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File Code: 1950-1/5150

Date: December 23, 2009

Route To:

Subject: Decision Notice, with Finding of No Significant Impact: Huachuca Firescape Project, Sierra Vista Ranger District

To: FILE

## **DECISION NOTICE, WITH FINDING OF NO SIGNIFICANT IMPACT: HUACHUCA FIRESCAPE PROJECT**

**USDA Forest Service  
Coronado National Forest  
Sierra Vista Ranger District  
Pima, Santa Cruz, and Cochise Counties, Arizona**

**December 2009**

On February 23, 2009, in accordance with Forest Service regulations at 36 CFR 215.5, the Coronado National Forest (Forest) published a legal notice in the *Arizona Daily Star* announcing that a pre-decisional Environmental Assessment (EA) of the proposed Huachuca FireScope Project (Project) was available for a 30-day public review and comment period. The Forest identified its proposed action as (1) implementation of various prescribed fire and non-fire treatments on approximately 270,000 acres of Federal lands within the Huachuca and Whetstone Mountains of southeastern Arizona, and (2) amendment of the Coronado National Forest Land and Resource Management Plan (the Forest Plan) to temporarily relax visual quality objectives for the project area over the duration of the Project.

The Project is proposed to facilitate coordination of fire and fuel reduction projects on the Sierra Vista Ranger District of the Forest with those of the Department of Defense (DOD), Fort Huachuca, and the U.S. Department of the Interior (DOI), National Park Service (NPS-Coronado National Memorial). It is designed to provide a range of fire and fuel management options that will give the agencies flexibility in prioritizing and scheduling treatments, depending on ground conditions, weather conditions, and funding, among other factors.

Agency management direction for design and implementation of the Project is given in the Forest Plan (USDA Forest Service 1986, as amended); the Coronado National Memorial General Management Plan (USDI National Park Service 2004); and the Fort Huachuca Integrated Resource Management Plan (U.S. Department of Defense 2001). The Project is consistent with the *Huachuca Area Fire Partners Fire Management Plan*, a multi-jurisdictional plan developed by Federal, State, and private landowners in the area.



The project area is located in Cochise, Pima, and Santa Cruz Counties, Arizona. It extends from the Huachuca Mountains on the east to the Patagonia Mountains on the west. The international border of the United States with Mexico is the project area's southern boundary. Portions of the Whetstone Mountains of the Forest, which are northwest of Sierra Vista, are also part of the project area (see Map 1, attached).

The Forest Service assumed the role of lead agency in the NEPA review of the Project, and because the proposed project could affect lands under their jurisdiction, the NPS and DOD were cooperating agencies (40 CFR 1501.6). Each agency will issue a separate decision document. This Decision Notice, with Finding of No Significant Impact (DN/FONSI), is the Forest Service decision document.

## **DECISION AND RATIONALE**

It is my decision to authorize implementation of the Huachuca FireScape Project conditional upon the Forest Plan being amended to temporarily change visual quality objectives for Forest Management Areas 1, 3, 3a, 4, and 7 through the duration of the project. The proposed action is designated as Alternative 2 in the EA (Sections 1.3 and 2.1.2).

My decision will permit the application of the prescribed fire and mechanical treatments summarized below to manage vegetative fuel across the District; and a temporary amendment of the Forest Plan. I have decided that prescribed fire will be the only treatment allowed under this decision in the Whetstone Inventoried Roadless Area (IRA). I am approving incidental tree cutting and removal in the IRA, as necessary to establish fire control lines. Based on an analysis conducted by the Forest Planner in accordance with the National Forest Management Act [ 36 CFR 219.10(f) ], I find that the proposed amendment is not a significant change to the Forest Plan (Project Record, Finding of Non-significant Amendment, June 11, 2009).

My decision is based on after consideration of several other factors, including, but not limited to, the potential impacts of the Project, which were determined by Forest Service resource specialists<sup>1</sup> using the best available scientific and commercial information; and public comments on the pre-decisional EA.

