

**DECISION NOTICE  
AND  
FINDING OF NO SIGNIFICANT IMPACT  
FOR  
NINER PROJECT  
ENVIRONMENTAL ASSESSMENT**

USDA Forest Service  
Willamette National Forest  
Middle Fork Ranger District  
46375 Highway 58.  
Westfir, OR 97492

The Niner Project Environmental Assessment (EA) documents the environmental analysis of a proposal to commercial thin 60-80 year old timber stands in the Huckleberry Flats area. The Niner Project area is located along Road 1928 approximately 8 miles northeast of Oakridge, Oregon. The legal description of the area is T19S, R3E Section 36, T19S, R4E Section 31, T18S, R3E Sections 1, 12, 13, 24,-26, 36, and T18S, R4E, Sections 6-10, 15-21, 29-31 of the Willamette Meridian, Lane County, Oregon.

The Niner Project was developed in accordance with direction provided in the 1990 Record of Decision and Final Environmental Impact Statement for the Land and Resource Management Plan for the Willamette National Forest (Forest Plan) as amended by the 1994 Record of Decision for Amendments to Forest Service And Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl (Northwest Forest Plan), and other appropriate laws and policies.

The Niner Project is intended to meet the purpose and need to manage stands in the project area to achieve the desired conditions described for the Forest Plan Management Areas of General Forest, Wild and Scenic Rivers, and Riparian Reserves. The EA documents the analysis of two action alternatives to meet these needs, along with no-action alternative. I have reviewed the EA, related documents, and public input. My decision is based upon that review, and I have found the analysis to be in full compliance with direction contained in the above documents.

Documents in the Project Record are available for review at the Middle Fork Ranger District Office, 46375 Highway 58, Westfir, OR 97492, phone (541) 782-2283.

**Decision and Reasons for the Decision**

It is my decision to implement a Modified Alternative A of the Niner Project EA. Alternative A will be modified by deferring the decision on unit's #15,15A, 15C, and 16. These four units are in stands which are greater than 80 years old. Due to uncertainty about the status of Survey and Manage requirements in these stands as a result of a recent Ninth Circuit Court Opinion on Klamath-Siskiyou Wildlands Center et al. v. Boody et al., (Klamath) No. 06-35214 (CV 03-3124, District of Oregon), I am not making a decision on how or whether to proceed with treatments in these stands at this time.

The modified Alternative A is designed to implement the Forest Plan direction while meeting Forest Plan Standards and Guidelines for the various forest resources. Specifically, the alternative presents an approach addressing the significant issue of detrimental soil conditions. The alternative uses a combination of log yarding systems with an emphasis towards low cost ground-based yarding systems. This alternative will commercially thin about 3,223 acres of 60-79 year old stands and will yield about 50 MMBF to meet the purpose and need of maintaining the growth and health of the stands and producing a sustainable, commercial yield of wood products.

Log removal will be accomplished with a combination of yarding systems. Modified Alternative A will use a ground-based yarding system on about 1,652 (51 percent) acres, cable skyline yarding system about 1,133 (35 percent) acres, and helicopter yarding on about 438 (14 percent) acres.

The yarding systems will require the construction of about 5.9 miles of temporary roads to access the thinning units, reconstruction on about 3.95 miles of existing roads, and maintenance on about 17.5 miles of existing haul route roads. Three perennial fish bearing stream crossing culverts under the main haul route Road 1928 will be replaced along with numerous ditch relief culverts scattered throughout the project area roads. This alternative will close about 19.5 miles of road to passenger vehicles after timber harvest activities by berming and/or gating. The roads will be rehabilitated and stored in a hydrologically stable condition. A temporary bridge will be installed to access Unit #209 (94 acres). The bridge will be removed and temporary roads will be closed after harvest activities.

The alternative will mitigate post-thinning fuels by yarding tops and branches and grapple piling at landing for all 3,223 treated acres. The alternative will also prescribe approximately 496 acres of grapple piling within 40 feet of most of roads in or adjacent to thinning units, and about 104 acres of under-burning.

This alternative meets the purpose and need for action described in Chapter 1 of the EA. Modified Alternative A is selected because it:

- Improves growth and maintains health of stands in the General Forest allocation by commercial thinning to diversifying species composition and stand structure, and provides for an intermediate harvest of 50 MMBF of merchantable size trees for commercial timber products,
- Ensures health and improves growth of the stands in Riparian Reserves and the Wild and Scenic River allocations by thinning to diversifying species composition and stand structure, and accelerate their development of late-successional forest characteristics,
- Closes roads to reduce disturbance to big game and decrease open road density,
- Rehabilitates compacted soils from the early railroad logging and subsequent tractor logging to improve site productivity,
- Addresses the potential for fine fuels levels created from the commercial thinning with fuel reduction treatments. Fuel treatments will reduce the fine fuels to an acceptable range and the thinning provides long term benefits which help to improve the control of wildfires by reducing risk, cost and damages to the resources.

- Provides a low cost economically viable alternative which contributes a sustainable yield of wood products to local economies and provides employment and income to the local counties,
- Implements activities which move the current conditions toward the desired conditions as described in the Willamette Forest Plan and meet the Standards and Guidelines for the various forest resources and land allocations.

I have determined that the selected alternative is consistent with the Willamette National Forest Land and Resource Plan, as amended by the Northwest Forest Plan. This finding is based on environmental analyses prepared in accordance to Forest Plan Management Areas and Standards and Guidelines, cited throughout the EA and documents in the Analysis File. This EA provides a listing of how these proposals respond to the direction contained in the Forest Plan.

