Final

Decision Notice
& Finding of No Significant Impact

Management Indicator Species
Forest Plan Amendment

To the Land and Resource Management Plan for the
Grand Mesa, Uncompahgre and Gunnison National Forests

May, 2005

Lead Agency	U S D A-Forest Service
Responsible Official	Charles S. Richmond, Forest Supervisor Grand Mesa, Uncompahgre and Gunnison National Forests 2250 Highway 50 Delta, Colorado 81416 970-874-6600
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Introduction

An Environmental Assessment (EA) has been prepared and circulated for public comment considering the amendment of the Grand Mesa, Uncompahgre and Gunnison National Forest Land and Resource Management Plan (Forest Plan, or Plan) to address Management Indicator Species and Monitoring.

The EA, as well as a copy of this Decision Notice, may be seen on the GMUG web site at (http://www.fs.fed.us/r2/gmug/policy/, under the heading "Management Indicator Species".

In this document:

MIS is Management Indicator Species;

GMUG is Grand Mesa, Uncompahgre and Gunnison National Forests

The 1982 planning regulations provided guidance for implementation of the National Forest Management Act when the Forest Plan was promulgated in 1983, and amended in 1991. The 1982 regulations have now been superseded by regulations published in the Federal Register on January 5, 2005 ("the new rule"). 70 Fed. Reg. 1022. The new rule only addresses forest planning and has no application to project level planning (36 CFR 219.2(c)). The new rule expressly drops the 1982 rule's concept of wildlife viability and the related requirement to monitor MIS. However, during a three-year transition period, the new rule allows amendment of an existing Forest Plan under the provisions of the superseded 1982 rule with certain modifications. 36 CFR 219.14.

The 1982 rule directed forests to manage fish and wildlife habitat to maintain viable populations and directed forests to select MIS as a process or method to help ensure species viability. 36 CFR 219.19 (1982 rule).

MIS were defined as "*plant and animal species, communities, or special habitats selected for emphasis in planning, and which are monitored during forest plan implementation in order to assess the effects of management activities on their populations and the populations of other species with similar habitat needs which they may represent"* (FSM 2620.5). The role of MIS and the criteria to select MIS are described in 36 CFR 219.19 (a)(1) (1982 Rule) as follows:

> *"In order to estimate the effects of each [Forest Plan] alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality."*

Important characteristics of MIS are that they are capable of being effectively monitored, and that relationships between species, habitats and response to the effects of management activities of interest are well understood. MIS and their habitats have been used as part of a strategy to monitor implementation of the Forest Plan and the effects to wildlife and plants.

Deciding officials have broad discretion to select MIS under the 1982 regulations. The deciding official, using information provided by an interdisciplinary planning team, determines whether the

population changes of certain species are "*believed to indicate the effects of management activities.*" Beliefs or opinions about the reliability of such relationships are subject to change because of increased scientific knowledge, and as a result of implementation and monitoring of Forest Plans. Therefore, deciding officials may periodically need to reevaluate the MIS selected for forest plans and make appropriate adjustments. Furthermore, the regulations specify that species are to be selected from various categories "*where appropriate*", indicating there is no requirement that all categories of species or habitats be represented.

As a final note of introduction, we observe that both the concept and application of MIS have come under considerable criticism. Growing doubts about the usefulness of the concept and/or its application are reflected in the literature (Caro and O'Doherty 1999; Landres, Verner, and Thomas 1988; Noss 1990; Simberloff 1998).

The new rule modifies the MIS concept during transition to the new rule, at 36 CFR 219.14(f):

> *(f) Management indicator species. For units with plans developed, amended, or revised using the provisions of the planning rule in effect prior to November 9, 2000 [the 1982 Rule], the Responsible Official may comply with any obligations relating to management indicator species by considering data and analysis relating to habitat unless the plan specifically requires population monitoring or population surveys for the species. Site-specific monitoring or surveying of a proposed project or activity area is not required, but may be conducted at the discretion of the Responsible Official.*

This language explicitly relieves the Forest Service of obligations regarding monitoring or survey of wildlife populations of MIS but none-the-less does retain reference to MIS developed in Plans prepared using the 1982 Planning rule.

While the 1982 rule has been superseded and no longer exists, the Forest has elected to conduct this amendment under the provisions of the former 1982 rule, as modified by 36 CFR 219.14.

> ***§219.14 Effective dates and transition.***
>
> *(a) Effective dates. A plan, plan amendment, or plan revision is effective 30 days after publication of notice of its approval (§219.9(b)), except when a plan amendment is approved contemporaneously with a project or activity and applies only to the project or activity, in which case 36 CFR part 215 or part 218, subpart A, apply.*
>
> *(b) Transition period. For each unit of the National Forest System, the transition period begins on January 5, 2005 and ends on the unit's establishment of an EMS in accordance with §219.5 or on January 7, 2008 whichever comes first.*
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> ***
>
> *(e) Plan development, plan amendments, or plan revisions previously initiated. <u>Plan development, plan amendments, or plan revisions initiated before the transition period may continue to use the provisions of the planning regulations in effect before November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), or may conform to the requirements of this subpart, in accordance with the following:</u>*
>
> *(1) The Responsible Official is not required to halt the process and start over. Rather, upon the unit's establishment of an EMS in accordance with §219.5, the Responsible Official may apply this subpart as appropriate to complete the plan development, plan amendment, or plan revision process.*

The transition language of the new rule allows for use of the provisions of the 1982 rule for the limited purpose of plan amendment or revision during the transition period. This amendment is prepared using the MIS concept of the transition rule.

