.

This information is not significant because the ruling itself is based on the analysis included in the FEIS, and thus does not contradict what is there, nor assume impacts that were not already analyzed and disclosed. Clear evidence of this is found in DEQ’s response to public comments it received when considering the TMDL decision. On page 21 in the “Bear Creek Watershed TMDL – Response to Public Comments July, 2007” the following response is provided to a comment that cited the Mt. Ashland Expansion as an example of a construction project that should not be allowed under this TMDL:

“The TMDL has been revised to include an actual erosion loading target for the Upper Watershed. In the revised section, soil erosion is used as the surrogate for sedimentation with volumes expressed as a total load per day of soil for the watershed. It should be acknowledged however that erosion and resulting sedimentation is typically episodic in nature with the majority of movement occurring in a short period of time (Bestcha, 1978 reference added). For implementation, ODEQ believes it is more practical to assess the impact of load reductions on an annual or even 10 year basis (ODEQ, 2007 Tenmile Lakes TMDL).

For the Ashland watershed, considerable research has been undertaken over the last 30 years to determine natural erosion rates and there continues to be considerable debate over the accuracy of this work (Ashland & Montgomery 1980, USFS 2004). The TMDL uses the most recent estimates, the Water Erosion Prediction Project (WEPP) model developed as part of the Mt Ashland Ski Area Expansion FEIS July 2004 (USFS, 2004), to determine background erosion rates under natural conditions. The model is the most recent iteration in a long evolution of erosion models and is the best model currently available to describe conditions found in mountainous terrain (page 18, USFS ROD, 2004). The model takes into account both the soil erodibility and slope stability indices to determine natural background rates. Using the model output as per TMDL Appendix C of the FEIS it is determined that the soil erodibility index is 2, an estimated 0.041 – 0.55 cubic yards per decade and the slope stability index is 2 at an estimated 1.0 and 2.0 cubic yards per acre per decade (USFS, 2004). Given the size of the Upper Ashland Creek watershed (12,698 acres) and using the lower estimate in each range as a margin of safety, the annual load is 1,320 cubic yards or 3.62 cubic yards total per day for the watershed.

Although taking place on federal lands and subject to the National Environmental Policies Act (NEPA), the Mt. Ashland expansion project will be required to obtain a 1200-C construction erosion control permit to ensure that erosion control practices are implemented and that the potential impacts from construction are kept to an absolute minimum.”

It is clear therefore, that though the decision on the TMDL is new and relevant, it is not significant because it does not reveal impacts or implementation consequences that were not already displayed in the EIS. There is nothing that a supplemental EIS could inform.

2. MAA states that it plans to replace the double chair Windsor lift with a triple chair lift which is not analyzed in the EIS or ROD

First and foremost, this plan has not been formally advanced to the Forest Service, and follow-up with Mt. Ashland Association reveals that this internal consideration of theirs was dropped. Thus the information is not sufficient for consideration.

Secondly, a replacement of an existing facility, with a newer version or upgrade of the same facility within the same environmental footprint, does not create environmental impacts that warrant assessment in an environmental impact statement. Such re-construction is generally categorically excluded from documentation in an Environmental Assessment or an Environmental Impact Statement. If this information had been sufficient and new, it would not be relevant to the decision on ski area expansion since it does not introduce new environmental impacts not already accepted in the current operation and thus considered in the 2004 decision. There is nothing that a supplemental EIS could inform.

3. The following information is cited that some believe speaks to Mt. Ashland Association’s financial capability to achieve what is planned in this expansion effort:

“The EIS states that the MAA will fundraise all of the money for the proposed expansion. It has been shown in the last year that MAA does not have the ability to raise the amount of money that will be necessary to build any part of the proposed expansion.”

“It has also been shown, through MAA financial statements that their financial situation has deteriorated significantly over the past two years - to such an extent that they were in danger of not opening in 2007/08 and 2008/09.”

“New prices for season and weekend passes”

“The impact of the failing economy on skier visitation”

Parallel comments were suggested for consideration in the changed circumstances review conducted in 2007. Questions were raised at that time, as they are here, that certain circumstances speak to a financial risk of the Mt. Ashland Association not being financially able to complete what is being committed to in the 2004 decision. The answer provided in 2007 citing the position of the Forest Service regarding financial feasibility as discussed in FEIS Appendix B, is relevant now as well, and is repeated here:

“The financial ability of the MAA to finance an expanded ski area (if authorized) is not within the purview of the Forest Service. The Forest Service is processing a request under Special Use Permit provisions for an expanded ski area; the ability of the MAA (as a non-profit corporation) to finance proposed improvements is not an issue that is germane to Federal analysis under NEPA. Although irrelevant, the prudence of this corporation has been demonstrated through many years of compliance with the terms of the Special Use Permit, including payments to the Government for permitted use, under national policy and provisions of law. Further, as provided under law, the MAA has contributed substantial funding held in Collection Agreements available to the Forest Service for analysis and planning under NEPA for ski area expansion.

The recent and current financial status of the MAA is not within the purview of the Forest Service, and is not germane to the NEPA analysis process being conducted for expansion at Mt. Ashland. Proposals being analyzed in detail include provisions for staging of the implementation, over periods of up to 10 or more years. If ski area expansion were to be authorized, each stage of implementation would be reviewed and authorized annually (or more often) by the Forest Service, dependant on the needs (and presumably financial ability) and request of MAA at that particular time. The Forest Service cannot require that financial capital to implement the entire authorized action be solvent at the time of initial development, or at any stage.” (FEIS Appx B-6-7).

