United States Department of Agriculture
Forest Service
Pacific Northwest Region
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**File Code:** 1570-1
**Date:** September 7, 2007

Mr. Mike Peterson
The Lands Council
423 West 1st Ave.
Suite 240
Spokane, WA 99201-3700

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**
**NUMBER:** 7002 2030 0000 0010 7640

Dear Mr. Peterson:

This constitutes my decision, pursuant to 36 CFR 215, on your appeal of Forest Supervisor Kevin D. Martin's Record of Decision and Finding of Non-Significant Amendment for the School Fire Salvage Recovery Project Supplemental Environmental Impact Statement.

I have considered the appeal record for the project and the recommendations of the Appeal Reviewing Officer. The Appeal Reviewing Officer conducted his review on the appeal record and the issues raised in your appeal. A copy of his recommendation is enclosed.

A review of the decision documentation indicates that consideration was given to the relevant, site-specific issues raised in your appeal. There is no indication that the decision should be withdrawn.

I affirm the Responsible Official's decision and deny your requested relief. This decision constitutes the final administrative determination by the U.S. Department of Agriculture and is not subject to further administrative review.

Sincerely,

***/s/ Calvin N. Joyner***

CALVIN N. JOYNER
Deputy Regional Forester
Appeal Deciding Officer

Enclosure

cc: Kristy Boscheinen
Joyce Casey
Janel A McCurdy
Kevin D Martin

United States Department of Agriculture
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**File Code:** 1570
**Route To:**

**Date:** August 31, 2007

**Subject:** School Fire Salvage Recovery Project FSEIS Appeal Review

**To:** Calvin N. Joyner, Deputy Regional Forester

This memorandum documents my recommendations regarding the Record of Decision (ROD) and Final Supplement Environmental Impact Statement (FSEIS) for the School Fire Salvage Recovery Project to modify the Eastside Screen's wildlife standard at 6d(2)(a) to define live and dead trees through a non-significant Forest Plan Amendment. I have enclosed a summary of the appellants' issues, along with a short description of my findings. The appeal review was conducted in accordance with 36 CFR 215 and regional procedures.

I recommend affirming the decision made by the Responsible Official. I have reviewed the project documentation provided by the Umatilla National Forest and considered the appellants' appeal issues. The decision documentation is consistent with the National Environmental Policy Act, the National Forest Management Act, and the Umatilla National Forest Land and Resource Management Plan.

I believe that the project analysis adequately supports the decision and is consistent with law and policy. The decision to amend the Forest Plan by adding clear definitions of live and dead trees supports the Purpose and Need of the School Fire Salvage Recovery Project FSEIS and ROD. The Forest Plan amendment allows for the continued harvest of dead trees in the project area before economic value is lost due to wood deterioration.

The appellants from The Lands Council, The Sierra Club, and Forest Service Employees for Environmental Ethics, Oregon Wild/Hells Canyon Preservation Council, and Friends of the Clearwater/WildWest Institute requested that the Deciding Officer reverse the decision. After reviewing the appeal record, I recommend that the requested relief be denied and the Responsible Official's decision be affirmed on all points. Enclosed with this memo are my responses to each appeal issue.

*/s/ Y. Robert Iwamoto*
Y. ROBERT IWAMOTO
Forest Supervisor
Appeal Reviewing Officer

Enclosure

cc: Kristy Boscheinen, Janel A McCurdy, Joyce Casey, Jackie T Parmer

**Appeal Issues and Responses**
School Fire Salvage Recovery Project SEIS
Pomeroy Ranger District, Umatilla National Forest
August 2007

| **Appellants** | **Appeal #** |
|---|---|
| The Lands Council | 07-06-27-15 |
| The Sierra Club | 07-06-30-15 |
| Forest Service Employees for Environmental Ethics (FSEEE) | 07-06-35-15 |
| Oregon Wild and Hells Canyon Preservation Council | 07-06-36-15 |
| Friends of the Clearwater and WildWest Institute (FOC) | 07-06-37-15 |