Background information, including relevant definitions, requirements to include an MIS list in a Forest Plan, and the 1982 regulations and guidance describing the rationale/criteria in selecting species as MIS, are found in Appendix B of the EA.

The new planning rule limits its application to planning at the Forest-wide level and imposes no requirements on project decisions which implement the forest plan. 36 CFR 219.2(c). The new rule also allows a forest that elects to amend during the transition period to remove any mandatory MIS population monitoring from the plan. 36 CFR 219.14(f). Accordingly, this amendment imposes no obligation to collect population data and imposes no obligation to collect or analyze data regarding MIS at the project level.

Decision and Reasons for Decision

It is my decision to amend the GMUG Forest Plan in accordance with the descriptions of Alternative 3 of the EA, with the exception that I have added two species to the MIS list and deleted two. This revises the MIS list in the Plan to the following species:

Elk
Abert's Squirrel
Brewers Sparrow
Northern Goshawk
Merriam's Wild Turkey
Pine (American) Marten
Red-naped Sapsucker
Common Trout;

and revises language in Forest Direction and Standards and Guidelines for Management Areas, and the Monitoring Plan, as reflected in the attachment to this DN.

The concept and application of MIS have come under critical review as discussed briefly above. Difficulties with the existing list of MIS in the Plan have been discussed in detail in scoping notices to the public and in Purpose and Need in the EA (see pages 8 and 9). Identifying species which are well suited as MIS, and which meet the intent and letter of the 1982 regulation has proven to be a challenge. From numerous discussions and from numerous opinions expressed in public comment and scoping, no one clear final list of species emerged as the correct one. Adjoining National Forests have gone through similar selection processes, applying the best science and reasonable judgment, and have come up with different species lists. It appears that there, in fact, is no set of species which meet the theoretical intent of the regulations.

I have reviewed the analysis of species considered documented in the EA (Appendix E); I have considered the effects of making these changes in the Plan discussed in the Affected Environment and Environmental Consequences section of the EA; and I have considered the suggestions in public comment both during scoping and in response to the release of the EA for comment; and I have considered the species lists selected by other Forests in this area.

I believe that this new list of MIS best meets the intent of the 1982 regulation for the identification and use of MIS. I adopt and incorporate into my decision the rationale for selection of species documented in detail in Appendix E of the EA. In addition, my rationale for adding and deleting species is as follows:

I was convinced by comments from the public that pure stands of aspen, as they are being affected by our management decisions, do need to be represented in our MIS monitoring. Red-naped sapsucker is monitored and reported by Rocky Mountain Bird Observatory, and meets most of the criteria for being selected. I am concerned that factors in the life cycle of this migratory bird while off of the National Forest may affect populations, but none-the-less believe that the species does indicate the condition of aspen on the Western Slope of Colorado. Red-naped sapsucker is also a primary cavity nesting species indicative of older stands of aspen. A primary cavity nester excavates a new nest every year. These are very important because secondary cavity nesters such as bluebirds, owls, and swallows use these the abandoned nests in subsequent years.

On the other hand, I find that mule deer, while of great economic, and public, interest, is such a habitat generalist that it would serve as a poor indicator of management effects on the Forest. Elk, which is retained as a MIS species serves to indicate nearly all that mule deer would. As an important economic species, and as one of common public interest, mule deer are discussed in nearly every environmental document, and are monitored carefully by the State Division of Wildlife.

I have replaced Juniper titmouse (a bird) with the Merriam's wild turkey as an indicator of the condition of pinyon-juniper, gambel oak, mountain shrub, and lower ponderosa pine on this Forest. Upon further analysis, the titmouse on the GMUG was found to use older stands of pinyon-juniper as its primary habitat, and gamble oak secondarily. In addition, titmouse are difficult to detect in the field, and are not noticed or observed by field going personnel. Turkey are more of a generalist to these habitat types, they are much more easily detected in the field, are monitored by the Division of Wildlife and are a popular game species. The Merriam's wild turkey is highly dependent on healthy Gambel oak acorn crop and the pinyon pine nut crop for their nutritional requirements.