Based on the discussion cited above, the information concerning Mt. Ashland Association’s financial capabilities is not sufficient to warrant consideration in relation to relevancy and significance to the 2004 decision.

4. The impact of global warming on the current and future operations of the ski area

The National Center for Conservation Science and Policy provided a paper that had been published in the Journal of Hydrometeorology in October 2006 titled “Mapping “At Risk” snow in the Pacific Northwest by Anne W. Nolin and Christopher Daly. This paper presents the modeling results of possible effects of global warming on current snow-dominated winter precipitation regimes. A map is presented that predicts “at risk” snow zones concentrated in the Cascades and the Olympic Mountains of the Pacific Northwest and ski areas in these mountains are listed and compared according to their risks of a significant increase in the relative frequency of warm winters.

The director of the National Center for Conservation Science and Policy stated in their submission letter that “even a slight, consistent decrease in snowpack will have a significant impact on the ski area’s economic viability and may very well have ecological impacts related to peak spring flows interacting with the highly erosive soils in the area”.

For the purposes of this evaluation of new information, the focus will be on the paper and what is supported there. The consequences postulated by the director here are considered to be opinions of the Center, not those drawn by the authors of the paper. No data is submitted to substantiate the Center's speculation *that a slight decrease in consistent snow pack will have significant impact on economic viability* of the Mt. Ashland Ski Area. As such, the conclusions presented by The National Center for Conservation Science and Policy are not sufficient for consideration. The same holds for their speculation regarding ecological impacts. The information isn't sufficient for meaningful evaluation.

It is, however, reasonable that decrease in snow pack could have an effect, but supporting information is lacking that a *slight* increase in temperature leads to *significant* impact. Snow fall is not currently an economic challenge to Mt. Ashland. The current economic challenges to Mt. Ashland Ski Area come from an inadequate mix of skier terrain, which is addressed as the purpose and need in the expansion EIS. Economic risk for this hill is currently not associated with weather conditions or risk of inadequate snow, and a slight decrease in snow cover is not believed sufficient to push Mt. Ashland over an economic brink.

To address the relevance of the Nolin and Daly paper, the interdisciplinary team considered whether this information contained more detail than that already considered and displayed in the FEIS. The Mt. Ashland Ski Area Expansion FEIS addressed climate change on pages III-8 through III-9, and IV-5 through IV-6. Snow fall was mentioned as a factor in economic viability assessments on page IV-268, but not carried into models of economic viability for lack of sufficient data or reliability of predictions as discussed on pages III-8-9.

Nolin and Daly cite numerous data sources concluding that the Pacific Northwest experienced a warming of winter temperatures in the latter half of the 20th century. The FEIS had already discussed this trend on page III-8. The paper goes on to present modeling results indicating a possibility that the Cascades could see an increase in rain-dominated winters from what is experienced currently. The EIS includes an analysis by Associate Professor Gregory Jones of Southern Oregon University comparing (testing) such model results against actual temperatures recorded in Southern Oregon (pages III-8 and III-9), concluding that such models overestimate the actual rise in temperatures by 1.5 °C. The Nolan and Daly paper conducts no such test, nor presents data that indicate its modeled results are any more accurate than those tested by Associate Professor Jones. As such, the interdisciplinary team concluded that the Nolan and Daly paper provided no additional information not already more thoroughly evaluated in the FEIS.

Though the climate and modeling information is not new, the paper does display a comparison of ski areas in the northwest with varying modeled risks of warmer winters. From this information it is instructive to see how Mt. Ashland might rank if the scenarios modeled come to pass. From the information in the model, it is clear that Mt. Ashland is one likely to survive longer than most. The paper presented here shows that Mt. Ashland has the highest base area of all ski areas displayed. Accordingly, the data show that it is the 5th (out of 19 ski areas) of those with the lowest modeled relative frequency (4 out of ten winters) of likely having winters with a mean December, January, and February temperature exceeding -2 degrees Celsius (28.4 degrees Fahrenheit). That is to say, it is among the top five least likely to have winters averaging over 28.4 degrees F. Less than one out of ten winters was modeled for Mt. Ashland to have average winter temperatures above 32 degrees F (freezing point).

In summary, Mt. Ashland appears to be more likely than most northwest ski areas to survive longer under a global warming scenario. If the agency were to make global-warming policy decisions that would affect permitting decisions of local ski areas, the Mt. Ashland location might likely be one favored over others for continued investment. Indeed, its economic challenges to date are neither snow nor weather related. Mt. Ashland's economic challenges come from an inadequate mix of terrain, which is the focus of their permit application for expansion and the whole purpose of the FEIS.

In conclusion, this paper does not present climate information that is new as discussed above, nor does it provide functional or economic viability information significantly different, e.g., contravening, from that in the 2004 FEIS supporting the decision to expand as provided in the Record of Decision. There is nothing that a supplemental EIS could inform.

