



United States
Department of
Agriculture

Forest
Service

National Forests in
North Carolina

160A Zillicoa Street
P.O. Box 2750
Asheville, NC 28802

File Code: 1950-1

Date: June 17, 2008

Dear Interested Citizen:

I have signed the Decision Notice (DN) and Finding of No Significant Impact (FONSI) for the Haywood Electrical Membership Corporation Herbicide Right-of-Way Maintenance Project Environmental Assessment (EA). Enclosed you will find a copy of the DN/FONSI and Appendix E – Response to Public Comments. Due to the size of the EA and Appendices, I am making it available on our web site: www.cs.unca.edu/nfsnc/nepa/nepa.htm.

This decision is subject to appeal pursuant to 36 CFR 215.11. Pursuant to 215.13 and the recent *The Wilderness Society v. Rey* ruling, those who provided comments or otherwise expressed interest in the proposal by the close of either of the two formal Notice and Comments periods may file and appeal on this decision. Appeals must meet content requirements of 36 CFR 215.14. A written appeal, including attachments, must be postmarked or received within 45 days after the date this notice is published in *The Asheville Citizen-Times*, the national Forests in North Carolina's newspaper of record as per 214.(b)(2)(i). The appeal should be sent within 45 days of the date of the legal notice to:

USDA, Forest Service
Attn: Appeals Deciding Officer
1720 Peachtree Rd, N.W., Suite 811 N
Atlanta, GA 20209-9102

Appeals may be faxed to (404) 347-5401. Hand-delivered appeals must be received within normal business hours of 8:00 a.m. to 4:30 p.m. Appeals may be also mailed electronically in a common digital format to: appeals-southern-regional-office@fs.fed.us

Pursuant to 215.7(2)(ii), the legal notice in the newspaper of record is the exclusive means for calculation the time to file an appeal [215.15(a)]; those who wish to appeal should not rely upon dates or timeframe information provided by any other source.

For further information on this decision, contact Ray Johns at 828-257-4859.

Sincerely,


for MARISUE HILLARD
Forest Supervisor

Enclosures





United States
Department of
Agriculture

Southern Region
Forest Service

June
2008



Haywood Electrical Membership Corporation Herbicide Right-of-Way Maintenance Project

Decision Notice

And

Finding Of No Significant Impact

Nantahala Ranger District, Nantahala National Forest &
Pisgah Ranger District, Pisgah National Forest

Buncombe, Haywood, Jackson, Macon, and Transylvania Counties, North Carolina

Decision Notice
& Finding of No Significant Impact

Haywood Electrical Membership Corporation
Right of Way Maintenance Project

USDA Forest Service
Nantahala Ranger District, Nantahala National Forest &
Pisgah Ranger District, Pisgah National Forest
Buncombe, Haywood, Jackson, Macon, and Transylvania Counties, North Carolina

Decision and Rationale

Decision

Based upon my review of the alternatives, I have decided to select **Alternative B** (Selected Alternative) of the Haywood Electrical Membership Corporation (EMC) Right of Way Maintenance Project Environmental Analysis & Biological Evaluation (June 2008 EA&BE – see Section 1.3.1) on the Nantahala Ranger District, Nantahala National Forest and the Pisgah Ranger District, Pisgah National Forest.

My decision will issue an herbicide spraying permit to Haywood EMC. The permit will allow Haywood EMC to use selective, low-volume herbicide application in conjunction with mechanical trimming in the maintenance of approximately 60 miles of powerline right-of-way on National Forest System (NFS) lands in western North Carolina (see Section 2.2.2 and Appendix B, EA&BE). My decision is also subject to project design features listed below and Material Safety Data Sheets (MSDSs) disclosed in Appendix A of the EA&BE. The Selected Alternative includes initial mechanical trimming of woody vegetation. Regenerating woody vegetation will be treated with foliar application of Habitat (Imazapyr) and Accord (Glyphosate) during summer. Retreatment during winter with basal and/or cut-stump application of Garlon 4 (Triclopyr) and Stalker (Imazapyr) will also be used on an as-needed basis. However, basal and/or cut-stump retreatment is often not necessary in instances where selective, low volume foliar herbicide application achieves the desired vegetation management results. Consistent with the Forest Plan, no herbicide application will occur within 100 feet on either side of perennial streams or lakes, or within 30 feet of perennial streams when the riparian