The selected action does not prevent attainment of the Aquatic Conservation Strategy objectives. (as outlined in the 2004 Record of Decision Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests within the Range of the Northern Spotted Owl – Decision to Clarify Provisions Relating to the Aquatic Conservation Strategy). By implementing associated mitigating measures, Best Management Practices, and Forest Plan Standards and Guidelines, the proposal will insure protection of water quality and beneficial uses (EA pages 142).

Pre-disturbance surveys and management of known sites required by protocol standards that comply with the 2001 Record of Decision for the and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measure Standards and Guidelines as amended by the 2001 and 2003 Annual Species Reviews were completed (EA pages 99 and 168).

This decision includes the removal of trees that may blowdown during or immediately following prescribed treatments from the effects of the thinning and or mortality from underburning in excess of the coarse woody debris prescription. These trees would be managed and possibly removed according to the prescription developed in Modified Alternative A.

## **Mitigating Measures**

This decision implements the following mitigating measures described in the EA on pages 39 through 45:

The proposal implements Best Management Practices to ensure meeting the standards and guidelines for water quality and soil stability. These management practices include: protection of all streams channels with Riparian Reserves; improved road reconstruction and maintenance practices; logging suspension requirements, and erosion control measures.

Log suspension requirements and fuel reduction operations are prescribed to minimize soil disturbance within Forest Plan standards and guidelines (FW-081 and FW-084). If mineral soil is exposed in specific locations beyond the level of maximum allowable disturbance, the site will be waterbarred, seeded, and fertilized immediately following harvest.

Seasonal restriction for noise producing activities will be implemented for a number of activities to avoid disturbance of breeding pairs of northern spotted owl, as in the Terms and Conditions in the Biological Opinion submitted by the US Fish and Wildlife Service. This restriction will be implemented for any noise producing activity (falling, yarding, and hauling of timber, spur road

construction) that might occur within one-quarter mile of known spotted owl activity centers or un-surveyed habitat from March 1 through July 15.

Prescriptions specific to the treatment units provide for varying amount of snags and coarse woody debris to meet resource objectives, such as fuel loadings, fire fighter safety, and scenic quality. Approximately 2 snags per acre and 0.5 pieces per acres of coarse woody debris will be retained to ensure habitat capacity for primary cavity excavators, adequate nutrient cycling for maintenance of long-term site potential and valuable habitat structure for a diversity of species.

Noxious weeds will be treated prior to the maintenance and reconstruction of roads. Logging equipment will be pressure-washed prior to operations to mitigate the spread of weed species.

About 19.5 miles of system road and road tributaries will be closed to reduce open road density and disturbance for big game habitat management and mitigate impacts to water quality.

The project may support other resource enhancement projects with sale area improvement funds after the appraisal and financial reports are completed. Mitigating measures will be funded first and then other projects such as Off Highway Vehicle (OHV) trail maintenance, fire wood program administration, timber stand improvement treatments in young plantations, road closures, instream placement of large woody debris, cleanup of garbage dump sites, trail maintenance, and installation of fish passage culverts (EA page 192). A separate environmental analyses and decision will be completed for the instream placement of wood.

Monitoring will occur at many points in time during the implementation process of the project including during sale layout and preparation, sale administration, and contract inspections. The project will also be included in the list of sales with the potential to be sampled by Forest, Provincial, and Regional monitoring teams.

## **Significant Issues**

The following issue was identified as the significant issue for the project area based on the scoping, public comments received and interdisciplinary team discussions. The significant issue is used to guide development of alternatives and tracked through the analysis process.

**Detrimental Soil Conditions** - Commercial thinning and related road management activities may cumulatively affect the detrimental soil conditions (soil compaction and displacement). The area was initially clearcut during the railroad logging era of the 1920's and 1940's by the Western Lumber Company. A common practice at that time was to leave scattered overstory seed trees to supplement the regeneration of the new stands. After the new stands were established, the overstory seed trees were harvested by tractor logging in the mid 1960's. These past practices of railroad and tractor logging have left soil compaction and displacement in the project area. Soil compaction affects tree growth, water infiltration, soil erosion, and peak flows. An additional commercial thinning entry could cause an increase in soil compaction and displacement above the Forest Plan S&Gs.

Several other issues were identified but were found not to be significant for the purposes of this project. Generally, non-significant issues are mitigated by standards and guidelines provided for in the Forest Plans, addressed through resource prescriptions, or decided upon by laws and regulations. These issues included big game habitat, fuels loading, economic efficiency, riparian management, water quality, Threatened, Endangered, and Sensitive Species, Survey and Manage Species, invasive plants, Wild and Scenic River, Huckleberry Off Highway Vehicles Trail area,

public safety, and cultural resources. The potential impacts of the alternatives on these issues and the environmental factors were analyzed in Chapter 3 of the EA.

## **Other Alternatives Considered**

In addition to the selected alternative, I considered action Alternative B, and Alternative C, the no-action alternative. A comparison of how these alternatives respond to the significant issue and other evaluation criteria can be found in the EA on pages 46-54.

