

DECISION MEMO
NIELSEN BROS. MARTIN CR. TIMBER ACCESS ROAD
U.S. FOREST SERVICE
MT. BAKER SNOQUALMIE NATIONAL FOREST
SKYKOMISH RANGER DISTRICT
KING COUNTY, WASHINGTON

BACKGROUND

The Forest Service is proposing to issue a 3-year special use permit to Nielsen Brothers, Inc. to reopen an old road prism, and construct a temporary spur road, log landing, and yarding corridors, in order to harvest timber and conduct reforestation activities on private land. A special use permit is required to facilitate legal and adequate access to a private timber company's land per Section 1323 of the Alaska National Interests Land Conservation Act (ANILCA).

A single-lane logging road with turnouts would be reconstructed upon an existing road prism, approximately 3,000 feet (0.57 mile) and 40 feet wide (this road prism was left in storage after the Forest Service completed timber harvests in the area during the 1990s). One new short spur road is proposed, which would be approximately 100 ft. or less and 40 feet wide, to extend the road to the private property line (this would occupy 0.25 acre, including area for a truck turning radius at the intersection). A temporary 18" culvert would be installed at the intersection. Prior to reopening the existing road prism, certain targeted weed species would be treated in select locations along the right-of-way prior to construction, with EPA-registered herbicides, according to Forest Service specifications.

Two proposed yarding corridors would occupy 0.55 acre, with small diameter saplings and pole-sized trees to be removed on 0.47 acre, and approximately 15 second-growth conifers (avg. 17" d.b.h.) would be removed on 0.08 acre (4 of those trees are above 20" d.b.h.). Saplings and shrubs would be cleared from, and around the perimeter of, an existing log landing that occupies approx. 0.16 acre. Logging slash generated from clearing the yarding corridors, landing, and temporary spur road on National Forest land would be moved onto the private property and burned. After the timber harvest and reforestation is completed on the private land, the 3,000-foot logging road and 100-foot spur would be decommissioned, seeded with certified weed-free seed, and covered in weed-free straw or wood mulch, according to Forest Service specifications. Five culverts would be removed from the existing road prism, including two deep-fill culverts. Excavated material from the pulled culverts would be placed in four existing turnouts and planted with the weed-free seed mix and mulch.

LOCATION

The project is located on the Skykomish Ranger District, north of the Tye River and west of Martin Creek, in portions of NW1/4 Section 25, T.26 N., R.12 E., W.M. The project would be accessed via the Old Cascade Highway (F.S. Road No. 67), which is maintained by King County as a public road (see map).

DECISION

I have decided to issue a special use permit to authorize Nielsen Brothers to install (and decommission afterwards) the proposed improvements as described above, with the purpose of enabling a private timber company to access and manage its land holding within the National Forest boundary. Most of the project involves utilizing existing constructed features, such as the 3,000-foot logging road prism and log landing. Much of the surrounding area was logged previously by the Forest Service during the 1990s. Trees to be removed are predominantly small sapling and pole-sized conifers, and deciduous trees and shrubs.

The proponent has no other feasible way to access their land due to the steep inner gorge of Martin Creek on the east side of the property (see attached map showing subject road segments). Therefore, the preferred access route is to temporarily reopen the existing logging road to get as close as possible to the private parcel, rather than disturb a larger unroaded area across the potentially unstable inner gorge of Martin Creek.

The project area is within Late Successional Reserve (LSR), where access to non-federal lands is be considered, provided that the location and design of the access route avoids, minimizes, or mitigates to have the least impact on LSR. The project design was modified to decrease the number of yarding corridors from four to two, which will reduce the number of second-growth trees removed, reducing the area impacted. Using the 3,000-foot existing road prism, along with the above modifications will minimize impacts to LSR, in accordance with standards and guidelines in the 1994 Northwest Forest Plan Record of Decision (ROD, Page C-19).

Decommissioning the road prisms afterwards, including removing the culverts and deep fill material from steep tributary crossings will reduce the potential of road failure; a preventative measure to protect the overall health of the Tye River watershed. Full log suspension over an intermittent tributary will minimize impacts to riparian vegetation.