I find that the proposed action satisfies the purpose of and need for agency action and will move the project area toward desired conditions described in the Forest Plan (EA, Section 1.2.2). The proposed treatments will create and maintain fuel conditions that produce more manageable fire behavior and intensity than currently exists. This, in turn, will reduce consequent resource damage from wildland fires and concurrently improve public and firefighter safety. Over time, the treatments will facilitate restoration of a vegetation and fuel profile that reflects the historic conditions of the area and with it, the return of the natural, low-intensity fire cycle.

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<sup>1</sup> Specialists' reports are filed in the NEPA project record at the Coronado National Forest Supervisor's Office, 300 West Congress Street, Tucson, Arizona; and the Sierra Vista Ranger District Office, 5990 South Highway 92, Hereford, Arizona.

## ALTERNATIVES EVALUATED IN THE EA

Two alternatives were evaluated in the EA: the proposed action and no action.

### Proposed Action

#### Vegetation Treatments

Both prescribed fire and non-fire treatments will be implemented individually or in various combinations to manage fuel conditions within 15 “ecological units” (EUs)<sup>2</sup> in the project area. Treatments, which are described detail in Sections 2.1.2.1 and 2.1.2.2 of the EA, were developed collaboratively with the U.S. Fish and Wildlife Service (FWS) and Arizona Game and Fish Department (AGFD) to achieve an optimum balance between achievement of fuel management goals and protection of species and habitat. No new road construction is proposed in any of the treatment areas.

Non-fire treatments will include various methods of thinning dense stands of trees and shrubs, reducing surface and ladder fuels, and creating openings in forest canopy. Fire treatments will consist of prescribed fire and pile-burning of hand- and machine-cut materials.

Up to 270,000 acres will be treated across the three federal jurisdictions over the 10-year project duration. The proposed action will be applied on up to 184,100 acres of National Forest System land within the 270,000 acres available for treatment<sup>3</sup>. Treatments will be limited to 20,000 acres of prescribed burning, 500 acres of hand-thinning, and 10,000 acres of mastication annually. Limitations will apply cumulatively over all three federal jurisdictions. Actual total treatment acres will depend on weather, funding, and resource objectives. Prescribed fire is the only treatment that will be allowed on the 20,712 acres that comprise the Whetstone IRA (see attached map). Incidental tree cutting or removal necessary for the establishment of fire-control lines in the Whetstone IRA is authorized; however, no mechanical treatments are authorized.

All vegetation treatments will adhere to the design criteria established in the Project Implementation Plan (Attachment A), which provide an upper bound on acceptable impacts of each proposed treatment or combination of treatments. Each proposed activity will apply a defined prescription, i.e., a plan that describes what and how much vegetation should be manipulated; and a cost-efficient treatment, i.e., a method to achieve the prescription. The proposed treatment methods and acres, by EU, are shown on Map 2 (attached); no mechanical treatments are authorized in the Whetstone IRA.

To document pre-project implementation resource conditions and evaluate post-implementation achievement of resource objectives, agency specialists developed a Monitoring Plan (Attachment B) that will be implemented as agency funding, staffing, and programmatic priorities allow. In addition to documenting effects and the degree of success in attaining specific objectives, results from monitoring will assist in the design of future vegetation management projects and provide a basis for adaptive management of resources.

Within the next 10 years, other fuel management projects that are not within the scope of the FireScape Project may be proposed by the Forest Service, DOD, and NPS. These projects will

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<sup>2</sup> EUs are areas of different vegetation types that occupy unique elevations, topography, and geological features.

<sup>3</sup> Acreages are best estimates based on computer mapping information.

undergo site-specific NEPA analysis by the proposing agency, rather than rely on the findings of the Huachuca FireScope NEPA review. Reasonably foreseeable future actions that are not part of the Project were included in the cumulative effects analysis disclosed in Chapter 3 of the EA.