Alternative B was designed with an emphasis toward restoration of detrimental soil conditions. The alternative would have used a combination of log yarding methods with an emphasis towards achieving one-end or full log suspension which minimizes the impact of soil compaction and displacement. This alternative shifts the majority of ground-based yarding acreage to a cable skyline yarding systems. Alternative B would have only tractor yard about 60 (2 percent) acres, skyline yard about 2,734 (83 percent) acres, and helicopter yard about 534 (15 percent) acres. This alternative would have commercially thinned about 3,268 acres and yield about 50 MMBF. The alternative includes 13 small group selection patch cuts (about 60 acres) that would have undergone restoration of compacted soil by soil tillage treatments. The proposed yarding systems would have required the construction of about 5.0 miles of temporary roads to access the thinning units, reconstruction on about 3.95 miles of existing roads, and maintenance on about 17.5 miles of haul route roads. Three perennial fish bearing stream crossing culverts under the main haul route Road 1928 would have been replaced along with numerous ditch relief culverts. This alternative would have closed about 19.5 miles of road to passenger after timber harvest activities by berming and/or gating. These roads would have been rehabilitated and stored in a hydrologically stable condition. In this alternative, the temporary bridge would not have been installed to access Unit #209 and the unit would have been helicopter yarded. The temporary roads would have been closed after harvest activities.

I did not select Alternative B because the detrimental soil conditions were not mitigated as well as they were in Alternative A and the logging cost and the financial aspects were not as efficient as they were with Alternative A.

Alternative C is the no action alternative where the proposed project does not take place. No further activities would have taken place to manage the stands by thinning. The no action alternative provided a benchmark, or a point of reference for describing the environmental effects between the two action alternatives.

I did not choose Alternative C because it fails to meet the purpose and need and no information surfaced during the analysis to justify not proceeding with treatments of these stands.

The Niner interdisciplinary (ID) team also considered several management alternatives that ultimately were not analyzed in detail (EA page 38).

**Big Game Emphasis Alternative** – An alternative was considered that would change the moderately rated Huckleberry Big Game Emphasis Area (BGEA) to low rated BGEA. This change would have been incorporated with a non-significant amendment to the Forest Plan S&Gs for deer and elk management. The Huckleberry OHV Trail Expansion Project Environmental Assessment is concurrently being completed in this area. I decided it was more appropriate to consider the change to the Huckleberry BGEA in conjunction with the Huckleberry OHV Trail Expansion proposal. The decision on the Huckleberry Trail Expansion

Project EA is pending. Even though the current proposed action alternatives have elements associated with improving big game habitat (i.e. road closures, improving forage), the proposed change to the Huckleberry BGEA was eliminated from further detailed analysis in this project.

**No Commercial Harvest in Riparian Reserves Alternative** – As discussed under the issue on riparian management, the purpose and need for riparian management was established in the Forest Plans, Watershed Analysis, and Wild and Scenic River Plan. A scoping comment was received that suggested no commercial harvest in Riparian Reserves. Thinning and not extracting the excess trees would have created an unacceptable fuel loading condition which would have increased risk of fire, fire intensities and rates of fire spread, suppression costs, and potential for resource damage. An alternative with absolutely no thinning in riparian reserves would not have met the purpose and need for the project to restore desired riparian conditions. The effects analysis for No Action alternative provides information about the impacts of not treating the Riparian Reserves. The option to have no commercial harvest in riparian reserves was not considered in other action alternatives and eliminated from further detailed analysis in this project.

**Restoration Alternative** – A restoration alternative was considered based on public comments. A “restoration only” alternative would not have met the purpose and need for this project. Therefore, a restoration alternative was not within the range of reasonable alternative choices which meet the purpose and need and not considered in the analysis.

## **Public Involvement and Scoping**

The public involvement process and planning for this project started with a scoping meeting in June of 2003. A Forest Service interdisciplinary team of resource specialists and Middle Fork Ranger District management staff defined the proposed actions elements, identified preliminary issues and project opportunities, identified potentially interested and affected people, and assigned members to the interdisciplinary team. The results of the scoping meeting were used to guide the public involvement process, establish analysis criteria and explore possible alternatives and their probable effects.

The scoping record with the description of the proposed action and additional project area information was sent out on December 18, 2003 to the project’s mailing list of 44 individuals, interest groups, and organizations, elected officials, tribal representatives, and other federal and state agencies. The cover letter explained the purpose and need for the project, provided a map of the project area, and solicited comments on the proposed action.

The Niner Project has been included in the Annual Program of Work Review with the Conferated Tribes of the Grand Ronde and Siletz since 2002. No comments have been received specific to the Niner Project.

The Niner Project was listed in the Willamette National Forest’s Schedule of Proposed Action (SOPA) starting in the Fall Quarter of 2003. The SOPA is mailed out to a Forest mailing list of people interested in the management activities of the Forest. The SOPA provides one of the means of keeping the public informed of the progress of individual projects. The SOPA is also made available to the public on the Willamette Forest website.

Two written comment letters and several phone conversations were received as a result of these notifications. Copies of the letters and documentation of phone conversations can be found in

the Public Involvement section of the Analysis File. The listing of individuals and organizations who submitted comments and a brief summary of the comments topics raised specific to the Niner Project can be found in the EA on page 10. The interdisciplinary team reviewed the comments and incorporated the concerns into the issues where applicable. Information related to these concerns was either addressed in the discussion of the issues and environmental consequences or can be found throughout the different section of the EA, Analysis File or Decision Notice.