area has been delineated on the ground per USFS guidelines. Although no aquatic herbicide application will occur under this project, both Habitat and Accord are approved for aquatic application; this measure further insures that any aquatic resources within the project area will not be impacted by the proposed action.

The following project design features will be incorporated as part of my decision and are in addition to those disclosed in Section 10.0 of the EA&BE:

1. The permit holder is authorized to utilize the following treatment for the maintenance of power lines: initial mechanical trimming of woody vegetation. Regenerating woody vegetation would be treated with foliar application of Habitat (Imazapyr) and Accord (Glyphosate) during summer. Retreatment during winter with basal and/or cut-stump application of Garlon 4 (Triclopyr) and Stalker (Imazapyr) could also be used on an as-needed basis.
2. Only hardwood tree species capable of interfering with the power lines will be treated. Dogwoods, mountain laurel, rhododendron, witch hazel, grapes, hawthorns, elderberry, crab apples, wild plum, alder species, and native warm season grasses will not be treated. Manual treatment of these species will be allowed to cut a small path through impenetrable thickets for worker access.
3. To protect sensitive aquatic and terrestrial habitats, the following sections will not be treated using herbicide application in accordance with the maps in Appendix B of the EA&BE:
 - a. Segment 2, Wolf Creek
 - b. Segment 17, Sedgefield Branch
 - c. Segment 26, Shining Rock Wilderness

- d. Segment 29, Mt. Pisgah State Natural Heritage Area (SNIA)
 - e. Segment 30, Flat Laurel Bog SNHA Managed by Blue Ridge Pkwy.
 - f. Segment 39, Dismal Falls Special Interest Area
4. All new lines added to the parent permit will be evaluated at the time of the request for inclusion into this program unless the permit holder specifically requests that it not be included or there is an obvious conflict with Forest Plan standards.
 5. The holder shall be responsible for prevention and control of soil erosion and gulying on lands covered by this authorization and adjacent thereto, resulting from the operation, maintenance, and termination of the authorized use. The holder shall so maintain permitted improvements to avoid the accumulation of excessive heads of water and to avoid encroachment on streams. The holder shall revegetate or otherwise stabilize all ground where the soil has been exposed as a result of the holder's maintenance, operation, or termination of the authorized use and shall construct and maintain necessary preventive measures to supplement the vegetation.
 6. Directed treatment via a backpack sprayer will be utilized; no broadcast treatments (aerial or land based) will be used.
 7. Herbicide application will not occur when the ambient temperature is above 98°F, humidity is below 20%, or wind speed exceeds 15 mph. Herbicides will be applied to the windward side of target vegetation to avoid drift onto the herbicide applicators.
 8. Distance from the nozzle to target vegetation will not exceed 24 inches.
 9. Applicators must wear personal protective equipment (PPE) as prescribed on the product labels.
 10. Herbicide tank mixes will be premixed at the supplier's location in reusable containers. No galvanized steel or unlined steel (except stainless steel) containers will be used. No concentrate will be handled in the general area. No field mixing will be conducted.
 11. Only the amount of herbicide needed for the day's use will be brought on site. All unused herbicide will be returned to storage.
 12. Field loading of herbicide will not occur within 200 feet of private land, public or domestic water sources or other sensitive areas.
 13. Equipment will be checked daily for leaks.
 14. Accident preplanning and emergency spill plans will be prepared and located on-site during application. Herbicide product labels will be kept on-site during application. These documents will be readily available to the application crew. Water-filled eyewash bottles will be on-site and readily available to applicators.
 15. Herbicide product labels will be adhered to at all times, in accordance with federal law.
 16. No herbicides will be applied within 100 feet of perennial streams, to rock outcrops, or within 100 horizontal feet of any public or private water sources. Herbicide application will be terminated during periods of rainfall or when rain is imminent.
 17. No herbicide will be applied within 30 feet of any known threatened, endangered, or sensitive plant species.
 18. The permit holder shall ensure that all activities comply with the North Carolina Pesticide Law of 1971 (1971, c. 832, s.l.). The applicator/crew supervisor must be licensed by the State of North Carolina in accordance with NCAC 09J. 0503. The licensed applicator/crew supervisor is required to be on-site, directly supervising the crew at all times.
 19. Training will be provided to each member of the crew and specifically include the proper use, storage and transporting of herbicides; identification of NIS lands to be treated; and the identification of native plant species as listed above.
 20. The permit holder will notify the District Ranger a minimum of three months in advance of the areas to be treated each calendar year. Such notification shall include the submission of Forest Service Form No. FS-2100-2, Pesticide – Use Proposal. In turn, the Forest Service will notify the permit holder within 30 days of treatment if there are any special considerations that need to be taken into account prior to the treatment of the area.
 21. The permit holder will access utility corridor utilizing existing roads and trails. The use of heavy equipment is prohibited unless authorized in advance by the District Ranger. Under no circumstances shall vehicles be utilized off-road within riparian areas or within the 100 foot buffer zones.
 22. During the extent of this project, the permit holder will visually monitor non-native invasive plant species detecting any of the following