This action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) because the proposed action fits within the categories listed in 36 CFR 220.6(e), categories of actions for which a project or case file and decision memo are required, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

The category of action that is applicable for this project: 36 CFR 220.6(e)(3) Approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land

I have reviewed the analysis provided by resource specialists assigned to this project. I find the degree of potential effect on any of the resource conditions listed at 36 CFR 220.6(b), listed in Table 1, does not preclude use of a categorical exclusion 36 CFR 220.6. The mere presence of

one or more of these resource conditions does not impede the use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist (36 CFR 220.6(b)).

Given these findings, I conclude that there are no extraordinary circumstances that would warrant further analysis and documentation in an EA or EIS. I took into account resource conditions identified in agency procedures that should be considered in determining whether extraordinary circumstances might exist:

Table 1. Extraordinary circumstances

Resource Condition	Are They Present?	Is there a Cause and Effect Relationship between the Project and the Extraordinary Circumstance?
Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.	Yes	Project activities that involve clearing old road prism/disturbed areas would occur in non-habitat and would not remove spotted owl or murrelet suitable habitat. No spotted owl or murrelet sites/detections are within 1 mile of the project. Project activities would occur within spotted owl and marbled murrelet critical habitat. See ESA determinations below. No threatened or endangered aquatic species occur within the project area.
Floodplains, wetlands, or municipal watersheds.	No	The project area is not located within a floodplain, wetland, or municipal watershed.
Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.	No	There is no designated wilderness, wilderness study areas, National Recreation Areas, or Wild and Scenic Rivers within the project area.
Inventoried Roadless Areas or Research Natural Areas	No	There are no inventoried Roadless areas in the project area. This decision will not affect inventoried Roadless areas. There are no Research Natural Areas in the project area.
American Indians and Alaska Native religious or cultural sites.	No	There are no known American Indian or Alaska Native religious or cultural sites.
Archaeological sites, or historic properties or areas.	No	A cultural resource survey was conducted in the summer of 2019 to support the determination that there are no known archaeological sites, historic properties or areas. Concurrence was received from the State Historic Preservation Officer (letter of March 18, 2020).

MITIGATION MEASURES/PROJECT DESIGN CRITERIA

Based on the reviews conducted by resource specialists, and consultation completed with U.S. Department of Interior Fish and Wildlife Service, and the State Historic Preservation Officer the following mitigations are required.

Fish, Hydrology and Soils

1. Riparian Reserve default width for the stream (NHD mapped as intermittent) draining the southwest part of the Nielsen Bros. property is 100 feet.
2. All projects potentially affecting the beds or banks of streams, lakes, or other water bodies shall meet all conditions specified in the Washington Dept. of Fish and Wildlife Hydraulic Project Approval for the project, including in-water timing periods.
3. Most if not all yarding and haul activities are expected to occur during the Normal Operating Season (NOS), defined as June 1 to October 15. However, if extended dry season conditions occur, then yarding activities and haul may proceed beyond October 15.
4. During periods outside the NOS, yarding and haul operations may proceed with monitoring of weather and on-the-ground conditions such as saturated soil conditions to evaluate if logging operations meet project design elements and Management Requirements and Mitigation Measures.
5. Any pre-approved hauling activities occurring outside the NOS will require monitoring of conditions as follows: Implementation and effectiveness monitoring of BMPs will be implemented. BMP monitoring on haul roads (NFS system roads and temp roads), skid trails, landings, etc. plus other on-site observations of ponding, rutting, rilling, scour or sediment transport and deposition downstream of cross drains will inform when to curtail logging activities and/or take additional actions to mitigate water quality and aquatic resource impacts.
6. Yarding with full suspension is required across or over potentially unstable slopes, streams, wetlands, wet areas, and other no-cut buffers with BMPs. Whenever possible, corridors will be no more than 15 feet wide. All corridors will generally be approximately 120 feet apart. Over no-cut buffers, at least 100 feet spacing between corridors shall be maintained.
7. Areas of gouging or soil displacement on steep slopes resulting from yarding systems will be treated to prevent rill and gully erosion and possible sediment delivery to stream courses. Erosion control treatments may include, but are not limited to: repositioning displaced soil to re-contour disturbed sites; creating small ditches or diversions to redirect surface water movement; installation of coir logs along slope contours; and scattering slash material to create flow disruption and surface soil stability. These measures will be in place prior to expected seasonal periods of precipitation or runoff, and kept current during and outside of NOS.
8. Maintenance and erosion control on landings, disturbed skyline corridors, skid roads, and temporary and permanent roads will be completed prior to the onset of expected seasonal periods of precipitation or runoff, and kept current during and outside of NOS.
9. As conditions require, sediment filters (straw bales, slash filter windrow, and/or sediment fence) will be placed in ditchlines along the haul route or in areas where ground is disturbed and sediment has the potential for delivery to streams (i.e. stream crossing fills, adjacent to downhill skyline units). Sediment filters will be maintained and adjusted as