The following state and federal agencies were contacted or consulted with during the course of this project: Oregon Department of Fish and Wildlife (ODFW), US Fish and Wildlife Service (USFWS), and National Oceanic and Atmospheric Administration (NOAA) – Fisheries Division. The USFWS provided a letter of concurrence supporting a may affect but not likely to jeopardize the continued existence of the spotted owl and the NOAA – Fisheries provided a letter of concurrence supporting a may affect but not likely to adversely affect spring chinook salmon. The Klamath Tribe and the Conferated Tribes of Grand Ronde, Siletz, and Warm Springs were also contacted during the planning process. No comments were received back from the Tribes or ODFW.

On October 23, 2006, The Niner EA was made available to the public and other agencies for a 30-day public review and comment period pursuant to 36 CFR 215, by legal notice in The Register Guard, Eugene, Oregon, the newspaper of record for the Willamette National Forest. A letter was also sent to people who have participated in the environmental analysis process notifying them of the 30-day public review and comment period. Two letters and a one phone call were received as a result of the mailing and newspaper legal notice. My decision was made considering these comments.

Oakridge High School, Transportation Supervisor, expressed a concern about haul routes and school bus routes on the High Prairie Road.

**Response: The EA on page 182 addressed log truck traffic and its potential effects on public safety. Timber sale contract provisions will ensure the application of measures for public safety and traffic control devices that meet the requirements of highway safety standards. These standards require the use of pedestrian and vehicle traffic control devices, such as signs, pavement markers, and pedestrian signals, to reduce pedestrian/vehicle conflicts. The Middle Fork Ranger District will also notify the school district when timber haul will occur on the High Prairie Road.**

Jacob Groves, of the American Forest Resource Council, expressed concerns on economically viable sales, using low cost logging systems, yarding top and limbs with helicopter yarding system, create small patch cut to provide early successional habitat (forage area) for big game, allowing more winter harvesting on improved roads to extend operating seasons because of seasonal wildlife restrictions and fire season restrictions.

**Response: The selected alternative has the lowest logging cost per acre. The economic viability of the project was evaluated on pages 174-176 of the EA. The project will be packaged into about seven timber sales which take into consideration the logging systems, haul routes, and timber volumes to make economical viable timber sales. The objective of yarding tops and limbs is to meet Forest Plan Standards and Guidelines for fine fuels. The cost of yarding tops and limbs with helicopter is less than having crews hike in to units and hand piling and burning. The silvicultural prescription includes**

**creating opening and gaps by releasing dominant trees. These openings provide forage areas for big game. Winter harvesting and haul opportunities were considered and a proportion of the sale areas will allow winter logging. The resources and road conditions and the length and location of temporary road were used to determine these winter haul routes (See EA, pages 35-36).**

Doug Heiken, of Oregon Wild, had concerns about the deficit of late successional habitat, spotted owls, thinning in older plantations, short versus long term habitat impacts and benefits, surveys for red tree voles, soil standards, yarding tops and branches, closing roads, coarse woody debris, opening and gaps, log hauling time period, invasive plants, soil tillage, and Aquatic Conservation Strategy.

**Response: The concerns expressed by Mr. Heiken were addressed in the EA and properly disclosed. The selected alternative includes several mitigation measures and project design criteria specially to address the concerns he raised. Late successional habitat and spotted owls were analyzed on pages 82-90. The effects of thinning were analyzed on pages 151-162. Short versus long term habitat impacts and benefits were analyzed throughout the entire Chapter 3 pages 55 to 190. All units included in this decision are less than 80 years old and are consistent with the applicable Survey and Manage species requirements. The soils impacts were analyzed on pages 55-70. Yarding tops and branches and the effects on soil productivity was analyzed on pages 68-69. Temporary roads closure prescriptions are disclosed on page 31. Existing roads closure prescriptions are listed in Table 8 page 33-34. Coarse woody debris was analyzed on pages 75-80. Opening and gaps will be created by releasing dominant trees (EA, page 156 and Silvicultural Prescription, page 35). Year round haul will only be permitted on roads with suitable amounts of rock aggregate (Table 9 page 35). Invasive plants were analyzed on pages 163-167. Soil tillage was discussed on page 40 and 55. The Aquatic Conservation Strategy was discussed on pages 142.**

The Middle Fork interdisciplinary team response to all comments addressing the site specific actions and adequacy of analysis in the EA is documented in the Niner EA Project Record. Responses to comments are available upon request by contacting the Middle Fork Ranger District office.

## **Finding of No Significant Impact**

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effects on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my findings on the following:

### **Context:**

*"The significance of an action must be analyzed in several contexts such as society as a whole, the affected region, the affected interests, and the locality.....in the case of site-specific actions (such as this one), significance would usually depend on the effects at the locale rather than the world as a whole".*



The Niner Project implements direction set forth in the Willamette National Forest Plan as amended by the Northwest Forest Plan. The Willamette National Forest is one of nineteen National Forests in the Pacific Northwest Region. The selected alternative of the Niner Project will affect less than 0.2 % (3,328 out of 1,700,000 acres) of the Willamette National Forest. This proposal to commercial thin equates to less than one given fiscal years (50 MMBF) probable sale quantity to be sold by Willamette National Forest. The selected alternative will affect about 2 % (3,328 out of 158,200 acres) of the North Fork of the Middle Fork of the Willamette River watershed. Timber harvest has been occurring in the North Fork of the Middle Fork watershed for the past 90 years. Over that period of time an average of about 3,500 acres per decade of regeneration harvest has occurred. In the context of past management actions, this amount of commercial thinning is not a significant amount and will have a negligible effect upon the watershed's functions and values, the Forest's timber inventories, and the county's economy.