**Appellants' Statement 1:** The purpose and need of the proposed project are too narrow. Specifically, appellants state that:

- By too narrowly defining the purpose and need, the Forest Service circumvents National Environmental Policy Act (NEPA) requirements for objective evaluation of alternatives before decisions are made. Instead, the purpose and need constrained the alternatives and led to a pre-determined decision (FOC, 3; Sierra Club, 2-6; Oregon Wild, 11).
- The Forest Service has narrowed the purpose and need to make its one alternative a foregone conclusion (Lands Council, 2).
- The overly limited purpose and need omits key national, regional, and local priorities in terms of restoring watersheds and fisheries habitat without further ecological degradation. The Forest Service holds a legal and moral obligation to the Columbia River Tribes and all citizens to do its utmost to provide spawning habitat (FOC, 3; Sierra Club, 4).

*RESPONSE*: I find the Purpose and Need was appropriate for the situation and was justified by the Responsible Official. In the ROD at 4, he explains how the need for action was to respond to the findings of the Appeals Court. The FSEIS at page 1-3 explains specifically how this decision was made to respond to the Appeals Court ruling concerning the definition of a "live tree."

**Appellants' Statement 2:** The range of alternatives is too small. Appellants state that:

- The analysis fails to provide a reasonable range of alternatives that includes scientifically and ecologically sound management proposals (FOC, 2; Sierra Club, 3). The agency did not analyze any alternative besides the no-action and the preferred alternative (FOC, 4; Sierra Club, 4).
- Only the proposed action meets the purpose and need (FOC, 2; Sierra Club, 3).
- The Forest Service should have considered an alternative that allowed logging but limited it to trees <21" diameter at breast height (DBH) (Lands Council, 2)
- An alternative that protects all trees >21" DBH is rejected as the same as No Action (FOC, 4; Sierra Club, 5, Lands Council, 2).

*RESPONSE*: I find the Responsible Official considered a range of alternatives that was adequate to respond to the Purpose and Need and the issues identified during scoping. As documented in the ROD, "I considered 11 alternatives, two were analyzed in detail and nine were considered but eliminated from detailed study for the reasons stated in the FSEIS, Chapter 2, p. 2-2 to 2-5." (ROD p. 3). These alternatives addressed all the issues raised around the Proposed Action, and included a discussion of No Action.

By law, the Forest Service is required to file a report that includes a detailed statement on alternatives to the proposed action. 42 USC 4332(C) (iii). Alternatives to the proposed action should: (1) explore and evaluate all reasonable alternatives, and discuss why certain alternatives were considered but eliminated from study; (2) consider selected alternatives in detail so their merits can be compared to the proposed action; (3) include an alternative outside the lead agency's jurisdiction; (4) propose a "no action" alternative; (5) identify which alternative is preferred and why; and (6) include mitigation measures not already included in the proposed action or alternatives. 40 CFR 1502.14.

As the Responsible Official described in the ROD, Alternative A (no action) was not selected "because with no amendment to the Eastside Screens' wildlife standard there would be no additional salvage of harvest of dying trees ≥21 inches dbh. This alternative does not address the purpose and need to salvage harvest as rapidly as practicable before decay and other wood deterioration occurs to maximize potential economic benefits"(ROD p. 3). As stated in the FSEIS, "In order for a methodology to be appropriate for this project, it must: (1) address all of the principal commercial species within the project area (ponderosa pine, Douglas-fir, grand fir/white fir, lodgepole pine, Engelmann spruce, and western larch; (2) be valid for the geographic area of the School Fire Salvage Recovery Project; and (3) be operationally practical to potentially evaluate hundreds of trees per acre, over thousands of acres"(FSEIS p. 2-2).