V. CONCLUSIONS

As noted, the Rogue River-Siskiyou National Forest will complete a Supplemental Environmental Impact Statement (SEIS) to address those matters found inadequate by the Ninth Circuit Court opinion. Since a SEIS will be conducted to address these matters, a preliminary review of them is not included here.

The relevant information evaluated by the agency or claims submitted by Tom Dimitre, Chair of the Rogue Group of the Sierra Club in this additional evaluation do not present a substantially different picture of the environmental consequences of the Mt. Ashland Ski Area Expansion Project from what was already presented and considered in the FEIS.

Mt. Ashland Ski Area Expansion

July 2, 2007

Evaluation of information to determine whether there are substantial changes in the proposed action that are relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and having a bearing on the authorized decision or its impacts.

I. INTRODUCTION

The Mt. Ashland Ski Area is situated on National Forest land at the crest of the Siskiyou Mountains, just north of the California-Oregon border and about 7 air miles from the City of Ashland. The Forest Service has issued a Special Use Permit ("SUP") authorizing operation of the ski area. Construction of the present ski area commenced in 1963; the area opened in 1964.

During its first three decades, the ski area was operated by a succession of private, for-profit companies, for whom it proved a financial disappointment. In 1992, the private operator decided to close the ski area. Plans were drawn up to dismantle the chair lifts and other improvements (Mt. Ashland Ski Area Restoration EA--AR 4784-4837). The City of Ashland then interceded, acquiring the Special Use Permit and facilities (AR 4921-43). The City leased the ski area, for a nominal sum, to Mt. Ashland Association (MAA), a non-profit entity established for the purpose of operating the ski area (AR 4862-4920).

The ski area currently occupies about 287 acres. It includes a day lodge, ski rental shop, four chairlifts, and approximately 123 acres of ski runs. Expanding the Mt. Ashland ski area is not a new idea. Various plans have been proposed over the past 40 years.

In 1991, the Forest Service approved expansion of the ski area in concept. Mount Ashland Ski Area Master Plan Record of Decision ("1991 Master Plan"), AR 4404-23. See also AR 4131-4403 (Final Environmental Impact Statement for 1991 Master Plan). Additional environmental analysis was planned to consider the details, such as the precise location of each component and the construction design. AR 4411.

The City's lessee, MAA, submitted a new expansion proposal in 1998. A draft environmental impact statement (DEIS) was circulated in January 2000 (AR 12569-13208). It generated considerable public comment, in part because the only two action alternatives evaluated were perceived as too similar (AR 19354- 62, 22130-32). A new draft EIS was circulated in 2003 (AR 22140-23222).

The Forest Service has studied the proposal and its impact for years via the Environmental Impact Statement process and considered thousands of pages of public comment. The Forest Service issued a Final Environmental Impact Statement (FEIS) in 2004. In the FEIS, the Forest Service studied six alternatives (SAR 191-311). It discussed the affected environment and environmental consequences in depth. The Forest Service analyzed, for example, issues of climate, avalanche and natural hazards, minerals and seismic conditions, soil processes including erosion and sedimentation, watershed resources, water quality, aquatic conservation, air quality, landscape ecology, current vegetation conditions, outstanding or unusual plant communities, and wildlife species (SAR 108-16,315-521,528-703).

The Forest Service ultimately issued a Record of Decision and approved a "Modified Alternative 2." in September 2004 (SAR 1-97). Twenty-eight notices of appeal were filed (AR 28574). All administrative appeals were denied in December 2004.

Oregon Natural Resources Council Fund (ONRC), Sierra Club, and the National Center for Conservation Science and Policy (formerly known as Headwaters), brought suit under NEPA and NFMA challenging the FEIS and the approval of the expansion on multiple grounds. The district court granted summary judgment in favor of the Forest Service. ONRC has appealed to the Ninth Circuit Court of Appeals. At this time, there has been no action to implement expansion activities.

II. ONRC'S REQUEST FOR SUPPLEMENTAL EIS

In a letter dated February 4, 2007, plaintiffs (ONRC) raised seven points they suggest constitute new information requiring preparation of a Supplemental EIS (SEIS), per 40 CFR § 1502.9(c)(1)(ii). On May 31, 2007, they added to their arguments via email noting "the recent overturning of the 2004 version of the ACS rules." On June 11, 2007, they added to their SEIS arguments "the recent court-ordered reinstatement of the Clinton-era roadless rule." On June 18, 2007, they noted additional evidence supporting the need for an SEIS due to the draft EIS for the Mount Ashland LSR Fuels Reduction Project (Klamath National Forest, Region 5).

Forest Service policy for implementing regulations under the National Environmental Policy Act (NEPA) outlines a procedure for review of actions that are awaiting implementation when new information or changes occur and should be considered for correction, supplementation, or revision (FSH 1909.15, section 18).

Forest Service policy is to review new information received after a decision has been made. If new information or changed circumstances relating to the environmental impacts of a proposed action or decision come to the attention of the responsible or deciding official after a decision has been made and prior to implementation, the official must review the information carefully to determine its importance (FSH 1909.15, section 18.1). If, after an interdisciplinary review and consideration of new information within the context of the overall project or decision, the Responsible Official determines that a correction, supplement, or revision to an environmental document is not necessary, implementation should continue and the results of the interdisciplinary review is to be documented in the project file (FSH 1909.15, section 18.1).