needed. Removal of sediment filters will be done when site conditions are dry, and captured sediment will be relocated locally to stable locations away from stream courses.

10. Schedule road reconstruction activities (includes rock additions) during the NOS. Additional spot rocking may be required to keep roads in acceptable condition during operational periods outside of the NOS per specifications outlined in SWF1 above.
11. New temporary roads will be located and designed to minimize disruption to hydrologic flows by:
 - Minimizing clearing limits (generally no more than 16 feet on level ground, 20 feet for curves, slightly more for steeper hillslopes);
 - Minimizing excavation of cut slopes and fill slopes; and
 - Routing drainage away from potentially unstable hillslopes, sidecast, and channels.
 - Fully decommission new temp roads after the period of use has concluded.
 - Store excess materials in hydrologically stable locations.
12. Any temporary access roads identified to remain in place over the winter (into a second year of operation) shall use drainage features (culverts and/or water bars) that would accommodate a 100-year flood and associated debris flow, including seeding and mulching of any exposed or disturbed soils.
13. Design road drainage features to hydrologically disconnect road surface runoff from stream channels and wetland areas. On roads to be closed or decommissioned, cross-drains or water bars will be installed at a maximum spacing of 400 feet where road grade exceeds 2 percent or modified with approval from an Aquatics Specialist.
14. Where existing unclassified and previously decommissioned roads will be reconstructed for temporary use, adequately address road drainage, cut slope and fill slope instability, and potential water diversions. Sidecasting of loose material is prohibited within 150 feet of aquatic resources. Excess materials will be stored in a hydrologically stable location, outside of the floodplain.
15. All decommissioned roads would be reclaimed to resist erosion, improve subsurface hydrology, improve regrowth, and deter motorized traffic. Reclamation may include: (a) improving the infiltration by decompaction to a depth of up to 18 inches where feasible, and/or outsloping towards the natural contour; and (b) stabilizing the surface by either applying mulch or by distributing slash across 70 percent of the disturbed ground surface, whichever is appropriate, and seeded with appropriate mix.
16. For road decommissioning activities, remove all fill material and man-made structures from stream channels. After removal, stream channel shall match upstream and downstream channel dimensions, channel roughness, bank shape, natural floodplain contours, and natural adjacent hillslope. Excess materials will be stored in a hydrologically stable location outside of the floodplain. Notify the Forest Service of any changes in final specifications for stream crossing removal, outsloping and road decommissioning designs.
17. Dust abatement for use on haul roads will be limited to the use of clean water or lignin.

Dust abatement will be done during extended periods of dry weather.

18. Trash and removed culverts shall be removed from National Forest System (NFS) lands and disposed of at an appropriate disposal area.
19. Heavy machinery and project service vehicles shall be free of leaks. Operators shall check heavy machinery for leaks prior to commencement of daily work. Repairs will be conducted before commencement of or continuing work.
20. Establish a Spill Prevention Control and Containment Plan (SPCCP) when total oil products storage exceeds 1,320 gallons in containers of 55 gallons or greater. Maintain a spill remediation kit onsite for any fuel stored on NFS lands in association with this project. Fuels stored on NFS lands shall be 100 feet from aquatic resources. Refueling will not take place within riparian reserves, except at designated landings in locations that are not hydrologically connected.
21. Pumps and generators shall be kept and operated on a sorbent pad or petroleum containment basin with 150% of the pumps' fuel capacity. All petroleum products will be secured in self-contained safety cans.
22. Water sources for drafting will be approved in advance by the Forest Service.