species within table 1 of the Operating Plan. If they are present within the utility corridor, control and/or eliminate them with previously approved herbicides. Effective control efforts will require annual inspection and re-treatment, for at least 2-3 years, if not longer. Coordinate with the NFsNC invasive plant coordinator annually for an updated non-native invasive plant species list. Also provide data to the coordinator on non-native plant species controlled, GPS location of control area, approximate size of treated area, date of initial control, and inspection for effectiveness of control.

My decision is based on a review of the project record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

Rationale

Purpose & Need

The purpose of this action is to evaluate selective herbicide application in conjunction with mechanical trimming for power line right-of-way maintenance across National Forest System (NFS) lands. Haywood EMC has a Special Use permit for approximately 60 miles of right-of-way within the Pisgah and Nantahala National Forests and six miles within the Sumter National Forest in South Carolina – the six miles on the Sumter National Forest is not part of my decision. All of the right-of-way on NFS lands is currently maintained solely by mechanical methods, at considerable cost to Haywood EMC customers. By using a combination of mechanical trimming and herbicide application, the frequency of mechanical trimming can be decreased, thereby reducing costs associated with right-of-way maintenance on NFS lands.

Haywood EMC is a member-owned electric utility serving members in Haywood, Buncombe, Macon, Jackson, and Transylvania Counties in North Carolina; Oconee County in South Carolina; and Rabun County in Georgia. The Cooperative's service area contains some of the most rugged, mountainous terrain in the state involving more than 2,671 miles of power lines; thus, the cost of providing electric service is more costly here, especially right-of-way clearing and maintenance.

On private land Haywood EMC mechanically trims vegetation, and then selectively sprays herbicide to help reduce growth, thereby reducing the number of trips required to mechanically trim. By including Nantahala and Pisgah NFS lands in this program, Haywood EMC will be able to continue to economically supply the most reliable power to its members while providing as safe an area around power lines as possible.

This project includes the use of selective herbicide application in conjunction with mechanical trimming for right-of-way maintenance across NFS lands. Utilities are required to manage these rights-of-way in an environmentally sound manner that does not adversely impact other National Forest resources such as water quality, wildlife habitat, visual quality, and public recreation. In addition to the economic benefits of selective, low-volume herbicide application in right-of-way maintenance, there are clear benefits to wildlife habitat. Following selective, low-volume herbicide application, plant species assemblages tend to shift toward wildflowers, grasses, forbs, vines, and brambles (such as blackberry) and away from the low-diversity, high-density, brushy regeneration of common hardwood species characteristic of repeated mechanical trimming programs. Selective herbicide application is consistent with the direction of the Forest Plan to give priority to special use requests that contribute to public safety and welfare, such as public utility rights-of-way (Forest Plan, page III-44).