III. METHODOLOGY

The claims for new information and/or changed conditions was evaluated by the core project coordinators and interdisciplinary team leadership for the EIS and project development, including Steve Johnson (IDT Leader, Project Coordinator and Recreation Specialist), Ken Grigsby (Forest Planner, NEPA Specialist and EIS Managing Editor), and Don Boucher (Environmental Coordinator and Lead EIS Analyst).

Interdisciplinary evaluation was done on each claim to determine whether it was **sufficient** (complete and accurate) to warrant consideration. If sufficient, the information was then evaluated to determine whether it was **new**, meaning it had not been considered in preparation of the MASA FEIS. The information was determined not to be new if it was directly addressed by text in the FEIS.

If the information was determined to be new, it was then evaluated as to whether it was **relevant** to the project and the decision made for ski area expansion at MASA (i.e., if it has a bearing on decisions for actions and effects of ski area expansion). If the information was determined to be new and relevant, it was further evaluated to determine if it was significantly different from the information that was presented in the FEIS, i.e., is the new information **significant**?

IV. EVALUATION OF ONRC'S NEW INFORMATION CLAIMS

A. The following numbered items correspond to ONRC's February 4, 2007 letter from Marianne Dugan regarding the need for a Supplemental EIS

1. *DEQ states that it will be setting a TMDL for the currently impaired watershed.*

This claim is not specific as to what constitutes new information or why it is relevant. It is an accurate statement. According to the FEIS, "Reeder Reservoir is currently listed as a water quality limited (WQL) waterbody for sedimentation under Section 303(d) of the Federal Clean Water Act. As a tributary, Upper Ashland Creek is considered impaired, although it is not listed. Because Reeder Reservoir is listed, a Water Quality Management Plan (WQMP) is required by the ODEQ to provide a strategy for reducing sedimentation to acceptable background levels. In coordination with the Forest Service and the BLM, ODEQ is currently developing a Water Quality Management Plan (WQMP) to address the 303(d) listed non-point sources of pollution for the entire fifth-field Bear Creek Watershed. Completion of this plan is the responsibility of ODEQ and is now anticipated to be completed in 2005 (ODEQ website)." (FEIS III-73).

"Reeder Reservoir is currently listed as a water quality limited waterbody for sedimentation under Section 303(d) of the Federal Clean Water Act." (FEIS IV-91).

The entire Bear Creek Watershed WQMP and TMDLs has gone through a formal public comment period, having ended on March 9, 2007. ODEQ is finalizing their plan and will submit to EPA for approval. Following approval by EPA, TMDLs will be communicated to all affected parties.

This claim is not new, having been discussed in the FEIS. A forthcoming WQMP was anticipated. Having a finalized WQMP is not a requirement of the ski area expansion decision. The FEIS analysis and ROD for expansion will not conflict with the forthcoming WQMP. It will not conflict because no adverse impacts to water quality are predicted (FEIS III-73 and IV-90-93). This situation is not significantly different than that analyzed in the FEIS. Without a conflict, there is no information that a supplemental EIS could inform.

2. *Army Corps has state dit (sic) will be delineating wetlands in order to issue either a nationwide permit or individual permit for fill of wetlands prior to the project moving forward.*

The need for permitting under the Clean Water Act was discussed in the FEIS. This claim is not specific as to what constitutes new information or why it is relevant. It is an accurate statement, and is discussed in the FEIS:

"The US Army Corps of Engineers (Corps) would provide the regulatory authority necessary to evaluate the Action Alternatives under Section 404 of the Clean Water Act. The Proposed Action and alternatives evaluated in the Final EIS have been developed with the objective of placing no dredged or fill material in jurisdictional wetlands or other Waters of the United States. As such, no Corps permit would be required, provided that the approved project can proceed with no placement of fill into jurisdictional streams or wetlands.

In the event that minor discharges of dredged or fill material would be required, these activities would be designed to meet the requirements of the new and/or modified nationwide permits (e.g., Nationwide Permit #18 - Minor Discharges or Nationwide Permit #42 - Recreational Facilities).

Similarly, the Oregon Department of Environmental Quality (ODEQ) would provide the water quality certification for such a permit action under Section 401 of the Clean Water Act. This certification could include additional permit conditions." (FEIS I-44)

This claim is not new, having been discussed in the FEIS. Forthcoming permitting by the Corp is part of project implementation under the ski area expansion decision. The situation regarding permitting is not significantly different than that analyzed in the FEIS analysis and ROD for expansion. There is nothing that a supplemental EIS could inform.

3. MAA now states that it plans to build an “interim lodge,” which was not included in the EIS as part of proposed project. The plan appears to be to build an 8,000 sq ft lodge and then to rebuild or expand it later. Even if this is just a “Ticket Building” or “Arrival Services Building,” there is nothing in the FEIS or ROD that states that there would be any interim building and no analysis of the impacts of the interim building.