Any intake used for the drafting of water shall be screened with material that has round or square mesh openings no larger than 2.38 mm (0.094 inches or 3/32 inches) in the narrow dimension, or any other shape that is no larger than 1.75 mm (0.069 inches) in the narrow dimension. The screen shall have at least one square foot of functional surface area for every cubic foot per second (cfs) of water drawn through it. Screen maintenance shall be adequate to prevent injury or entrapment of aquatic organisms and shall remain in place whenever water is withdrawn from waterbodies through the pump intake.

With the exception of new and unused equipment, all previously used screens, pump intakes, and hoses which came in contact with a stream, lake or wetland must be disinfected prior to use on National Forest lands in order to avoid introducing aquatic invasive species. Disinfection shall be accomplished by thoroughly pressure washing screens, pump intakes, and the portions of hoses that will come into contact with the stream. Pressure washing shall be accomplished with either hot water that is 140° F (60° C) or higher for a minimum of five minutes on each component/surface, or with water that is 120° F or higher for a minimum of 15 minutes on each component/surface. If pressure washing with hot water is not feasible, an alternative method of disinfection shall be to spray and scrub the screens, pump intakes, and portions of hoses that are to come into contact with streams, lakes or wetlands with bleach or Sparquat, followed by a thorough rinsing with water. All disinfection of equipment shall not occur in areas where there is the potential for disinfectant, residues or rinse water to enter a water body.

In streams the Forest Service determines to be fish bearing: While actively drafting water, streams shall not be reduced by more than 10% of their current active surface flow.

In streams the Forest Service determines to be non-fish bearing: Drafting will not result in the total draw down and loss of current active surface flow.

Unless otherwise agreed to the Forest Service, construction of berms, dams or similar structures to improve drafting conditions within the bankfull channel is not allowed.

23. Hazard trees felled within riparian reserves not associated with vegetation treatment stands should be left on site unless leaving the tree would threaten the function of drainage structure, cause stream diversion, or prevent a safety hazard. Hazard trees felled outside of riparian reserves not associated with veg treatments should be left on site or used for restoration.

Wildlife

1. Road construction and reconstruction will not begin before July 16th. Log haul can occur before July 16th in 2021.
2. After the period of use has concluded, the temporary access road will be decommissioned in a manner that will improve vegetative regrowth and deter motorized traffic.
3. Projects located within or adjacent to suitable nesting habitat for marbled murrelets will prohibit garbage or trash from being left within a project area.
4. Notify the Forest Service wildlife biologist if there is an incidental discovery of an active raptor nest or other special status species on NFS lands during the course of activities, to determine what, if any, action(s) need to be taken. Nest sites actively being used by raptors or other bird species of special concern will be protected from human disturbance until nesting and fledging is completed. Roost areas will be evaluated for the need for additional protection. Determination of protection area and seasons should involve consultation with a wildlife biologist (LRMP 4-124[3]).
5. Any exposed pipe should be capped or screened to prevent wildlife from becoming trapped and incapable of escape from such structures. All other types of structures capable of wildlife entrapment should be properly capped or screened.
6. All ground-based cables, wires, and similar debris should be secured so that wildlife species such as deer, elk, and other smaller bodied mammals do not become entangled which may cause injury or death.
7. Excavations such as holes or other barriers to wildlife movement should be barricaded or eliminated to avoid injury or death to wildlife.

Cultural Resources

1. If a previously unidentified cultural resource is discovered during project implementation, the activity shall be stopped in the area of the find and a reasonable effort to secure and protect the resource be made. The Heritage Specialist shall be notified and the Forest would fulfill its responsibilities in accordance with the Programmatic Agreement and other applicable regulations.
2. If human remains are discovered, all work must stop in the area of the discovery and NAGPRA protocols followed.