**Appellants' Statement 3:** The Forest Service is evading and misinterpreting the Eastside Screens. Appellants state that:

- The Eastside Screens only allow logging of trees >21" DBH in very limited situations. Choosing short-term economic gain over ecological or biological needs is not legitimate, and would represent a significant amendment because it extends across this landscape and other watersheds (Lands Council, 2).
- The proposed action will reduce recruitment of large snags and therefore violates the intent of the Eastside screens to restore habitat features associated with old forest (Oregon Wild, 5-9).

*RESPONSE*: I find the Responsible Official did not misinterpret the Eastside Screens in his Record of Decision to amend the Forest Plan Eastside Screen wildlife standard.

The Interim Management Direction Establishing Riparian, Ecosystem and Wildlife Standards for Timber Sales, Regional Foresters Forest Plan Amendment #2, commonly known as the Eastside Screens, allows for timber harvest under a variety of wildlife standard scenarios. The Eastside Screens specifically state, "Outside of LOS (Late Old Structure) *many* types of timber sale activities are allowed." (Appendix B: Revised Interim Direction, p. 10, emphasis added). Consistency with Eastside Screens was disclosed in Appendix C of the School FSEIS. This decision clarifies the definitions used to implement the Eastside Screens to make it clear that no live trees > 21" dbh would be harvested under this project. In addition, the Umatilla Forest Plan allows for salvage from all lands included in the Project (FSEIS p. 3-3).

The proposed action of the FSEIS does not change the effects of the prescriptions and snag retention guidelines from the EIS (FSEIS p. 3-3). Effects on snag recruitment are disclosed (FEIS p. 3-202 through 202, p. 3-204) including no harvest in stands with light mortality, as well as leaving snags in excess of eastside screens (FEIS p. 3-221) in harvested stands.

**Appellants' Statement 4:** The Forest Service violates NEPA and the APA because its proposed definition of a dead tree is broad and not scientifically supportable. Appellants state that:

- The Forest Service definition of a dead tree could be literally to include any live tree. The Forest Service definition of a dead tree is not legally or scientifically defensible.

- New information shows that the Scott Guidelines are not the best method for determining possible tree mortality.
- The Scott Guidelines are controversial, unscientific, and not peer reviewed.
- The Forest Service violates NEPA by failing to consider new information on evaluating the alternatives that have been shown to overestimate tree mortality.

*RESPONSE*: I find that the Responsible Official considered a broad range of techniques to establish the most quantifiable method to determine the probability of survival of fire injured trees that is scientifically supportable and is within the policy of the Region.

The Eastside Screens has a requirement to consider the "best available science" for implementation of timber sales east of the Cascades (Interim Wildlife Standard, Scenario A-4 (1)). Dead tree policy follows the administrative policy letters issued in 1998 (Devlin, 1998a, 1998 b).

The definition of "best science" was based on a clarification by the Regional Eastside Screens Oversight Team from the Colville National Forest regarding the best available science (Devlin 1998a, FSEIS, p. 3-6). In this case, science is defined as:

"Science of course means peer reviewed and published by credible sources, and does not include articles, comments, or input that is simple opinion or editorials by scientists. Expert opinion can be helpful, but is not the same as new science."

The Responsible Official also used criteria supplied by the National Academy of Science to clarify what constitutes a credible source (FSEIS, p 3-6).

The Scott Guidelines (Scott et al. 2002) referenced in the FSEIS are a method of identifying the probability of survival of fire injured trees. The guidelines are based on species, age, and damage to the crown, tree bole, season of fire, and a number of other factors that lead to specific species of conifers that have a higher or lower potential of survival after a fire.

The FSEIS interdisciplinary team compared the best available scientific information related to estimating survival and mortality against the Scott Guidelines (FSEIS p. 3-5 through 3-25, FEIS Appendix K). In this analysis, the team considered several other tree mortality models. Many of these were models that respondents to the SDEIS suggested the Forest Service consider. As part of this analysis, the team provided a summary of why the Scott Guidelines are the preferred guidelines for this project over other methods. The FEIS also discussed this analysis in Chapter 3 and in Appendices E, F, K, and M. The Scott Guidelines considered how fire affects the whole tree, whereas many other models only consider one part of the tree's systems. Further, the Scott Guidelines were developed for the same geographic area as the School Fire; many other models were developed for different geographic areas or tree species. SFEIS at 3-23.