### **Forest Plan Amendment**

Before on-the-ground treatments may begin, the Forest Plan will be amended to temporarily relax visual quality objectives (VQOs) for Management Areas 1, 3, 3a, and 7, for which the current standard requires that “*visual quality objectives will be met*” (Forest Plan, pp. 47, 55, 59 and 62); and Management Area 4, where the current standard requires that “*visual quality objectives will be met or exceeded*” (Forest Plan, p. 67).

The text of the Forest Plan on the aforementioned pages will be amended as follows: “Current visual quality objectives (VQOs) will be met. However, during Huachuca FireScope Project implementation, the VQOs of ‘*retention*’ and ‘*partial retention*’ are permitted to be changed temporarily to ‘*modification*’ as a short-term goal, conditional upon the proposed management activity promoting the long-term achievement of the original VQO assigned to the area. If this VQO exception is being used, the original VQO will be achieved within three years following project completion.”

### **No Action**

No action is included as an alternative to the proposed action, in accordance with the requirements of Council on Environmental Quality (CEQ) regulations [40 CFR Part 1502.14(d)]. It provides a baseline against which the impacts of the proposed action may be compared.

If no action is taken, each agency will independently continue fire and fuel management based upon its governing land and resource management plan and established procedures. Potential impacts of future fuel and fire management projects will be evaluated on a case-by-case basis by each agency in accordance with its NEPA regulations. However, because, at present, there are no defined future fire and fuels management projects, and because the no action alternative is intended to provide a baseline of effects for comparison, this alternative was analyzed in the EA with the premise that no future fire and fuels management activities will occur (EA, No Action, p. 13).

## **PUBLIC INVOLVEMENT**

Public notification of this proposed action was first given in a Schedule of Proposed Actions posted on the Forest public website, [www.fs.fed.us/r3/coronado](http://www.fs.fed.us/r3/coronado), on January 1, 2007.

On September 14, 2007, a Scoping Notice, which included a description of the proposal, was distributed to the public and other agencies and placed on the Forest’s public website. On the same date, a news release was provided to 10 local and regional newspapers, six television stations, five radio stations and four other media outlets.

Nine letters and emails were received from two individuals, one State agency, one Federal agency, three Tribes, and two organizations. Using their comments, the interdisciplinary team developed a list of issues to address in the impacts analysis of the proposed action.

In accordance with Forest Service *Notice, Comment and Appeal Procedures* at 36 CFR 215, on February 23, 2009, the Forest published a legal notice in the *Arizona Daily Star* announcing the availability of a pre-decisional EA for a 30-day public review and comment period. Six parties submitted written comments during this comment period. Public comments on the pre-decisional EA are filed in the NEPA Project Record.

Continued public involvement will follow the Forest's publication of a legal notice announcing that the Forest Supervisor has signed a DN/FONSI. The legal notice will appear in the *Arizona Daily Star*, which is the newspaper of record for a decision signed by the Forest Supervisor. In addition, a legal notice of the decision will be placed concurrently in the *Sierra Vista Herald*. The date of publication of the notice in the *Arizona Daily Star*, which is anticipated on or around December 28, 2009, will begin a 45-day public appeal period, in accordance with 36 CFR 215.11. Details on the Forest Service appeal process are presented in 36 CFR 215.12 through 215.19. Because this is a Forest Supervisor decision, appeals will be filed with the Regional Forester, Southwestern Region, in Albuquerque, NM.

## **FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

After considering the context<sup>4</sup> and intensity<sup>5</sup> of the environmental effects disclosed in the EA and comments received from the public and comments on the pre-decisional EA, I find that the proposed action will not have a significant impact on the quality of the human and natural environment and that a Finding of No Significant Impact (FONSI) is appropriate. Preparation of an environmental impact statement (EIS) will not be necessary.

The EA discloses that the project area is limited in size and that project activities are limited in duration. Effects would be restricted to Santa Cruz, Pima, and Cochise Counties, Arizona, and are not likely to affect regional or national resources.

The following discussion describes the effects of the proposed action relative to significance criteria listed by the CEQ in 40 CFR 1508.27.