I believe the Selected Alternative achieves the project's Purpose and Need as well as adheres to Forest Plan goals, direction, and standards. The project analysis also considered public concerns submitted during the 30-day notice and Comment period (see Comment Tracking sheet, project record).

In reaching my decision, I carefully weighed the effects analyses of the alternatives analyzed in detail, the public comments I received on the proposal, and the Agency's response to comments. Appropriate field surveys, database queries, and other localized analysis in were completed in order to determine effects the alternatives analyzed in detail could have on the area's ecology; including threatened, endangered, and sensitive species. During the analyses, resource professionals took a hard look at past, present, and reasonably foreseeable future actions that could be combined with expected effects from the proposal. I believe they provided me sufficient analyses and conclusions to make a reasoned decision.

My decision is based on a review of relevant scientific information as contained in the project record. I believe the effects analyses support my decision and are based on the best available science.

Other Alternatives

In addition to the Selected Alternative, I considered two other alternatives in detail: Alternative A – No Action and Alternative C – Foliar Arsenal/Krenite Application with Basal/Cut Stump Retreatment. A description of these alternatives can be found in Section 1.3.1, EA&BE.

Alternative A – No Action

This alternative would allow Haywood EMC to continue maintaining powerline rights-of-way on NFS lands via mechanical trimming on a 5-year rotation. I did not select this alternative because it would continue increased costs for reducing vegetation in the right-of-ways. As the analysis disclosed, this alternative would cost over 3½ times more per mile than either Alternatives B or C or about \$1,600,000 dollars more. Part of the proposal's purpose and need was to ensure Haywood EMC is able to economically supply the most reliable power to its members while providing as safe an area around power lines as possible—this alternative does not do that as well as Alternatives B or C.

Alternative C

This alternative proposed the same type of herbicide/manual treatment as Alternative B, but the types of herbicides are different. I did not select Alternative C because even though there will be no herbicide applied within 100 feet on either side of perennial streams or lakes, or within 30 feet of perennial streams when the riparian area has been delineated on the ground per USFS guidelines; I believe the aquatic approved formulations listed in Alternative B afford a higher level of protection to aquatic resources.

Recently herbicides were inappropriately applied by a contractor in the Davidson River corridor to reduce vegetation in a right-of-way. While uncommon, errors in permit implementation are unacceptable. Closer permit administration by USFS personnel and that power company will reduce potential for future errors. I also plan to have my staff include in the amendment to the Haywood EMC permit an updated operating plan that will improve operations to include advance notification of areas being worked in, signing areas to

let work crews know they are entering NFS lands, training crews on Forest Service permit requirements, and prohibiting the use of equipment within 100 feet of riparian areas without prior approval of the District Ranger. It should be noted that this power company has restored the area where herbicides were inappropriately applied and the USFS is in the process of developing standards similar to those noted for Haywood EMC's Operating Plan to prevent further violations.

The January EA&BE placed on the Forest's website incorrectly listed Alternative C as the preferred alternative; Alternative B should have been identified as the preferred alternative.

Alternatives Not Considered

Section 1.3.1 of the EA&BE disclosed one alternative I considered but eliminated from detailed study along with rationale for why it was not considered. Since it was not considered in detail, it was not considered in the range of alternatives for my decision.

Public Involvement

The proposal was listed in the National Forests in every edition of North Carolina's Schedule of Proposed Actions from July 2005 through April 2008. A 30-day Notice and Comment period pursuant to 36 Code of Federal Regulation (CFR) 215.5(b)(2)(i) was initiated when a legal notice was placed in the January 26, 2008, edition of *The Asheville Citizen-Times*. The January 2008 Preliminary Analysis & Biological Evaluation was placed on the Forest's website.