**Appellants' Statement 5:** The Forest Service failed to consider new information or use the best available science. Appellants state that:

- The Forest Service did not take into account input from 4 PhD's on logging old growth trees, and is therefore disregarding best available science.
- The Forest Service did not consider new information that salvage logging is correlated with an increase in severity of subsequent wildfires.
- The Forest Service did not consider new information on pileated woodpecker habitat during its NEPA analysis.

*RESPONSE*: I find the Responsible Official considered and utilized credible scientific information to make an informed decision.

With regard to logging of old growth trees and the comment that salvage logging is correlated with an increase in severity in subsequent wildfires:

The Responsible Official looked at, reviewed and commented on all pertinent literature regarding fire salvage in Appendix K of the FEIS and in the FSEIS (pages 3-5 through 3-25). This included known unpublished papers (FEIS Appendix K-7). It also included a review of documents such as the Beschta reports and their relevance to the School Fire for a variety of factors, such as fire hazard and fuels. In each case, the information was reviewed and responses were developed with regard to how the information was pertinent to the School Fire Project.

With regard to new information on pileated woodpecker:

The Forest considered the new information in the response to comments (FSEIS Appendix M at pages 21 and pages 66 through 67).

The analysis looked at various sources of information on pileated woodpeckers (Bull et al 1993, Saab and Dudley 1998, Bates 2001). The FEIS addresses the pileated woodpeckers preferences in broad terms without regard to specifics on numbers and kinds of trees utilized (FEIS p. 3-181 through182) as well as the old growth habitat that they utilize (FEIS p. 3-173 through 175). Pileated woodpeckers were not likely to utilize the fire area, and prefer the lands outside the fire area. Roosting areas as well as nesting habitat may be present on the fringes of the fire where there was a closed canopy (Terrestrial Wildlife Report p. 9) and areas with low mortality were not entered for timber salvage (FEIS p. 3-182). Areas where harvest took place were considered a reduction of habitat (FEIS p. 3-182). New information on specific habitat elements provided by the comments would not have affected the environmental effects or the decision.

**Appellants' Statement 6:** Using an Emergency Situation Declaration (ESD) was arbitrary and capricious. Appellants state that:

- The SEIS does not present the case that an ESD was necessary. There is no data included in the SEIS that shows that mortality has increased so much this year that sales must now be ESD sales (FOC, 5; Sierra Club, 6).
- An emergency does not exist because the majority of trees are live with green needles (Lands Council, 3).
- The SEIS only discusses decay and wood deterioration of large dead trees, but not large live ones. There is no rational basis for concluding that the proposed action to log live trees will meet the purpose and need of the School Fire project to salvage "before decay and other wood deterioration occurs" (Lands Council, 3).
- The trees that are dying only represent a small proportion of the trees damaged by fire, so the economic values at stake are not substantial (Oregon wild, 9).
- The dead trees are worth more standing in the forest than salvaged. Their ecological benefit is higher than the economic benefit one would get from the mill (Oregon Wild, 10).
- The SEIS does not explain or describe the sources or modes of wood decay and deterioration; frequency, or severity on live or dead trees, nor does it discuss how to cure live trees of deterioration (Lands Council, 4).

- The ESD contains false information about the burn severity and ignored the realities on the ground, which skewed the Chief's view of the project and led her to grant the ESD (Sierra Club, 7; Oregon Wild, 10).

*RESPONSE*: I find the Responsible Officials decision to use an Emergency Situation Declaration (ESD) was not arbitrary and capricious.

An emergency is defined at 36 CFR 215.2. One element of an ESD determination is that a project could "…result in substantial loss of economic value to the federal government if implementation of the decision is delayed." The School Fire burned over 28,000 acres of national forest in which about 4,200 acres of salvage would be harvested in three timber sales with an estimated volume of 28 million board feet of fire-killed timber (SEIS p. 1-1).