The Forest Service has not received a formal proposal from MAA or the City of Ashland and the statement above is unclear (base lodge or moraine lodge location). Therefore this claim is not sufficient. The following excerpt from the FEIS discusses options for interim buildings and minor changes:

“Comment #60: Combine Arrival Services and Ticket Buildings into one structure (2504) Combine the Arrival Services and Ticket Buildings into one structure for utility efficiency and less intrusion upon the environment. (D03-920, page 2)

Response: Under the action alternatives, exact locations and function of each building(s) would be determined at implementation. Utility efficiency, visual concerns, guest flow, and other factors would determine if these two buildings could be combined into one structure. Based on public comment, the FEIS will analyze increased and expanded building footprints between the Base Lodge and Rental Shop (including expansion of the Base Lodge) for the purpose of disclosing environmental consequences under NEPA.” (FEIS Appx A-24-25)

The following excerpt from the ROD discusses minor changes:

“Minor changes may be needed during implementation to better meet on-site resource management and protection objectives. Minor adjustments to ski runs, facilities, and infrastructure elements may be needed during final design for resource protection, to improve operational feasibility, and to better meet the intent of my decision. Many of these minor changes will not present sufficient potential impacts to require any additional specific documentation or action to comply with applicable laws. Notable changes will be documented through implementation monitoring and made available to the public.” (ROD-46)

This claim does not represent new information, nor is it sufficiently complete for meaningful assessment. The potential for building changes was discussed in the FEIS and ROD, and assessment of significance concerning existing NEPA documentation cannot be conducted until formal and detailed requests for specific changes are submitted by the permittee for consideration. Forthcoming actual proposals were discussed in the FEIS analysis and the ROD recognized this flexibility. This type of minor adjustment does not represent significant effects that were not foreseen or analyzed. There is nothing that a supplemental EIS could inform.

4. MAA now states that it will be renovating the existing lodge (Clark supp. Decl. At 3), another project that is not included in the expansion EIS.

This claim is not specific as to what constitutes new information or why it is relevant (not sufficient). Assuming that “renovation” means not expanding the current footprint, then there is no change from the current condition, no additional environmental effect, and therefore no need for NEPA analysis at all. MAA “renovates” the existing lodge almost every summer (e.g., widening stairways, remodeling food service area, etc.). These renovations are annually approved in the Summer Operating Plan.

Additionally, an expanded footprint for the current base lodge was analyzed under other Action Alternatives in the FEIS (Alternatives 3 and 6), but was not selected in the ROD.

This claim (a proposal to remodel an existing building) is not new, having been discussed in the FEIS, nor would it be significant since the FEIS analysis and ROD for expansion would not conflict with such a proposal, if it were forthcoming. Without a conflict, there is nothing that a supplemental EIS could inform.

5. Significantly increased cost of the project, dramatically changing the economic cost-benefit analysis; and the related issue of the use of borrowed funds versus fundraising (both of these issues were discussed in detail in the more recent filings with the court).

This claim is not specific as to what constitutes new information or why it is relevant (not sufficient). The use of borrowed funds and fundraising was discussed in the FEIS (not new information). The position of the Forest Service regarding financial feasibility is discussed in FEIS Appendix B, which is quoted below.

" 1) The financial ability of the MAA to finance an expanded ski area (if authorized) is not within the purview of the Forest Service. The Forest Service is processing a request under Special Use Permit provisions for an expanded ski area; the ability of the MAA (as a non-profit corporation) to finance proposed improvements is not an issue that is germane to Federal analysis under NEPA. Although irrelevant, the prudence of this corporation has been demonstrated through many years of compliance with the terms of the Special Use Permit, including payments to the Government for permitted use, under national policy and provisions of law. Further, as provided under law, the MAA has contributed substantial funding held in Collection Agreements available to the Forest Service for analysis and planning under NEPA for ski area expansion.

2) The recent and current financial status of the MAA is not within the purview of the Forest Service, and is not germane to the NEPA analysis process being conducted for expansion at Mt. Ashland. Proposals being analyzed in detail include provisions for staging of the implementation, over periods of up to 10 or more years. If ski area expansion were to be authorized, each stage of implementation would be reviewed and authorized annually (or more often) by the Forest Service, dependant on the needs (and presumably financial ability) and request of MAA at that particular time. The Forest Service cannot require that financial capital to implement the entire authorized action be solvent at the time of initial development, or at any stage." (FEIS Appx B-6-7).

The FEIS analysis and ROD for expansion are not based on precise or current economic figures, only relative figures. As explained in FEIS Appx. A:

The financial analysis includes/incorporates the cost of debt to service the loan. It assumes that the ski area would take on debt to finance the first phase of improvements and begin fundraising at the same time to finance Phase 2 and 3 improvements. Furthermore, the analysis incorporates a "discount rate" to account for a variety of factors associated with financial risks and costs, including the borrowing rate for debt incurred in Phase 1, and the risks associated with undertaking improvements, the potential for poor snow years, changing economic conditions and other factors. This analysis is conservative for the following reasons:

- The Ski Area has stated that it plans to fund improvements in all phases through fundraising or retained earnings, rather than through a loan. This would substantially reduce the cost of improvements and increase overall net revenues.
- The analysis incorporates a relatively high discount rate (20%). Use of a lower discount rate would make the analysis more financially favorable.

- The analysis assumes a gradual growth in skier visits, rather than an early spike associated completion of improvements, which is probably more likely to occur. Use of the discount rate reduces the value of longer term growth in comparison to shorter term growth, making this assumption about gradual growth conservative.
- The analysis includes low, medium, and high visitation growth scenarios to account for potential variations in snowfall (e.g., several bad snow years in a row), overall economic conditions and other factors.”