The Niner Project proposes to commercial thin 60-80 year old timber stands in the Huckleberry Flats area. A majority of the stands were re-established after the railroad logging operations in the 1920's to the mid 1940's. The commercial thinning affects about 26% (3,328 out of 12,872 acres) of the Niner project area. The selected alternative improves growth and maintains health of stands and rehabilitates compacted soils. The impacts of the project, while noticeable, are relatively minor, compared to the impacts of the past harvest practices. Therefore, the effects of the selected alternative on the resources and species within the project area or at scales larger than the project area are not significant as disclosed in Chapter 3 of the EA.

**Intensity:**

*1) Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on the balance the effects will be beneficial.*

The effects of the proposed actions will be both beneficial and adverse, as documented in Chapter 3 of the EA, pages 55 to 190, but not significantly so. The action would increase soil compaction on some areas but would mitigate and rehabilitate the overall detrimental soil conditions from past logging practices to within Forest Plan Standard and Guidelines on all but two of the proposed commercial thinning units (EA, page 62). The commercial thinning would create quality forage for big game habitat and reduce open road density to improve habitat conditions (EA, page 72). Some loss or disturbance of coarse woody debris habitat is expected from the harvest activities which would be mitigated with the replacement of created snags and down wood (EA, page 78). The action would cause a short-term degrade or downgrade of spotted owl habitat while in the long term having a beneficial effect on development of habitat conditions (EA, page 90). Many other species (i.e. fisher, various salamander species, shrews, red tree voles, cavity excavators, martens, and neo-tropical migrant land birds) would also be affected by short term habitat disturbance and degradation with the corresponding long term beneficial effects of the development of late-successional forest conditions (EA, pages 91-100). Post thinning fine fuel loading could affect fire behavior by temporarily increasing fire intensities and rate of spread. Fuel treatments would mitigate this effect by reducing fine fuel loadings. Thinning and fuel treatments creates long term beneficial effects by breaking up the continuity of the fuels and reduces the future fire intensity and resource impacts (EA, page 114). The action would have some short-term adverse impacts to water quality and fish habitat from sedimentation as a result of the road

maintenance, road closures, and yarding operations (EA, pages 127-132). The proposed road maintenance and road closures could increase (though by a small amount) the likelihood of sediment entry into the stream channel system while also providing the opportunity to provide maintenance of roads to assure they will not become future sources of sedimentation. Other contrasting adverse and beneficial impacts are the soil disturbance that create conditions which are susceptible to spread of invasive weeds and the proposed control treatments to mitigate the spread of invasive weeds (EA, page 165), the temporary adverse effects of noise and traffic from the logging operations in the Wild and Scenic River recreation corridor and the long term beneficial effects of thinning stands to create late-successional forest conditions (EA, pages 178-182). The analysis shows there would be some socio-economic benefit from the revenues produced from the sale of timber to the local communities (EA, page 174), and the proposal provides the opportunity to fund other sale area improvements and resource restoration activities (EA page 192).

2) *The degree to which the proposed action affects public health or safety.*

The yarding of the trees and the log truck traffic may affect the safety of recreationists along Road 1900, recreationists in the Huckleberry Flats OHV trail area, and landowners and the general public along Road 1928 and the High Prairie area. Several units are proposed to be helicopter yarded to a landing on the opposite side of the North Fork of the Middle Fork of the Willamette River. Also, the majority of the timber will hauled down the Road 1928 and through the High Prairie area. The helicopter yarding presents the danger of a log falling and possibly hitting the road or the river. The increased log truck haul traffic creates a danger and noise disturbance to landowners and general public driving the roads in the area. Public safety has been addressed by mitigating measures requiring signing and traffic flaggers on all logging operations which involve helicopter yarding over the main Road 1900 and requiring a operators safety plan and/or restricting logging operations to the weekdays to avoid conflicts with weekend recreationists and nearby residences (EA, pages 44-45).

Air quality will not be significantly affected because any fuels reduction burning treatments will be carried out in compliance with the State of Oregon's Smoke Management Plan, (EA, pages 120-121). Water quality will not be significantly affected because beneficial uses of the streams will be fully protected in a manner consistent with the Aquatic Conservation Strategy outlined in the Northwest Forest Plan (EA, page 142).

The project will not result in any adverse human health and/or environmental effects that disproportionately impact minorities and low income populations as defined in Executive Order #12898 (EA page 189).

3) *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.*

There are no historic resources, park lands, or prime farmlands, within, adjacent to, or affected by the project.

About 2,000 acres of the 12,872 acres Niner project area are within the lower portions of the recreation segment of the river corridor of the North Fork of the Middle Fork of the Willamette Wild and Scenic River (Forest Plan Management Area 6e). The Outstanding Remarkable Values (ORVs) of: Water Quality, Scenic, Recreation, Geologic/Hydrologic,

Vegetation/Ecology, Historic, Fish, and Wildlife were evaluated (EA page 176-179). The Niner project would not have adverse impacts on any of the eight ORVs that have been identified for this Wild and Scenic River (EA, page 180). Actions are consistent with the North Fork of the Middle Fork of the Willamette Wild and Scenic River Plan.