The Chief of the Forest Service has determined that an emergency exists based on an estimated loss to the government of $961,000 if this project is stayed during appeal. This determination was based on the rates of wood deterioration that are disclosed in the Economics section of Chapter 3 of the School Fire Salvage Recovery Project FEIS. As stated in the Forest Plan amendment, only those trees classified as "dead" would be harvested.

Information on wood decay is presented in the FEIS (FEIS at pages S-26 through S-27; 2-29; 3-263 through 3-267) that is supplemented by this analysis. This information was used by the Chief in making her determination.

Appellants have not provided sufficient information to explain why the economic value of the trees if left standing is higher than their economic value if harvested.

**Appellants' Statement 7:** The Forest Service violated the National Forest Management Act (NFMA) because this decision is a significant Forest Plan amendment. Appellants state that:

- The amendment is significant because of the timing, size and location, goals and objectives, and management prescriptions (FOC, 6; Sierra Club, 2, 6, & 7).
- The plan amendment is significant because it places economic objectives over ecological objectives, which is inconsistent with Eastside screens (Oregon Wild, 4).
- The plan amendment is significant because it is not limited in scope and is precedent-setting (Oregon Wild, 5).
- The Forest Service is supposed to maintain all live trees greater than 21" DBH that currently exist within stands proposed for harvest. If the Forest Service can define trees that are currently alive (but may one day be dead) as "dead," it is a significant amendment. The elimination of protection for old-growth trees is a radical change in policy, and so not treating the amendment as significant violates NFMA and APA (FSEE, 6).
- The Forest Service failed to respond to public comments. They should have engaged in a much more public process, including the equivalent process of creating an entirely new forest plan (Sierra Club, 6). Had the Forest Service "considered" public comments as it is supposed to under NEPA, it would have reconsidered its decision to remove large trees (Oregon Wild, 11).
- The ROD assumes that the 2004 rule regarding forest plan amendments is in place, but the rule is currently under legal dispute (FOC, 5; Sierra Club, 6).
- The SEIS is inconsistent with the Interior Columbia Basin Ecosystem Management Project (ICBEMP), which showed that traditional salvage logging is not compatible with contemporary ecosystem management. Therefore, the plan amendment is significant, and in violation of NFMA (Oregon Wild, 9).

*RESPONSE*: I find the Responsible Official did not violate National Forest Management Act (NFMA) and provided strong evidence that this decision is not a significant Forest Plan amendment.

The Forest Plan amendment and associated issues were addressed in the FSEIS and the ROD (p. 6-7). The ROD (August 14, 2006) for School Fire Salvage Recovery Project documented consistency with the NFMA (p. 12). The plan amendment is being proposed under the NFMA implementing regulations in effect prior to November 9, 2000. The 2000 NFMA implementing regulations (36 CFR 219.14(d) (2)), as amended by the September 29, 2004 Interpretative Rule (Federal Register Vol. 69, No. 188), allow the Responsible Official use of these procedures (ROD p. 6-7)

The Forest Service Land and Resource Management Planning Handbook (Forest Service Handbook 1909.12) lists factors to be used when determining whether a proposed change to a Forest Plan is significant or not significant: timing; location and size; objectives and outputs; and management prescriptions (also see ROD p. 6-7). The FSEIS and ROD explain why this supplement falls into the non-significant category. "A plan amendment can be found to be non-significant if the amendment involves: (1) Actions that do not significantly alter the multiple-use goals and objectives for long-term land and resource management; (2) Adjustments of management area boundaries or management area boundaries or management prescriptions resulting from further on-site analysis when the adjustments do not cause significant changes in the multiple-use goals and objectives for long-term land and resource management; (3) Minor changes in standards and guidelines"(FSEIS, p. 1-2, ROD p. 6-7).

