



United States
Department of
Agriculture

Forest
Service

Coronado National Forest
Safford Ranger District

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File Code: 1950/2530

Date: June 19, 2012

Route To:

Subject: DECISION MEMORANDUM: OAK CREEK HABITAT IMPROVEMENT
PROJECT, SAFFORD RANGER DISTRICT

To: File

USDA Forest Service
Coronado National Forest
Safford Ranger District
Section 29, Townships 10 South, Range 21 East
Section 30, Townships 10 South, Range 21 East
Section 32, Townships 10 South, Range 21 East
Gila and Salt River Meridian
Graham County, Arizona

BACKGROUND

This decision memo (DM) provides National Environmental Policy Act (NEPA) compliance for the Oak Creek Wildlife Habitat Improvement Project. The purpose of the project is to maintain and improve water distribution and availability for wildlife and livestock. In addition, this water system would improve the aquatic plant species around Little Bull Tank, which will benefit wildlife, large and small. Recent drought conditions as well as predicted continued persistence of drying trends throughout the Southwest will reduce the number of available watering sites for wildlife and livestock within this project area. This project is part of a cross-landscape water development project on the east side of the Galiuro Mountains funded by the Arizona Game and Fish Department's Habitat Partnership Program.

PROPOSED ACTION

The Forest Service, in cooperation with the Arizona Game and Fish Department, proposes to bury approximately 3.5 miles (18,500 feet) of 1¼- inch-diameter plastic polyethylene(PE) water pipeline, from 12 to 16 inches deep within a 3 to 5-inch width of the roadbed of National Forest System roads (NFSRs) 6600, 6600-1, 6600-A (see map, Attachment A). The new pipeline would extend from the Bull Tank Pipeline (improvement 434028; see attachment B) to the Oak Creek Storage Tank (improvement 434014) in the Knob Tank Pasture. In addition, a 5000-gallon storage tank (PE) and a water trough would be installed in the Buckskin Pasture and a water trough would be installed in the Little Bull Tank Pasture. A tracked bulldozer would be used to bury the pipeline in about three days.

DECISION AND RATIONALE

It is my decision to approve the project as described above to improve water distribution and availability for wildlife and livestock.



Specialist determinations regarding the potential of the project to affect wildlife, vegetation, botany, range, fuels, heritage resources, and hydrology are included in the administrative record (AR) of this NEPA review. I considered their recommendations in making my decision. Specific management requirements included in this decision are described below.

Because the proposed action meets the criteria for categorical exclusion (CE) from further NEPA review at 36 CFR 220.6(e)(6), *Timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than 1 mile of low standard road construction*, preparation of an environmental assessment or environmental impact statement is not necessary.

CONSIDERATION OF EXTRAORDINARY CIRCUMSTANCES

Using the best available scientific and commercial Forest resource specialists confirmed that there are no extraordinary circumstances associated with the proposed activities that may result in individual and cumulative adverse effects on those resources listed in 36 CFR 220.6 (b)(1). Their determinations below support my decision and validate the applicability of the CE for this proposed action.

- i. Federally listed threatened or endangered species, designated critical habitat, species proposed for Federal listing, or proposed critical habitat, or Forest Service sensitive species

Determination: The District Biologist determined that this project would have no effect on federally listed or proposed species and habitat; Forest Service, Region 3, sensitive species; and Forest management indicator species (Project Record, Item #6).

Floodplains, wetlands or municipal watersheds

Determination: The District Range and Watershed specialist, with concurrence from U.S. Army Corps of Engineers, determined that the project would have no effect on wetlands, floodplains and municipal watersheds (Project Record, Item #6).

- ii. Congressionally designated areas, such as wilderness, wilderness study areas, and national recreation areas,
- iii. Inventoried roadless areas or potential wilderness areas, and
- iv. Research natural areas.

Determination: A Wilderness Area is located within one mile of the project area. There are no national recreation areas on the Forest and no inventoried roadless areas (IRAs) or research natural areas (RNAs) at the project location. The impacts are limited to the immediate area of activity and would not affect the resources or values of any specially designated areas (Project Record, Item #6).