A cultural resource survey has been completed on all proposed treatment units. Several areas containing these resources have been identified. The action avoids or excludes these areas from any management activities, mitigates the effects by protecting the sites with down logs, and/or minimizes the sites disturbance with yarding log suspension requirements. The proposal will have no adverse effects to cultural resources (EA, pages 203-204). The surveys were conducted according to an inventory plan approved by the Oregon State Historic Preservation Office (SHPO). This inventory is consistent with an agreement between the USDA Forest Service R6/PNW, Oregon SHPO, and the advisory council on historic preservation. A provision will be included in the timber sale contract to provide for protection of this resource in the event that new material is discovered during ground disturbing activities.

Several special habitats consisting of hardwood inclusions, scattered small wetlands and drier non-forested openings are located in the project area. Unique natural features such as these are designated as special habitats in the project area are excluded from any physical disturbance. Therefore, no adverse direct, indirect, or cumulative effects on naturally occurring special habitats are anticipated as a result of implementation.

The project area contains about 306 acres of Late Successional Reserves (Management Area 16B). The action does not propose activities in or adjacent to this Management Area therefore it does not affect this land allocation.

The vegetation and topography of this area is typical of the Middle Fork Ranger District and no known ecologically critical areas occur. Due to the above reasons and conditions, there will be no significant impact to the human environment in regard to these unique geographic characteristics.

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

The Niner analysis is based upon the best available scientific information and site-specific data. Models and methods used to estimate the effects presented in Chapter 3 of the EA are widely used in similar analyses and have been reviewed by the research and academic communities. I am not aware of any credible, peer reviewed scientific questioning of the methods used in this analysis, nor of its results.

Some members of the public are philosophically opposed to commercial harvest on federally managed forestlands. This opposition is expressed by questioning the accuracy or procedural correctness of various analyses. To these people, the results of any environmental analysis documenting the effects of timber harvest or commercial thinning is viewed to be not credible, therefore these management actions are perceived to be controversial.

I find that there is no known controversy surrounding the scientific basis for the estimation of effects of the proposed commercial thinning and road maintenance presented in the Niner Project EA.

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

We have considerable experience with the types of activities to be implemented with this decision. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk. Similar types of timber harvest activities, fuel treatments, road work, and other connected actions have been occurred previously on the Willamette and on other National Forests. No impacts to the human environment that are highly uncertain or involve unique or unknown risk have been identified in Chapter 3 of this analysis (EA, pages 55-194).

6) *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.*

Given the long history of timber management in this area and the current Forest Plan land allocations, the selected actions will not establish a precedent for future actions.

The Forest Plan is the vehicle that makes decisions in principle about future considerations. Future projects to implement the Forest Plan direction will be analyzed in separate NEPA planning processes. Decisions based upon the Niner Project analysis will not directly affect how such future decisions may be made.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

The analyses presented in Chapter 3 of the EA constitute an evaluation of cumulative impacts of the Niner proposed actions. The discussions include effects of past, present, future foreseeable actions in addition to those of the selected alternative (detrimental soil conditions (EA, page 70), big game habitat (EA, page 74), coarse wood debris (EA page 79), northern spotted owls and other threatened, endangered, and sensitive species (EA, pages 88-89, 91-99, Biological Evaluations in Analysis File), Survey and Manage species (EA, pages 99-103), Management Indicator species (EA, pages 103-108), land birds including neotropical migratory birds (EA, pages 108-110), fuel loadings (EA, pages 118-119), air quality (EA, pages 121-122), soil erosion, turbidity, and peak flows (EA, page 134), riparian management (EA, pages 141-142), fisheries (EA, pages 149-150), vegetation (EA, page 161-162), invasive weeds (EA, pages 167), special habitat (EA, page 173), economics (EA, page 175), Wild and Scenic Rivers (EA, page 179-180), Huckleberry Flats Off Highway Vehicles trail area (EA, page 181), and public safety (EA, page 182). All these effects are within the levels anticipated by the Willamette National Forest and the Northwest Forest Plans. Appendix B of the EA provides a complete listing of past, present, and foreseeable activities in the watershed. The North Fork of the Middle Fork of the Willamette River Watershed Analysis (WA) is incorporated by reference (EA, page 8). This WA presents a comprehensive analysis of the watershed conditions that provides a contextual basis of cumulative effects. No significant direct, indirect, or cumulative impacts to soil, wildlife, fuel loadings, air, water, fisheries, vegetation, recreation, and public safety or other components of the human environment are anticipated.

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

An appropriate review has been conducted by this undertaking, and no significant property (s), which may be eligible for inclusion in the National Register Historic Places, were found to be present in the project area.

This document meets the requirements of Section 106 and 110 of the National Historic Preservation Act.

Cultural resources have been surveyed (as mentioned in Item 3). The proposal will have no adverse effects to cultural resources (EA, page 203).

9) *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.*

The Niner Biological Evaluations (BE) and Biological Assessments (BA) address the effects upon endangered and threatened species and their habitat. The summary of the effects to threatened northern spotted owl is found in the EA (pages 82-90). A small percentage <1% of the project area is located within the USF&WS designated Critical Habitat Unit (CHU) OR-18. The action would involve short-term degrading and downgrading of dispersal and suitable habitat for spotted owl. The effects determination for the heavy thinning that downgrades suitable habitat is a “may affect, likely to adversely affect” northern spotted owls or its designated critical habitat (EA, page 90). Light/moderate thinning or heavy thinning that degrades dispersal habitat is a may affect, not likely to adversely affect northern spotted owls. The commercial thinning operations would create a potential noise disturbance to owls during the nesting season that is mitigated with a seasonal restriction. The effects determination for noise disturbance is a may affect, not likely to adversely affect northern spotted owls. Formal consultation with USF&WS as required by Section 7 of the Endangered Species Act was completed and a Biological Opinion for this finding is located in the Analysis File. Term and Conditions recommended in the Biological Opinion that are applicable have been incorporated into project design and mitigation measures.