### **1. The degree to which the proposed action affects public health or safety.**

The proposed action will not result in significant adverse effects on public health and safety. On the contrary, the proposed action would create and maintain fuel conditions in the wildland-urban interface that promote manageable fire behavior and a trend toward restoration of historic vegetation conditions.

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<sup>4</sup> **(a). Context.** *This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance will usually depend upon the effects in the locale rather than in the world as a whole. Both short-and long-term effects are relevant (40 CFR 1580.27).*

<sup>5</sup> **(b). Intensity.** *This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action (40 CFR 1580.27).*

Objectives for the project include reducing the probability and consequences of wildland fire at the interface of the Forest with urban communities in the project area. Treatments will result in reduced flame lengths, increased crown base height, lower fuel loading, and decreased ladder fuel, which, in turn, will enhance the ability for agencies to more successfully manage a wildland fire (EA, pp. 89-101). This will benefit firefighter and public safety and enhance protection of Federal and private property. The activities that comprise the proposed action are typical of fire and fuel management actions performed nationwide on National Forests. Specific design features have been added to the Project to enhance safety (EA, Appendix, part C).

The project will have negligible adverse impacts in the local community. Some transitory effects from temporary nuisance smoke could occur as a result of lower intensity fire treatments; however, they are less than the long-term human health effects, threat to firefighter safety and threat to property that could result with a catastrophic wildland fire (EA, p. 80).

Management of smoke from prescribed fires will follow Arizona Department of Environmental Quality regulations (EA, pp. 67-69). Notice will be provided well in advance of pile-burning and ignition of a prescribed fire so that sensitive individuals will have adequate opportunity to take necessary precautions.

In its comments on the pre-decisional EA, the ADEQ, Waste Programs Division, expressed concern regarding (1) the safety of civilians and military personnel when prescribed fire is used in areas where there may be Munitions Constituents (MC) or Munitions and Explosives of Concern (MEC), which have yet to be recovered or disposed of properly; and (2) the accidental or collateral burning of illegally dumped waste and that deposited in project areas by undocumented immigrants.

In recognition of these potential safety issues, the agencies will ensure that all prescribed burning activities that are within or adjacent to Fort Huachuca or other locations where these hazards may occur follow a prescribed burn plan that will incorporate procedures to mitigate such hazards. Also, pre-fire training will highlight the potential for encounters with munitions and/or explosives and illegally dumped, potentially hazardous wastes, and emphasize safety precautions and procedures.

## **2. Unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

The objective of the proposed action is to conserve the resources on public land for sustainable use (EA, pp. 49-62, 69-70, 80-85). There will be no significant adverse effects on the unique characteristics of the project area. Inventoried roadless areas have been excluded from treatment that would require road access. The Forest Archaeologist has determined that the project would have no significant adverse effects on historic and cultural resources; the State Historic Preservation Office has concurred with this determination. There are no park lands, prime farmlands, wild and scenic rivers, wetlands and ecologically critical areas in the treatment areas.

**3. The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

The proposed treatments are supported by science and research and have been successfully demonstrated in the field. The disclosed effects of the proposal are typical of fuel management activities on any National Forest (EA, pp. 5-6) or near communities in a wildland-urban interface. The details of the proposed action were reviewed several times by stakeholders and interested parties, and their comments were factored into the design of the project. A 30-day public review of the pre-decisional EA generated six comment letters, none of which expressed controversial opinions about the project's potential effects. Based on my review of public comments, specialists' input, literature searches, and the impacts analyses discussed in this decision and the EA, I find that the effects of the proposed action are not highly controversial.

**4. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The effects of prescribed fire and mechanical treatment of vegetation are well-documented both by the Forest Service and by other scientific, commercial and agency research over more than a century. There are no highly uncertain, unique, or unknown risks attributed to implementation of these accepted techniques. The Forest Service, DOD, and NPS have a legacy of experience with the fuel reduction treatments to be implemented (EA, pp. 5-6). No unproven methods or treatments will be used in conducting the proposed action (EA, Appendix, part C).