Plants

1. Treat known infestations (common tansy and herb Robert, as mapped) *before* ground disturbance begins. To be effective a lag time of 2 weeks is needed between the time of treatment and the time of ground disturbance. Coordinate with a USFS botanist when planning treatments.

An herbicide application sign shall be posted to inform the public of chemical treatment, stapled to a tree or posted on a stake.
2. Herbicides approved by the Forest Service for use are metsulfuron methyl (for common tansy) and glyphosate (for herb Robert), applied with a backpack or hand sprayer, or mobile truck mounted sprayer where accessible. Application of herbicides is to be according to Forest Service Invasive Plant Treatment EIS guidelines.
3. Upon completion of herbicide treatment, submit a completed herbicide application record form to the Forest Service.
4. All heavy equipment (bulldozers, skidders, graders, backhoes, dump trucks, etc.) shall be pressure-washed prior to entering National Forest System Lands. Equipment should be free of all dirt, mud, and plant parts.
5. If aggregate material from the proponent's rock pit are to be used on the NFS road, conduct weed/invasive plant inspection prior to use. Imported aggregate for road surfacing shall be obtained from a Forest Service certified weed-free source. Consult Forest Service botanist.
6. Suppliers must provide documentation indicating that the following products have been examined by a qualified inspector and deemed free of State listed noxious weeds:
 - Straw or other Mulch (certified by WA State via the WWHAM program <http://agr.wa.gov/PlantsInsects/WWHAM/WWHAM.aspx>)
 - Gravel, Rock, or other fill
 - Seeds (according to AOSA standards), using the approved MBSNF non-native seed mix (see below).
7. Seed the decommissioned roads and landing with blue wild rye or California brome, at a minimum of 20 lbs. per acre. Seeding in the fall is preferred. If seeding is done in the spring, the area is to be covered with weed-free straw. Seeding should be avoided between May 15 and September 15.

Fire

1. Unmerchantable trees, brush or branches from the road right of way, yarding corridor and log landing shall be end hauled to the private property for disposal. A burn permit shall be obtained from the local jurisdiction as required.
2. Forest Service Pacific Northwest Region Fire Protection and Suppression Requirements shall apply to the contract during the Closed Fire Season, from April 1 through October 30. The contractor shall submit a Fire Protection and Suppression Plan for District Ranger approval prior to starting construction. Construction and maintenance operations

shall be in accordance with the Fire Protection and Suppression Plan and Industrial Fire Precaution Levels (IFPL) Schedule.

TRIBAL CONSULTATION AND PUBLIC INVOLVEMENT

Consultation was initiated with three Tribes who have an interest in Skykomish Ranger District projects, through a letter dated March 4, 2020. One tribe responded, requesting that a cultural survey be conducted of the project area, which was completed. A public scoping letter dated March 16, 2020 was also sent to 473 individuals and organizations on the Skykomish Ranger District's project mailing list. This action was also listed as a project on the Mt. Baker-Snoqualmie National Forest Projects website. No comments, questions, or concerns have been received.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This decision is consistent with the Mt. Baker-Snoqualmie National Forest Land and Resource Management Plan (Forest Plan, 1990), as Amended by the Northwest Forest Plan Record of Decision (ROD, 1994). The project was designed in conformance with standards and guidelines for new access proposals within LSR, in which the modified design and reduction in the number of yarding corridors from four to two will minimize the removal of second growth trees over a smaller area (ROD, Page C-19). Additionally, the existing and temporary logging roads and log landing will be decommissioned afterwards.

This project complies with all laws and Executive Orders affecting National Forest management, including the National Forest Management Act; Endangered Species Act; Clean Air Act; Clean Water Act; American Antiquities Act; National Historic Preservation Act; Migratory Bird Treaty Act and Executive Order 13186; and Executive Order 12898 (Environmental Justice).

A Forest Service Archeologist surveyed the Area of Potential Effect (Report No. R2019060506010) and no historic properties were identified. The Washington State Historic Preservation Officer concurred with the findings (letter of March 18, 2020).