- v. American Indian and Alaska Native religious or cultural sites and
- vi. Archaeological sites or historic properties or areas

Determination: A Forest archaeologist determined that no historic properties would be affected by the proposed action (Project Record, Item #5). Because of this, consultation with the State Historic Preservation Office and Native American tribes is not necessary.

FINDINGS REQUIRED BY OTHER LAWS

National Forest Management Act (NFMA)

The NFMA requires that Forests develop long-range land and resource management plans. The Coronado National Forest Land and Resource Management Plan (Plan) was approved in 1986 and has since been amended 11 times to adapt to changing conditions. The amended Plan provides for guidance for all natural resource management activities.

The NFMA further requires that Forests review all projects and activities for consistency with the Plan. The project is located in Management Area 4, which is described on pages 62 through 66 of the Plan. Management standards and guidelines for wildlife pertaining to this proposed action are defined on page 37 (Project Record, Item #1). I will ensure that the proposed project is compliant with the Forest-wide and Management Area standards and guidelines established for wildlife and range structural improvements in the project area.

Endangered Species Act

The Safford Ranger District Biologist determined that the proposed action would have no effect on federally listed species and habitat as well as species and habitat proposed for listing (Project Record, Item #6).

National Historic Preservation Act

The Forest Archaeologist determined that there would be “no historic properties affected” by implementation of the proposed action. Because of this, consultation with the State Historic Preservation Office and Native American tribes is not necessary (Project Record, Item #5).

PUBLIC INVOLVEMENT

On April 18, 2011, a Scoping Notice was distributed to the public (Project Record, Item #3). During the comment period, the District received one comment, which was offered by the Arizona Department of Environmental Quality regarding the temporary increase in ambient particulate matter (dust) levels during ground-disturbing activities (Project Record, Item #4). To address this comment, land disturbance will be limited to less than one acre and disturbed areas will be watered to minimize fugitive dust.

In accordance with a March 19, 2012, legal decision in recent U.S. District Court ruling in *Sequoia ForestKeeper v. Tidwell*, which invalidated certain sections of the Forest Service’s appeal regulations at 36 CFR 215, this DM was made available to the public for a 30-day comment period, which was announced in a legal notice published in the *Eastern Arizona Courier* on May 16, 2012. No comments were received during the review period. Therefore, no public appeal period is required, as noted in 36 CFR 212.12.

This proposed action is listed on a schedule of proposed actions (SOPA) on the Forest’s public website. This DM will be posted on the SOPA after I have signed it.

ADMINISTRATIVE REVIEW AND OPPORTUNITY TO APPEAL

In accordance with a March 19, 2012, legal decision in recent U.S. District Court ruling in *Sequoia ForestKeeper v. Tidwell*, which invalidated certain sections of the Forest Service's appeal regulations at 36 CFR 215, this DM was made available to the public for a 30-day comment period, which was announced in a legal notice published in the *Eastern Arizona Courier* on May 16, 2012. No comments were received during the review period. Therefore, no public appeal period is required, as noted in 36 CFR 212.12.

PROJECT IMPLEMENTATION

No comments were received during the 30-day DM review period, therefore, no appeal period is required, per 36 CFR 215.12. A Legal Notice of Decision will be published in the *Eastern Arizona Courier* within the next week; the project may be implemented upon the date of publication.

POINT OF CONTACT

Further information about the proposed action and this decision may be obtained from me at the Safford Ranger District Office, 711 14th Avenue, Suite D, Safford AZ 85546, on (928) 348-1974 and kellett@fs.fed.us.



KENT C. ELLETT
District Ranger

Attachments: A, Project Area Map
B, Improvement 434028
Forest Plan Direction, Item 1
Biologist Determination, Item 6
Watershed Determination, Item 6
Special Areas Determination, Item 6
Heritage Determination, Item 5

OPPORTUNITY TO COMMENT

DECISION MEMORANDUM

Oak Creek Habitat Improvement Project

**USDA Forest Service
Coronado National Forest
Safford Ranger District
Graham County, Arizona**

In a recent court ruling regarding the *Sequoia ForestKeeper v. Tidwell* lawsuit, certain sections of Forest Service notice, comment, and appeal regulations at 36 CFR 215, which exempted categorically excluded decisions from public comment, were invalidated. The District Court ruled that the regulations apply to every proposal for which a decision is proposed to be signed using a categorical exclusion (CE) defined in Forest Service NEPA regulations at 36 CFR 220.6 (e).