The Forest Plan amendment is short-term (the life of the School Fire Salvage Recovery Project), of limited scope (28,000 acres of the 1.5 million acre Umatilla National Forest), and facilitates the achievement of the purpose and need of the School Fire Salvage Recovery Project. The amendment includes modification of one Forest Plan standard (Eastside Screens) and is limited to the duration and geographic scope of the Project. The amendment would not change the management intent of the Eastside Screens wildlife standard nor would there be changes in how the standard would be applied to the Project compared to the effect disclosed in the July 2006 Project FEIS. In addition, the Implementation and Marking Guides of the Project FEIS would not change. The amendment clarifies the definition of live and dead trees in order to be consistent with Agency practice and current science. The amendment would also not preclude or require other amendments specific to this wildlife standard nor would this amendment preclude or require other actions across the Forest (FSEIS, Chapter 3, p. 3-3) (FSEIS Appendix M p. 11 through 13).

**Appellants' Statement 8:** The Forest Service violated NEPA and NFMA by not having a legally defensible policy for managing snags and down wood (Oregon Wild, 11-21). DecAID is an inadequate tool for analyzing the project-level snag standards (Oregon Wild, 17-20).

*RESPONSE*: I find the Responsible Official adequately discussed the standards for the management of snags and down wood and utilized the DecAID tool appropriately.

Standards for managing for snags and down wood are discussed in the Chapter 3, Affected Environment – Dead Wood (FEIS p. 3-196 and 197). Consistency in meeting these standards are also discussed (FEIS p. 3-196). The analysis area for snags and down wood was expanded beyond the project level to the appropriate scale for use of DecAID (FEIS p. 3-195).

**Appellants' Statement 9:** The Forest Service is violating NFMA and Umatilla National Forest Land and Resource Management Plan (LRMP) by cutting trees greater than 21" DBH (Lands Council, 2; FSEE, 5).

Appellant's state the proposed amendment is inconsistent with the LRMP because by removing large trees wildlife habitat would not be protected (Sierra Club, 2).

*RESPONSE*: I find the Responsible Official correctly determined that there was no violation of NFMA or the Umatilla National Forest LRMP with the cutting of trees over 21" dbh. I also find that the proposed amendment is appropriate in clarifying the Eastside Screens and does not change standards and guidelines for protecting live trees over 21" dbh and protecting wildlife habitat.

The FSEIS discusses the need for the amendment and the circumstances leading up to the SFEIS to clarify definitions of live and dead trees (FSEIS at pages 1-1 through 1-3). The proposed action of the FSEIS responds to the court's admonition to amend the Forest Plan by clarifying the agency's definitions of live and dead trees. The project was found to be consistent with NFMA and the Umatilla National Forest LRMP (ROD at page 6).

**Appellants' Statement 10:** The Forest Service did not analyze the viability of the late-successional species such as flammulated owls. If the Eastside screens were implemented as they are written, a supplemental analysis would not have to be conducted. Appellants state that:

- If the Forest Service seeks to amend the Eastside screens, it would have to conduct a supplemental analysis of the species that would be impacted (FSEEE, 5).
- Where Forest Service activities will adversely affect sensitive species, they must show that its management methods are not arbitrary and will maintain viable populations (Oregon Wild, 2).

*RESPONSE*: I find the Responsible Official met the requirements for late successional species in the FEIS. A supplemental analysis of the species impacted by the Forest Plan amendment was unnecessary. The Forest Service showed that its management methods were not arbitrary and will maintain viable populations in the FEIS.

Forest Planning regulations (36 CFR 219.9) require the identification and monitoring of management indicator species (MIS). Project level MIS Effects analyses are recommended (Gunderson and Snider 2002, MIS Project-Level Advice letter) and were completed in the FEIS ( FEIS at pages 3-53, 84, 85, 86, 88, 176). The MIS analysis included analysis of the effects to late successional species, represented by the northern goshawk, American marten, and pileated woodpecker.