A biological evaluation (BE) for wildlife species was completed on May 19, 2020. For Regional Forester's Sensitive Species and Survey and Manage Species, the project would either have *no impact* or *may impact individuals but will not contribute to a trend toward federal listing* (refer to BE for details). For Forest Plan Management Indicator Species, the project *would not contribute to a negative trend in the viability of these management indicator species on the Forest*. For neotropical migratory birds, the project *would not contribute toward the need for additional conservation action for these species*. The project would also have no impact on deer and elk winter range.

Based on the location being north of Highway 2, the project area is outside of the documented range of Larch Mountain Salamander and Van Dyke's salamander. Based on project elevation (>2000 ft) being above 1500 feet and the description of the second growth habitat, the project area is not suitable habitat for Puget Oregonian snail. Therefore, pre-disturbance surveys are not required for these Northwest Forest Plan Survey & Manage species.

A fisheries review of the project was completed on April 21, 2020. The project would not affect

the Forest-wide viability of populations of Forest Plan management indicator fish species (MIS): Chinook, coho, pink and chum salmon, steelhead and resident rainbow trout, sea-run and resident cutthroat trout, and bull trout. Nor would the project have a measurable negative effect to the quality or quantity of MIS habitats in the Tye River. As the project is upstream of Alpine Falls and is drained by intermittent, non-fish bearing tributaries to the Tye River, the closest management indicator fish species are resident rainbow and cutthroat trout in the Tye River.

The project as proposed would not prevent, retard, or contribute significantly to the achievement of Northwest Forest Plan Aquatic Conservation Strategy (ACS) Objectives at the scale the ACS Objectives were described.

There are no occurrences of botanical resources in project area which would require mitigation or avoidance. Project is cleared for botanical resource concerns. Invasive plants (common tansy, herb Robert) will be treated on the existing road prism prior to construction, in a manner consistent with the MBS Invasive Plant Treatment EIS.

Endangered Species Act

Informal Level 1 Consultation occurred with the US Fish and Wildlife Service and NOAA Fisheries on April 22, 2020. The following determinations for federally listed fish and wildlife species, designated critical habitat and essential fish habitat are described in the below table:

Coastal/Puget Sound Bull Trout	<i>No effect</i>
Coastal/Puget Sound Bull Trout Designated Critical Habitat	<i>No effect</i>
Puget Sound Chinook Salmon	<i>No effect</i>
Puget Sound Chinook Salmon Designated Critical Habitat	<i>No effect</i>
Chinook Salmon Essential Fish Habitat	<i>Would not adversely affect</i>
Puget Sound Steelhead	<i>No effect</i>
Puget Sound Steelhead Proposed or Designated Critical Habitat	<i>No effect</i>
Coho Salmon Essential Fish Habitat	<i>Would not adversely affect</i>
Puget Sound Pink Salmon Essential Fish Habitat	<i>Would not adversely affect</i>
Northern Spotted Owl	<i>Likely to Adversely Affect</i>
Northern Spotted Owl Critical Habitat Unit	<i>Likely to Adversely Affect</i>
Marbled Murrelet	<i>Not Likely to Adversely Affect</i>
Marbled Murrelet Critical Habitat Unit	<i>Likely to Adversely Affect</i>
Grizzly Bear	<i>No Effect</i>
Gray Wolf	<i>No Effect</i>
Lynx	<i>No Effect</i>

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

This decision is not subject to administrative review pursuant 36 CFR 218. Holders, operators, or solicited applicants who apply for written authorizations to occupy and use National Forest System managed lands may only appeal decisions issued by a Responsible Official that are expressly set forth in 36 CFR 214.4. The category of this activity, 36 CFR 220.6(e)(3), is not included in 36 CFR 214.4, therefore this decision is not subject to appeal.

IMPLEMENTATION DATE

This decision can be implemented after the project proponent obtains the Forest Service-approved Special Use Permit and Operating Plan, and subject to the wildlife construction start date of July 16, 2020.

CONTACT

For additional information concerning this decision, contact: Eric Ozog, Realty Specialist at 360-691-4396, email: eric.ozog@usda.gov.

JOSEPH R. NEAL
District Ranger

Date

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