To comply with the District Court ruling, the Coronado National Forest is announcing a public comment period regarding a proposed action to improve water distribution and availability for wildlife and livestock. In cooperation with the Arizona Game and Fish Department, about 3.5 miles of polyethylene water pipeline would be buried in the bed of three Forest roads on the Oak Creek area on the east side of the Gailuro Mountains. In addition, a 5000-gallon water storage tank and two water troughs would be installed in two pastures in the vicinity.

This notice announces a public comment period regarding the proposed action and decision. It provides parties interested in or affected by the proposal an opportunity to express concerns before the District Ranger signs the decision. Those who provide comment or otherwise express interest with the comment period may be eligible to appeal the decision pursuant to 36 CFR 215.13.

A Decision Memorandum (DM) and administrative record (AR) of the NEPA review are available for public review at the Safford Ranger District office, 711 14th Avenue Suite D, Safford, Arizona. For additional information about the proposal, or to request a paper copy of the documents, contact Chuck Duncan, District Range/Watershed Staff, at (928) 348-1964. The DM and AR documents are also available online at www.fs.fed.us/r3/coronado in a Schedule of Proposed Actions (SOPA).

Written and/or oral comments concerning the DM will be accepted for 30 calendar days, beginning the day following publication of this legal notice in the *Eastern Arizona Courier*. This date is important, because comments made during this period only will afford an individual or organization the right to appeal a decision about the proposed action. Expressions of interest and/or comments provided after the close of the comment period will be considered by the decision-maker, to the extent practicable. They will NOT, however, confer eligibility to appeal the decision.

Comments must be submitted in writing and must meet the criteria established in 36 CFR 215.6. They should be mailed to Chuck Duncan at the address above; sent by facsimile to her attention at (928) 428-2393; sent in an electronic mail message (email) to comments-southwestern-coronado@fs.fed.us; or entered online on the SOPA. Email comments may be submitted in any the following formats: body of message; Microsoft Word (.doc or .docx) attachment; or in a rich-text format (.rtf). With comments, a full name, address and project title (Oak Creek Habitat Improvement Project) must be provided. For electronic comments, a scanned signature will be sufficient proof of identity.

Oral comments may be provided by telephoning Chuck Duncan at (928) 348-1964 at the Safford District Office from 8:00 a.m. through 4:00 p.m., Monday through Friday, excluding Federal holidays, or by making a personal visit to the Safford District Office at the address given above.

Names and addresses of those who comment on the DM will become part of the AR and will be available for release to a third-party upon request under the authority of the Freedom of Information Act. If you do not want to include personal information, you may comment anonymously, but if so, you will not be eligible to appeal a decision.

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Legal Notice of Decision

OAK CREEK WATER IMPROVEMENT PROJECT

Safford Ranger District

Coronado National Forest

Graham County, Arizona

On May 16, 2012, a legal notice in the Eastern Arizona Courier newspaper announced the availability of a pre-decisional National Environmental Policy Act (NEPA) document (Decision Memorandum or DM) for a 30-day public review period. The DM documents the results of an analysis of the potential effects of the Oak Creek Habitat Improvement Project, which is proposed in cooperation with the Arizona Game and Fish Department to improve the availability of water for wildlife and livestock. The Forest received no comments about the DM through the end of the comment period, which was June 16, 2012.

District Ranger Kent C. Ellett signed the DM on June 19, 2012. Because no substantive comments and/or other expressions of interest were received from the public, his decision may not be appealed by the public (see 36 CFR 215.12). Implementation of the proposed action may begin immediately upon publication of this notice. Information about the project may be obtained from Chuck Duncan at the Safford Ranger District on (928) 348-1964 or Electronic mail cduncan@fs.fed.us.

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