North Fork of the Middle Fork of the Willamette River provides habitat for spring chinook salmon and bull trout, two ESA-listed fish species. Only the spring Chinook salmon are currently found in the river. The finding of the Biological Assessment (BA) for the selected alternative is a “not likely to adversely affect” spring chinook salmon and bull trout (EA page 149). Formal consultation was completed with the National Oceanic and Atmospheric Administration (NOAA) - Fisheries Division and US Fisheries and Wildlife Service and letters of their concurrence for this finding is located in the Analysis File.

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

As mentioned in the EA on page 10, this project is in compliance with all Federal and State laws relating to environmental protection. A summary of how this project and the design of alternatives comply with the federal and state laws can be found in Appendix A of the EA. The proposed action meets State air and water quality standards and complies with all regulations in the National Historic Preservation Act, National Environmental Policy Act, Endangered Species Act, National Forest Management Act, Clean Air Act, and Clean Water Act.

This finding is based on how the Niner Project environmental assessment was prepared in accordance to Forest Plan Management Areas and Standards and Guidelines, State air quality standards (EA, page 120), water quality and beneficial uses (EA, page 122-143) Threatened, Endangered, and Sensitive species (EA, pages 81-99, 149, 168-171), National Forest Management Act requirements for suitability for timber growth (Silvicultural Prescription, page 33 in Analysis File), and with various recent Executive Orders (EA, pages 189, and Appendix A).

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

This decision to implement Modified Alternative A is consistent with the intent of the Forest Plan's long term goal and objectives listed on pages IV-2 to IV-44. The project was designed in conformance with the Land and Resource Management Plan Standards and Guidelines and incorporates appropriate guidelines for Management Areas 6E, 14A, 15; where activities will occur implementing this decision (EA, pages 5-9).

This decision is consistent with all applicable Acts and Regulations such as the National Forest Management Act (NFMA) of 1976, National Environmental Policy Act (NEPA) of 1969, Endangered Species Act (ESA) of 1973, Clean Water Act (CWA) of 1972 and section 319 of the 1987 CWA, Civil Rights Act (CR) of 1964, Title VI and Environmental Justice (EJ) Executive Orders 11988 and 11990, The Preservation of Antiquities Act of June 1906 and the National Historic Preservation Act of October 1966, Executive Order 12962 on Recreational Fishing, and Executive Order 13186 on Neotropical Migratory Birds (EA, Chapter 3 and Appendix A).

In addition, the August 1, 2005, and January 9, 2006, U.S. District Court orders in the Northwest Ecosystems Alliance et al. v. Rey et al (NEA), Civ. No.04-844, WD Wash, set aside the 2004 Record of Decision (ROD) to Remove or Modify the Survey and Manage Mitigating Measures Standards and Guidelines. The Court re-instated the January 2001 ROD for Amendments to the Survey and Manage, Protection Buffer, and other Mitigating Measures Standards and Guidelines, as amended by the 2001 and 2003 Annual Species Reviews. On October 11, 2006, the U.S. District Court modified its order amending paragraph three of the January 9, 2006 injunction. This most recent order directs:

"Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004), except that this order will not apply to:

1. Thinning projects in stands younger than 80 years old;
2. Replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned;
3. Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions; and
4. The portions of project involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging will remain subject to the survey and management requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph.”

All but four of the commercial thinning units in the Niner Project are younger than 80 years old (EA, page151-155) and meet exception #1.

I am also aware of the November 6, 2006, Ninth Circuit Court opinion in Klamath-Siskiyou Wildlands Center et al. v. Boody et al., (Klamath) No. 06-35214 (CV 03-3124, District of Oregon) held that the 2001 and 2003 Annual Species Reviews (ASRs) regarding the red tree vole are invalid under the Federal Land Policy and Management Act and National Environmental Policy Act as to the two Bureau of Land Management sale at issue in that case.

Although the Klamath opinion is specific to the two named BLM timber sales, I believe it is prudent to defer a decision on the four stands older than 80 years in Alternative A until there is more clarity regarding the Survey and Manage requirements for those stands (Units #15, 15A, 15C, and 16).

It is my determination that the rest of the commercial thinning units in the Niner Project (less than 80 years old) meet the Survey and Manage requirements applicable to them based on the circumstances described above.

### **Administrative Review and Appeal Rights**

This decision is subject to appeal pursuant to 36 CFR 215. Only individuals or organizations that submitted comments during the comment period may appeal. Notice of Appeal must meet the requirements of 36 CFR 215.14. Appeals can be submitted in several forms, but must be received by the Appeal Deciding Officer, Forest Supervisor within 45 days from the date of publication of this notice in the *Register-Guard*, Eugene OR. Appeals may be:

- 1) Mailed to: Appeal Deciding Officer, Forest Supervisor; ATTN: APPEALS, P.O. Box 10607; Eugene, OR 97440;
- 2) E-mailed to: [appeals-pacificnorthwest-willamette@fs.fed.us](mailto:appeals-pacificnorthwest-willamette@fs.fed.us). Please put APPEAL and **name of project** in the subject line;
- 3) Delivered to: Willamette National Forest, Supervisors Office at 211 E. 7th Ave, Eugene, OR between the hours of 8 am and 4:30 pm, M-F; or
- 4) Faxed to: Willamette National Forest, Supervisors Office, ATTN: APPEALS at (541) 225-6222.