That being said, in *Protecting People and Sustaining Resources in Fire-Adapted Ecosystems – A Cohesive Strategy* (Federal Register 2000), the Forest Service has acknowledged that a degree of uncertainty surrounds fire management treatments despite a considerable amount of science supporting an understanding of fire-adapted ecosystems. The report states that “It is essential that monitoring be conducted to validate assumptions, reduce uncertainties, and measure progress.” With this in mind, the project was designed to minimize and/or avoid adverse impacts (EA, Appendix, part C and Attachment A, DN/FONSI), an implementation plan was developed to document that impacts on the human environment would fall within acceptable, predefined bounds (Attachment A, DN/FONSI) and a monitoring plan was established to validate assumptions and measure project success (Attachment B, DN/FONSI).

Certain proposed activities would occur along the United States and Mexico international border. This presents a number of operational safety concerns especially regarding the use of prescribed fire. Fire management activities in the area are constrained by undocumented aliens (UDAs). The safety of the UDAs, as well as that of fire personnel, is a major concern when planning and implementing fire operations in this part of the state. Fire management requires coordination with Customs and the Immigration and Naturalization Service under the Department of Homeland Security. Given this, the proposed action incorporates standard operating protocols developed by the participating agencies to address these concerns (EA, p. 18).

**5. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

Similar vegetation treatments have been applied nationally and Forest-wide for many years (EA, p. 5). There is a very low probability that implementation of the project will establish a precedent

for future actions with significant effects because (1) the impacts analysis reported in the EA indicates no potential for significant adverse impacts and (2) with the exception of a short-term amendment of the Forest Plan to temporarily relax the VQO for MAs 1, 3, 3A, 4, and 7, the proposed activities conform to the standards and guidelines established by the Forest Plan (EA, pp. 5-6).

**6. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.**

The EA identifies past, current, and reasonably foreseeable actions within the project area whose impacts could be additive with those expected from implementation of the proposed action (EA, Appendix, part E). Using the best available scientific and commercial information, specialists in all resource areas found that the effect of these actions in combination with the effects of the Project would not cause significant adverse impacts to the human and natural environments (EA, pp. 35, 49, 57-58, 61, 62, 65, 67-69, 71, 73, 75, 80, 83, 85, and 98-100).

**7. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed on or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.**

On April 20, 2009, the State Historic Preservation Officer concurred with the Forest Archaeologist's determination that the action will have no significant adverse impacts on districts, sites, highways, structures, or objects listed on or eligible for listing on the National Register of Historic Places. The action will also not cause loss or destruction of significant scientific, cultural, or historical resources, because any resources that fall into this classification will be flagged and avoided during project implementation (Heritage Resources Report and EA, p. 71 and Appendix, part C).

**8. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.**

The FWS collaborated with the Forest in designing project activities and developing criteria that will guide implementation of the proposed action (Attachment A). Informal consultation with the FWS continued from 2006 to 2008 during project development and analysis. Formal consultation was requested by the Forest Service on July 31, 2008. On April 2, 2009, the Service issued a Biological Opinion concurring with the determinations made with regard to special-status species.

The Biological Opinion concurred that the proposed action “*may affect, but is not likely to adversely affect*” the following species:

- endangered jaguar (*Panthera onca*)
- endangered lesser long-nosed bat (*Leptonycteris curasoae*)
- threatened Chiricahua leopard frog (*Lithobates chiricahuensis*)



- endangered Gila chub (*Gila intermedia*)
- endangered Gila topminnow (*Poeciliopsis occidentalis occidentalis*)
- endangered Huachuca water umbel (*Lilaeopsis schaffneriana* var. *recurva*)
- endangered Canelo Hills ladies' tresses (*Spiranthes delitescens*)
- Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*)

In addition, in the Biological Opinion, the FWS concurred that the proposed action “*is likely to adversely affect*” the threatened Mexican spotted owl (MSO; *Strix occidentalis lucida*) and its designated critical habitat; and the endangered Sonoran tiger salamander (*Ambystoma tigrinum stebbinsi*).