This situation is not significantly different from that analyzed in the FEIS. There is nothing that a supplemental EIS could inform.

6. Failure to meet purpose and need due to changing the phasing of Lift 15 (as discussed in recent briefing). MAA now plans to include construction of Lift 15 in Phase 2 instead of Phase 1. Purpose and Need #1 states that MAA intends to “develop additional Novice to Intermediate level skiing and snowboarding terrain.” (Page I-9). Without Lift 15, no novice or low intermediate skiers would be able to access the C-6 lift and the Middle Branch, because they would have to take Ariel up to the top of the mountain and then ski down upper intermediate terrain in order to access C-6. There is language in the FEIS indicating that Phase 2 and 3 may never be built.

The Forest Service has not received a formal proposal regarding implementation and phasing plans from MAA or the City of Ashland and the statements above are unclear. Therefore this claim is not sufficient. Additionally, this claim does not appear to be accurate since Intermediate skiers could access C-6 via the Windsor Lift. They would not have to take Ariel. The Forest Service position on phasing is described below from Chapter II of the FEIS:

“A detailed listing of implementation phasing by alternative is **not** included in this Chapter of the FEIS; it is now discussed in the financial analysis appendix (FEIS Appendix I). This was done because scenarios for phasing are for analysis only. The primary use for scheduling and phasing is in predicting financial and economic consequences; phasing in these exact scenarios is not necessarily being proposed, would not be prescribed by the Forest Service (except for watershed restoration), and would be the responsibility of and at the discretion of the proponent if an expansion alternative were selected.

Actual implementation progression, timing of the individual projects, interim project ‘steps’, and determination of necessity for individual projects within the alternatives would be dependent upon an ongoing analysis of the priority for each project or group of associated authorized projects (by MAA) and the availability of construction capital. It is possible that some projects would be moved to later phases, or not implemented at all after further analysis or experience. Overall completion under any expansion alternative may take ten or more years.

For purposes of analysis, the phasing documented in Appendix I assumes that both mitigation and monitoring are ongoing, and that environmental systems are functioning as stated in this Final EIS. The actual approval of projects on an annual basis would hinge upon review by the Forest Service or appropriate specialists, and approval by the authorized officer, commensurate with the success of Mitigation Measures as determined by monitoring (see Monitoring, above).” (FEIS II-111-112).

This claim is not sufficient for assessment since no such proposal has been submitted; it is not accurate, since C-6 is accessible via the Windsor lift; and it is not new since phasing was discussed in the FEIS. The FEIS analysis and ROD for expansion would not conflict with this proposal, if it were forthcoming. Without a conflict, there is nothing that a supplemental EIS could inform.

7. Replacement of Ariel lift (as discussed in recent briefing). The Clark supplemental declaration (at 3) states that MAA expects to move ahead with this in the next few years.

This proposal has not been submitted to the Forest Service and is not considered a reasonably foreseeable action. It is therefore not sufficient to the consideration of a supplemental EIS. If, and when it is proposed, the Forest Service will analyze the proposal. Replacement of Ariel was analyzed in the FEIS under Alternative 5. This is not new information, nor is it accurate. There is nothing that a supplemental EIS could inform.

B. The following numbered item corresponds to Marianne Dugan's May 31, 2007 email regarding the need for a Supplemental EIS

1. We are adding to our arguments the recent overturning of the 2004 version of the ACS rules. The FEIS (pages I-21 and III-76-77) (especially the last paragraph, right before section "a" on page III-77) makes clear that your client relied on the 2004 version of the ACS rule (now overturned). Compare the 2000 DEIS, which relied on the prior ACS rule, and therefore discussed local and fifth field watershed scale analysis. In contrast, the 2004 FEIS declines to discuss local scale ACS compliance.

This claim is sufficient because the stated ruling of the court is accurate. It is new because the court ruling in fact, occurred after the ski area expansion ROD was issued. The Forest Service does not find it to be relevant, simply because the court removed the 2004 ACS decision. As noted in the claim, this project was analyzed under both interpretations of the ACS (the 1994 version in the draft EIS and the 2004 version in the final EIS). It would not have been appropriate for the ski expansion decision to rely on the 1994 Northwest Forest Plan ACS interpretation, while a 2004 ROD had authorized clarification of the language in the 1994 plan to amend wording about the Aquatic Conservation Strategy.

It is not an accurate claim that the ski area expansion 2004 FEIS does not discuss local scale ACS compliance. An in-depth discussion of scales of analysis is found at FEIS III-42 & 43. Effects are actually analyzed at three scales; the Special Use Permit Area (960 acres), the Site Scale (i.e., local scale; 1,065 acres), and the Watershed Scale (four separate affected watersheds, not equivalent to fifth-field, actually smaller).

As far as compliance with the 1994 ROD for the Northwest Forest Plan regarding ACS consistency, the FEIS clearly documents a description and analysis of the current condition for each affected fifth-field watershed at multiple and smaller scales, a description and analysis of the range of natural variability, and the analysis documents how the project will maintain the existing condition or will move (i.e., restore) conditions toward the range of natural variability.