## Implementation

This decision to commercial thin is scheduled to start implementation in the late summer or fall of 2008.

Volumes, acreages, and mileages discussed in project documents are approximations based upon preliminary project design. Minor adjustments may be made to unit boundaries and unit acreages during sale layout. The Interdisciplinary Team which did the Niner analysis will review any major differences between the specifications in the EA and the final layout to determine if the environmental effects or resulting environmental conditions will be different than those disclosed in the EA. If so, the procedures described in FSH 1909.15, section 18.4, Reconsideration of Decisions Based upon an EA, will be followed.

If no appeal is filed, the USDA Forest Service may implement the Niner Project five days after the close of the forty-five day appeal period, which starts on the date the legal notice announcing the decision appears in the *Register-Guard*, Eugene, Oregon. If an appeal is filed, implementation of this decision will occur 15 days following the date of the appeal disposition.

For further information concerning the Niner project contact Gary Marsh, Resource Planner at the Middle Fork Ranger District office; telephone number (503) 782-5233 during normal business hours.

Approved by:

*/s/ Chip Weber*

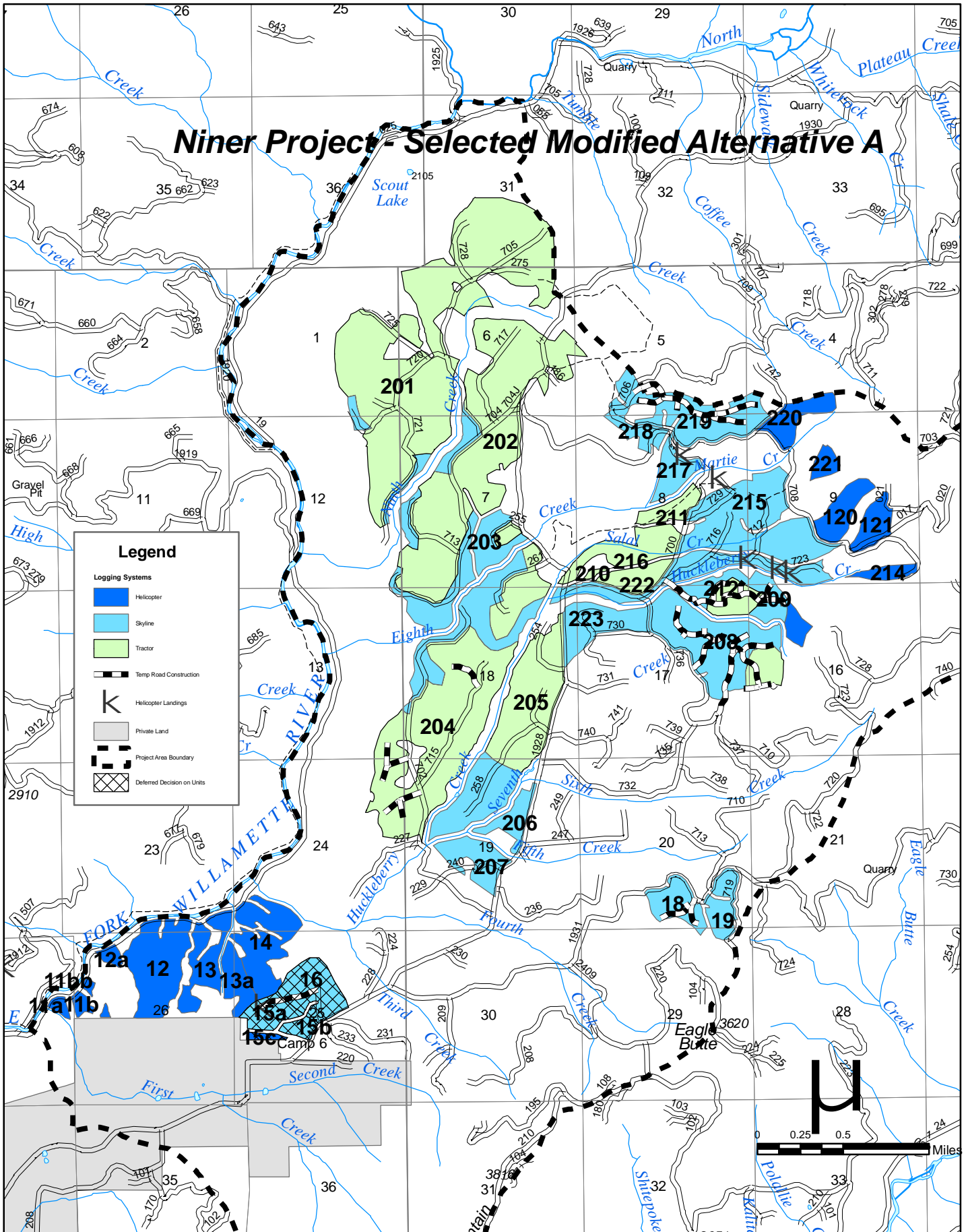
Chip Weber  
District Ranger  
Middle Fork Ranger District  
Willamette National Forest

*1/19/2007*

Date



# Niner Project - Selected Modified Alternative A



**Legend**

**Logging Systems**

- Helicopter
- Skyline
- Tractor

Temp Road Construction

Helicopter Landings

Private Land

Project Area Boundary

Deferred Decision on Units