Despite the potential for adverse effects on the MSO and its critical habitat, the FWS concluded that **the proposed action would not likely jeopardize the continued existence of the MSO or destroy or modify its designated critical habitat**, stating the following:

“After reviewing the current status of the Mexican spotted owl, the environmental baseline for the action area, the effects of the proposed Huachuca FireScape action, and the cumulative effects, it is the FWS's biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of the Mexican spotted owl, and is not likely to destroy or adversely modify designated critical habitat for the species.

“We do not anticipate that the proposed action will compromise the integrity of any of the 11 non-wilderness, non-Fort Huachuca PACs in the action area and thus, no incidental take is anticipated.”

Likewise, the BO found that **“the action, as proposed, is not likely to jeopardize the continued existence of the endangered Sonoran tiger salamander”** in the following statement:

“After reviewing the current status of the Sonoran tiger salamander, the environmental baseline for the action area, the effects of the proposed Huachuca FireScape action, and the cumulative effects, it is the FWS's biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of the Sonoran tiger salamander. ”

With regard to potential incidental take of the salamander, FWS stated the following:

“We anticipate that incidental take of Sonoran tiger salamander will be difficult to detect for the following reasons: the species is small in size and cryptic, remaining hidden within aquatic sites, subterranean burrows, and in moist refugia (e.g., downed logs) for much of its life; finding a dead or impaired specimen is unlikely; losses may be masked by seasonal fluctuations in numbers or other causes (e.g., oxygen depletions for aquatic species). We have determined that occupied Sonoran tiger salamander sites are an appropriate surrogate measure to quantify incidental take. As such, we anticipate that implementation of the proposed action will result in the: (1) harm, harassment, and/or death of an indeterminate number of Sonoran tiger salamanders at one (1) occupied aquatic site during each implementation year of the Huachuca FireScape Project, for a total of ten (10) such impacts between 2009 and 2019; and (2) the loss, such as by complete sedimentation, of three (3) occupied aquatic sites during implementation of the Huachuca FireScape Project between 2009 and 2019. . In this biological opinion, we

have determined that this level of anticipated take is not likely to result in jeopardy to the species (Sonoran tiger salamander) for the reasons stated....”

The BO defined “reasonable and prudent measures and terms and conditions” that must be taken to address potential impacts to the Sonoran tiger salamander. These terms and conditions have been incorporated into design criteria contained in the Project Implementation Plan (DN/FONSI, Attachment A).

**9. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.**

The action will not violate Federal, State, and local laws or requirements for the protection of the environment (EA, pp. 6-7). With approval of the proposed visual quality objective amendment, the action will be consistent with the Forest Plan (Project Record, Finding of Non-significant Amendment, June 11, 2009).

Project design incorporates management and mitigation measures for prescribed burns described in *National Management Measures to Control Nonpoint Pollution from Forestry* (EPA, 2005) and Arizona Department of Environmental Quality’s “Arizona-specific methods for measuring bottom deposits and erosion potential of stream banks, and for bio-assessment and habitat evaluations” (EA, Appendix, part C).

**FINDINGS REQUIRED BY OTHER LAWS**

**National Forest Management Act (NFMA).** The Forest Plan was adopted on August 4, 1986. Forest planning is guided by 36 CFR 219 regulations, which specify that projects implemented after the Forest Plan is in place must be “consistent with the plan” [36 CFR 219.10 (e)]. In 2005, the Forest Plan was amended to incorporate the policies of the 2001 Federal Wildland Fire Management Policy and Review (USDA and USDI 2001). As amended, the Forest Plan calls for an “appropriate management response to wildland fires”. This includes an appropriate suppression response and the ability to allow natural ignitions to play, as nearly as possible, their natural ecological role Forest-wide (Forest Plan, p. 45).