The Forest Service finds no difference in the consequences for this project, regardless of which ACS interpretation is utilized (not relevant). All actions were analyzed in the context of the Watershed Scale, all of which have existing Watershed Analyses, which was used to inform the decision. All actions are compliant with all applicable ACS components and standards and guidelines, including those for Riparian Reserves (FEIS IV-98 through 107).

While the 2004 FEIS and ROD did not specifically label the nine ACS Objectives in the documents, they did discuss and analyze fully the elements and components of each one. Consistency with the nine objectives is discussed and referenced below:

ACS Objective 1. Maintain and restore the distribution, diversity, and complexity of watershed and landscape-scale features to ensure protection of the aquatic systems to which species, populations and communities are uniquely adapted.

Hydrologic function—ROD page 20
Wetlands— ROD page 21
Riparian Reserve function— ROD page 23
Riparian Reserve standards & guidelines— ROD page 43

ACS Objective 2. Maintain and restore spatial and temporal connectivity within and between watersheds. Lateral, longitudinal, and drainage network connections include floodplains, wetlands, upslope areas, headwater tributaries, and intact refugia. These network connections must provide chemically and physically unobstructed routes to areas critical for fulfilling life history requirements of aquatic and riparian-dependent species.

Cumulative effects— ROD page 25

ACS Objective 3. Maintain and restore the physical integrity of the aquatic system, including shorelines, banks, and bottom configurations.

Vegetation/woody material— ROD page 19

ACS Objective 4. Maintain and restore water quality necessary to support healthy riparian, aquatic, and wetland ecosystems. Water quality must remain within the range that maintains the biological, physical, and chemical integrity of the system and benefits survival, growth, reproduction, and migration of individuals composing aquatic and riparian communities.

Water quality— ROD page 23

ACS Objective 5. Maintain and restore the sediment regime under which aquatic ecosystems evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.

Soils/site productivity— ROD page 18

ACS Objective 6. Maintain and restore in-stream flows sufficient to create and sustain riparian, aquatic, and wetland habitats and to retain patterns of sediment, nutrient, and wood routing. The timing, magnitude, duration, and spatial distribution of peak, high, and low flows must be protected.

Hydrologic function— ROD page 20
Flow— ROD page 22

Objective 7. Maintain and restore the timing, variability, and duration of floodplain inundation and water table elevation in meadows and wetlands.

Hydrologic function— ROD page 20

Objective 8. Maintain and restore the species composition and structural diversity of plant communities in Riparian Reserves and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of coarse woody debris sufficient to sustain physical complexity and stability.

Land cover conditions— ROD page 23
Riparian Reserve function— ROD page 23
Engelmann spruce— ROD page 27
Late-successional ecosystems— ROD page 31

ACS Objective 9. Maintain and restore habitat to support well-distributed populations of native plant, invertebrate, and vertebrate riparian-dependent species.

Land cover conditions— ROD page 23

Riparian Reserve function— ROD page 23

Engelmann spruce— ROD page 27

Late-successional ecosystems— ROD page 31

While new information, there is no additional analysis that a supplemental EIS could inform. An overall (ultimate) conclusion associated with the existing analysis and decision could be made that none of the impacts associated with the ski area expansion decision, either directly, indirectly, individually or cumulatively, will prevent attainment of Aquatic Conservation Strategy, nor the nine ACS Objectives, at the site, watershed or landscape scales. Therefore, this new information is not significant.

Further, in accordance with the latest (11 June 2007) ACS decision (Case No: C04-1299RSM), there are no projects including Mt. Ashland Ski Area Expansion that used the 2004 rule, that have been enjoined.

C. The following numbered item corresponds to Marianne Dugan's June 11, 2007 email regarding the need for a Supplemental EIS

1. We are adding to our SEIS arguments the recent court-ordered reinstatement of the Clinton-era roadless rule. The Forest Service itself noted that: "The main concern with MASA is the effect to connectivity corridors (i.e., links) along the Siskiyou Crest. Most of the Special Use Permit area is not currently a core area, but may provide some linkage to core areas such as those contained in the McDonald Peak IRA [Inventoried Roadless Area]." SAR 864.

This claim is sufficient because the stated ruling of the court is accurate. It is new because the court ruling in fact, occurred after the ski area expansion ROD was issued. The Forest Service does not find it to be relevant because the ski area expansion was essentially and effectively planned and analyzed under the referenced (current) roadless rule.

Decisions regarding roadless area conservation since the 2004 Ski Area ROD was signed were primarily concerned with State's involvement in planning and designating actions within inventoried roadless areas. These previous roadless decisions would not have changed the authorized actions at Mt. Ashland. The latest court ruling removed these provisions and reinstated the 2001 Rule.

2001 Roadless Area Conservation Rule contains a specific exemption for ski areas. This ski area expansion decision qualifies for exemption, as discussed in FEIS I-25:

“In a March 20, 2002 letter to the Regional Forester from the Acting Forest Supervisor for the Rogue River National Forest, the situation was outlined in regard to the MASA Expansion proposal. Approximately 298 acres of the SUP area is within the McDonald Peak IRA and ski area expansion would occur within this roadless area under several of the alternatives being considered in detail (including the Proposed Action). Vegetation clearing for ski runs and lifts that include removal of trees of commercial value would be required to implement these alternatives. Construction and/or reconstruction of maintenance roads are also being considered, however no road activities are proposed within the IRA.