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 effect 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 finding on the following:

1. *Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial. My finding of no significant environmental effects is not biased by the beneficial effects of the action (Sections 4.0, 5.0, 6.0, 7.0, 8.0, 9.0, 11.0, and 14.0 EA&BE).*
2. *The degree to which the proposed action affects public health or safety. There will be no significant effects on*

public health and safety and implementation will be in accordance with project design features, and for herbicide use will adhere to Material Safety Data Sheets and Product Labels (Section 9.0 and Appendix A, EA&BE).

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 will be no significant effects on unique characteristics of the area, because there are no park lands, prime farmlands, wetlands, or wild and scenic rivers in the project area. There would be no herbicide applied within Segment 2, Wolf Creek; Segment 17, Sedgfield Branch; Segment 26, Shining Rock Wilderness; Segment 29, Mt. Pisgah SNHA; Segment 30, Flat Laurel Bog SNHA Managed by Blue Ridge Pkwy; and Segment 39, Dismal Falls Special Interest Area ensuring ecologically critical areas would not be impacted (Section 2.2.2, EA&BE).
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Controversy with this element is related to scientific controversy about effects of the project. I believe the degree of effects on the quality of the human environment are not expected to be highly controversial because this project is similar in design and intensity to others that have taken place on the Forest in the past (Nantahala Power and Light, 1996) and effects of those similar past actions are well known. (Sections 4.0, 5.0, 6.0, 7.0, 8.0, 9.0, 11.0, and 14.0, EA&BE).
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. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk (Sections 4.0, 5.0, 6.0, 7.0, 8.0, 9.0, 11.0, and 14.0, EA&BE).
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.* The action is not likely to establish a precedent for future actions with significant effects, because the project is site specific and effects are expected to remain localized and short-term (Sections 4.0, 5.0, 6.0, 7.0, 8.0, 9.0, 11.0, and 14.0, EA&BE).
7. *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. Analyses disclosed for each resource that cumulative impacts are not expected to be measurable, long-term, or could combine with impacts of other past, ongoing, or reasonably foreseeable future actions in the LAs (Section 5.0, EA&BE).

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.* No ground-disturbing activities will occur under the No-Action or action alternatives. For this reason, no historic or archaeological resources will be impacted within the activity areas (Section 8.0, EA&BE). The North Carolina State Historic Preservation Office considered this project as an Exempt Undertaking and there were no concerns noted.
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 of 1973.* The EA&BE concluded: *This project will have no effect on any federally listed threatened or endangered species. Consultation with the USFWS is not required* (Section 7.0, EA&BE).
10. *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. Applicable laws and regulations were considered in the EA. The action is consistent with the Nantahala and Pisgah National Forests Land and Resource Management Plan Amendment 5 (Section 1.1, EA&BE).

Findings Required by Other Laws and Regulations

My decision to implement the Selected Alternative is consistent with the intent of the long-term goals and objectives listed on pages III-1 and III-2 of Forest Plan Amendment 5. The project was designed to meet land and resource management plan standards and incorporates appropriate land and resource management plan guidelines (Section 1.1, EA&BE).

Administrative Review and Contacts

This decision is subject to appeal pursuant to 36 CFR 215.11. Pursuant to 215.13 and the recent *The Wilderness Society v. Rey* ruling, those who provided

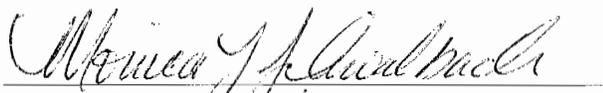
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For further information on this decision, contact Ray Johns at 828-257-4859.



MARISUE HILLIARD for
Forest Supervisor
National Forests in North Carolina

Implementation Date

As per 36 CFR 215.9, if no appeal is received, implementation of this decision may occur on, but not before, the 5th business day following the close of the appeal-filing period (215.15). If an appeal is filed, implementation may occur on, but not before the 15th business day following the date of appeal disposition.



Date