This project was designed to be consistent with the fire management amendment, as well as applicable Forest Plan standards and guidelines (EA, Appendix, part B). There are no identified effects to Forest management indicator species and Region 3 sensitive species that will affect their long-term viability (EA, pp. 22, 44-49). The project area has no suitable timberland; therefore, the NFMA consistency requirements related to the management of suitable timberland does not apply.

The Forest Plan will be amended to temporarily relax Visual Quality Objectives applicable to the project area for the duration of the Project.

**Endangered Species Act.** *See discussion under item 8, FONSI.*

**Bald and Golden Eagle Protection Act.** In addition to the ESA, the Forest is committed to ensuring compliance with the terms of this legislation. On September 11, 2009, a Final Rule was published in the Federal Register finalizing permit regulations to authorize limited take of bald

and golden eagles under the Act, where the take to be authorized is associated with otherwise lawful activities.

Bald eagles are not known to nest in the project area. The species is an uncommon winter visitor, feeding on fish at Parker Canyon Lake and scavenging carrion in the surrounding grasslands. Golden eagles are a fairly common year-round resident of the project area. Historically, a golden eagle eyrie existed in Ramsey Canyon; however, nesting has not been confirmed in recent years.

Because of the potential occurrence of eagles, a design criterion for this project (Attachment A, WFP-26) requires that before action is taken, a qualified agency biologist assess the potential for bald eagle and golden eagle to occur in the project area and determine whether there is a need for species surveys. If eagles are expected to use the project area, FWS guidance and/or requirements regarding avoidance and/or mitigation of impacts will be followed.

**National Historic Preservation Act, Archaeological Resources Protection Act, and Executive Order 11593 (protection and enhancement of the cultural environment).**

*See above under items 2 and 7, FONSI (EA, pp. 69-71).*

**American Indian Religious Freedom Act of 1980.** Consultation with local tribes revealed a concern about the effects of the project on traditional gathering practices. The Forest is committed to notifying affected tribes 30 days in advance of project activities that may affect traditional practices, such as the gathering of beargrass or yucca (EA, Appendix, part C, p. 134).

**Executive Order 12898 (Environmental Justice).** This decision does not impose disproportionate adverse human health or environmental effects on minority or low-income populations (EA, p. 80).

**Opportunity to Appeal**

On February 23, 2009, a legal notice was published in the *Arizona Daily Star* to announce that a pre-decisional EA and other project-related information were available for a 30-day public review period, as required by Forest Service regulations at 36 CFR 215. Comments were received from five parties during the EA review period. Therefore, a legal notice announcing this DN/FONSI will be published in the *Arizona Daily Star* and *Sierra Vista Herald* after I have signed this DN. The date of publication of the legal notice in the *Arizona Daily Star* will begin a 45-day public appeal period, in accordance with 36 CFR 215.11. Details on the appeal process are found in 36 CFR 215.12 through 215.19.

**Implementation Date**

According to 36 CFR 215.9, proposed actions subject to the appeal may be implemented according to the following criteria:

a) When no appeal is filed within the 45-day appeal period, implementation of the decision may begin on, but not before, the 5th business day following the close of the appeal-filing period (§215.15).

(b) Except for emergency situations [§215.10(c)], when an appeal is filed, implementation may occur on, but not before, the 15th business day following the date of appeal disposition (§215.2).

In the event of multiple appeals of the same decision, the implementation date is controlled by the date of the last appeal disposition.

### **Point of Contact**

Information about the proposed action and this decision may be obtained from Mr. Drew Leiendecker, Sierra Vista Ranger District, on (520) 803-2817. Questions about the NEPA process may be directed to Ms. Andrea W. Campbell, Forest NEPA Coordinator, on (520) 388-8352 and [awcampbell@fs.fed.us](mailto:awcampbell@fs.fed.us).

*/s/ Jeanine A. Derby*  
JEANINE A. DERBY  
Forest Supervisor

### Attachments:

1. Map 1, Project Area
2. Map2, Treatment Options
3. Attachment A, Implementation Plan
4. Attachment B, Monitoring Plan

cc: Randall A Smith  
Chris French  
Christopher H Stetson  
Rachel A Carroll