The 2001 interim directive reserved to the Chief of the Forest Service, the decision authority for timber harvest projects in IRAs unless the project met one of the exception situations specified in the interim directive. Effective July 16, 2004, Federal Register (69 FR 42648), this Interim Directive (ID) was reinstated, with two changes, the direction previously issued in ID No. 1920-2001-1 to implement the Chief's 1250/1920 letter of June 7, 2001, regarding Delegation of Authority/Interim Protection of Roadless Areas.

Because the timber harvest resulting from ski expansion activities is incidental to the construction of new ski runs or ski lifts, and ski area development is not prohibited in this area under the RRNF LRMP, MASA Expansion meets the exemption criteria in FSM 1925 .04a, 2, (2), b (*cutting, sale, or removal of timber incidental to the implementation of a management activity not otherwise prohibited under the LRMP*). Therefore, delegation of authority to approve or disapprove timber harvest associated with this proposed expansion project (within a roadless area) remained unchanged by the most recent roadless interim directive.

The Regional Forester concurred with the Forest Supervisor recommendation and determination in a May 8, 2002 letter that the authority and responsibility to approve process steps and sign decision documents related to the MASA Expansion would remain with the Forest Supervisor of the RR-SNF. The McDonald Peak IRA is located entirely on lands administered by the RR-SNF.”

This situation has been recently reviewed with the Regional Office and remains as planned and decided in 2004. Ski area expansion meets exemption criteria for: cutting, sale, or removal of timber incidental to the implementation of a management activity not otherwise prohibited under the LRMP (FEIS pages III-174 & 5).

Since this information is procedurally new only and the authorized exemption for ski area expansion remains, this information is not significant and there is nothing that a supplemental EIS could inform.

D. The following numbered item corresponds to Marianne Dugan’s June 18, 2007 email regarding the need for a Supplemental EIS

1. Regarding the recent DEIS regarding the Mount Ashland LSR fuels reduction project. That project proposes seven new road miles within three miles of the expansion area. The documentation in the DEIS supports my client’s concern that the existing (and planned) road density in this area is already significant and is likely to have a significant cumulative effect on the environment when combined with the proposed ski area expansion.

The Mount Ashland LSR Habitat Restoration and Fuels Reduction Project was in the initial planning stages and the extent of potential habitat modifications was unknown at the time of Mt. Ashland Ski Area expansion signing because no proposed action had been identified. Cumulative effects analyses for Mt. Ashland Ski Area expansion did not include this Klamath project (Beaver Creek Watershed) as there was no agency proposed action at the time of the ROD. The extent of the proposal was not known at the time of analysis and decision for ski area expansion and was therefore not reasonably foreseeable.

This project is proposed by the Klamath National Forest, Oak Knoll Ranger District. The Rogue River-Siskiyou NF became aware of this project in late 2004. The NOI was published on October 7, 2005 Vol 70, Number 194 (over one year after the ROD for ski area expansion). No new road construction was identified in the NOI and the acreage stated was 5,013 acres.

The Plaintiffs assert that activities on adjacent Klamath NF lands to the south are not considered. However, the Klamath NF project is almost entirely within previously managed stands less than 80 - 90 years of age which should not be considered suitable habitat for late-successional habitat dependent species and therefore should have little to no cumulative effect to these species.

The proposal as documented in the recent draft EIS is new information. The claim from ONRC is not accurate. This new project would not include 7 new road miles within 3 miles of the expansion area. This project is contained within the Beaver Creek Watershed, for which only restoration is planned under the expansion project. Forest Service analysis of the draft EIS information indicates that only about 0.2 mile of temporary road is proposed within 3 miles of the expansion area.

The Mount Ashland LSR Habitat Restoration and Fuels Reduction Project draft EIS utilizes Equivalent Roaded Area (ERA) modeling for cumulative effects (as did ski area expansion) and determined no significant threat for adverse cumulative effects. As temporary roads, road density would not be permanently increased, and the project would actually decrease existing road density via road decommissioning. The Mount Ashland LSR Habitat Restoration and Fuels Reduction Project draft EIS includes consideration and calculation for ski area expansion actions authorized at Mt. Ashland. There is no potential for significant cumulative effects resulting from this new project. There is nothing that a supplemental EIS could inform.

V. CONCLUSIONS

The information submitted by ONRC does not present a substantially different picture of the environmental consequences of the Mt. Ashland Ski Area Expansion Project from what was already presented and considered in the FEIS. None of the information submitted by ONRC shows that the actions authorized for ski area expansion will affect the quality of the human environment in a significant manner or to a significant extent not already considered in the FEIS.

Most of the information evaluated was determined not to be new because it was, in some fashion, considered in the FEIS. Two items reviewed were found to be not relevant (*e.g.*, 1994 ACS interpretation vs. 2004 now removed, and current roadless area direction). One item was found to be new and relevant (*Klamath NF Mount Ashland LSR Habitat Restoration and Fuels Reduction Project*) but without significance to the decision already made.

The authors of this evaluation conclude that none of the information submitted by ONRC shows that the effects of the Mt. Ashland Ski Area Expansion Project are significantly different from what was described in the 2004 Mt. Ashland Ski Area Expansion Project FEIS.

◇◇ ◇◇ ◇◇ ◇◇

This page left intentionally blank