The Forest is required to analyze effects to sensitive species (FSM 2672.4) in a Biological Evaluation. The FEIS states: "Biological Evaluations and Assessments have been completed for all TE&S plant, aquatic and terrestrial wildlife. Determinations were made that none of the proposed actions would adversely affect, contribute to a trend toward federal listing, nor cause a loss of viability to listed plant, fish, and animal populations or species. Details are found in the Fisheries, TE&S Plants, and Wildlife sections of this document (FEIS at page 3-273).

The School Fire Salvage Recovery Project FSEIS states, "Effects to resources would be as described for all resources under Alternative B in the Project FEIS" (p. 3-3). Also, "Therefore, as a result of this amendment, there would be no change on the ground, or to the environmental effects beyond those already described in the Project FEIS" (p. 3-3). Because the proposed Forest Plan Amendment FSEIS results in the same action on the ground as the FEIS, and the MIS and sensitive species requirements for the FEIS are complete, the MIS and sensitive species requirements are complete for the FSEIS.

**Appellants' Statement 11:** The Forest Service violated the Endangered Species Act (ESA) by not consulting with the U.S. Fish and Wildlife Service (USFWS) or the National Oceanic and Atmospheric

Administration (NOAA) regarding listed fish species. If the Forest Service wants to amend the Eastside screens, they would have to consult with those agencies first (FSEEE, 5).

*RESPONSE*: I find the Responsible Official met the requirements of the ESA by completing consultation with USFWS and NOAA on the School Fire Salvage Project FEIS.

The Forest Service is required to comply with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.) by consulting with the FWS and NOAA on all projects that may affect proposed, threatened, and/or endangered species. The purpose of this consultation is to ensure that the proposed action does not preclude or threaten the continued existence of any federally listed threatened or endangered species or adversely affect designated critical habitat (50 CFR 17).

The Biological Assessment (BA) provide analyses of the potential effects of the School Fire Salvage on proposed, threatened, and endangered species, their associated critical habitat, and essential fish habitat for Chinook and coho salmon, which satisfies the ESA requirement for preparation of a BA (50 CFR 402.112).

The U.S. Forest Service completed consultation with the USFWS in June 2006 and with and NOAA in July 2006 with the receipt of Letters of Concurrence (LOCs). The LOCs concurred with the Forest's determinations that the School Fire Salvage Recovery Project May Effect, but was Not Likely to Adversely Affect bull trout, Canada lynx, bald eagle, Snake River Basin steelhead and its critical habitat, Snake River spring/summer run Chinook salmon and its critical habitat, and essential fish habitat for Chinook and coho salmon.

The School Fire Salvage Recovery Project FSEIS states, "Effects to resources would be as described for all resources under Alternative B in the Project FEIS" (p. 3-3). Also, "Therefore, as a result of this amendment, there would be no change on the ground, or to the environmental effects beyond those already described in the Project FEIS" (p. 3-3). This decision results in the same action and the same environmental effects on the ground as the decision documented in the August 2006 ROD. Because consultation requirements under ESA are complete for FEIS, ESA requirements are complete for the FSEIS.

The Forest consulted with FWS and National Marine Fisheries Service (NMFS, now NOAA) on the Umatilla National Forest Land and Resource Management Plan. There are triggers for reinitiating of consultation in both the 1995 National Marine Fisheries Service Biological Opinion (BO; page 103) and the 1998 FWS BO (p.101), and they are essentially the same. Page 101 of the FWS BO states "As provided in 50 CFR section 402.16, reinitiating of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (3) a new species is listed or critical habitat designated that may be affected by the action." The FSEIS only adds narrative wording to the Eastside Screens wildlife standard at 6d. (2) (A) to define a "live tree" and applies to, and only for the duration of, the School Fire Salvage Recovery Project. It does not delete wording, change any standards and guidelines for other resources, or change any goals and objectives for other resources in the Forest Plan (ROD p. 6-7). The added narrative wording is consistent with past interpretation of "live tree" (FSEIS p. 3-18, 19, 20). Therefore, the FSEIS did not trigger the need for reinitiation of consultation on the Forest Plan.