My rationale for changes in management direction is as follows:

- For changes in General Forest Direction, changes reflect the new list of MIS.
- Changes in Management Area 4B Direction applying to lands designated for emphasis on "all management indicator species" (see page A-6 of the Appendix A of the EA), are intended to preserve the same emphasis of management on those lands designated for this emphasis. Under the Plan prior to this amendment, any area within the 4B Management Area that was to receive any active management was first assigned one or more species of MIS as an objective for management. Treatments were then designed to optimize habitat capability for those species. There was and is no specific record of species assigned to each existing 4B area, but rather species were selected as projects were considered. This approach is necessary because it is impossible to optimize habitat for ALL management indicator species at the same time, or in the same place. Not all areas of the Forest are occupied by all management indicator species. Optimum habitat conditions for one species may be contrary to optimum habitat conditions for another. Under new language for 4B any of the original 17 MIS may be selected for emphasis. The purpose for this is to cause there to be NO on-the-ground consequence of reducing the list of MIS from 17 to 8. Under the new list of 8 MIS there will be no reduced or narrower emphasis on wildlife within Management Area 4B.

My rationale for changes to the monitoring requirements in Chapter IV of the plan (see pages A-15 through A-17 of EA, Appendix A) are:

It is my intention to clarify procedures and requirements for monitoring, to eliminate any confusion over the requirement to gather population data for MIS at either the Forest or the project level. There is no such requirement in the Plan as amended by this decision. Specifically, taken together with the new Planning rule at 36 CFR 219 (2004), this decision makes clear that the Forest Service has no legal obligation to monitor MIS populations. However, monitoring of populations may be conducted at the discretion of the Responsible Official for any given project or plan.

This alternative meets requirements under the National Forest Management Act, and associated regulations. Specifically the legal context for this decision is articulated in the EA on pages 6 through 8.

Other Alternatives Considered

In addition to the selected alternative, I considered 2 other alternatives.

Alternative 1/No Action

Under the No Action alternative, current management plans would continue to guide management of the project area.

Alternative 2/As Proposed in Scoping

Alternative 2 would make all the same changes to the Plan called for in Alternative 3 (the selected alternative with the exception that a slightly different list of MIS would be selected:

Elk
Abert's Squirrel
Brewers Sparrow
Northern Goshawk
Pine (American) Marten
Common Trout

The Alternative 2 list of MIS was the list proposed in the original scoping for this amendment.

Alternative 3/Selected Alternative Developed Following Scoping

Alternative 3 is the selected Alternative.

Public Involvement

On October 13, 2004, a scoping letter was sent to approximately 1300 individuals, agencies, and organizations on the GMUG Forest Plan Mailing list. This letter described the purpose and need for the action, and included a table of existing MIS and the retention/removal recommendations. In this scoping letter, notice was given that the opportunity to comment for this scoping period would extend through November 15, 2004, with the additional information that, "While we will accept and consider comments at any time during this analysis process, to be most helpful and to be fully considered in the analysis and decision process comments should be received by that date."

In addition a news release was sent to all newspapers with distribution in the area of the GMUG, summarizing the proposed amendment and inviting public review and comment.

On March 18, 2005 an Environmental Assessment (EA) referred to in the Introduction above, addressing amendment of the Plan for Management Indicator Species was released for public comment. While no comment period was required under applicable regulations, or policy, a 30 day comment period was provided. Copies were sent to all parties expressing interest. The EA

was posted on the Forest web site, and a news release was sent to all local area newspapers and media.

Issues

Because this is not a site-specific project, or a proposed action which results in any impacts to land or resources, issues to be considered in the decision process are not the more usual statements of concern such as "effects on soil", or even "effects on wildlife". Comments received during scoping and public comment were more directed as advice to the Forest Service for factors to consider as we deliberated the selection of MIS, and as we implement monitoring and evaluation. See the EA pages 10 through 12 for a list of the issues identified in scoping.

Additional concerns brought to our attention during the comment period on the EA are discussed below.

I was urged by several commenters to include a more exhaustive list of MIS, with at least one species representing every ecological life zone or vegetation type, and even each successional stage or age class of these zones. Specific species were suggested for many, but not all, of these different environments. There is no requirement in law, regulation or policy to have each of these environments and conditions represented by a separate species. Identifying species which truly meet the intent of MIS, to indicate some change in environment or condition caused by management has proven to be far less straight forward than was thought at the time the regulation was promulgated. Very few species meet all criteria for being a good MIS (see EA, Appendix C). Many of these environments are not being affected in any way by our management (cliffs, and caves for example), and do not warrant the expenditure of time and money to monitor a separate species. And, collectively, the burden of monitoring the large number of species suggested exceeds the usefulness of the information. It becomes instead a barrier to efficient planning and decision-making.

MIS is just part of the much broader set of processes for assessing impact of proposed management actions on the National Forest. Through the application of multiple screens of analysis requirements we do a very thorough job of assessing effects of proposed projects to wildlife, and all that wildlife indicates. Screens I refer to include:

- assessment of effects to Threatened or Endangered Species in a Biological Assessment, followed by consultation with U.S. Fish and Wildlife Service if appropriate,
- assessment of effects to Regional Sensitive species in a Biological Evaluation,
- analysis of selected MIS,
- discussion of effects on species of special interest, such as elk or deer, and
- discussion of effects on wildlife (any number of species selected by the wildlife biologist and in response to scoping, in our NEPA documents,

It was suggested that detailed and specific monitoring protocols and procedures be included as part of this amendment. These are how-to matters of a technical nature, are subject to change over time, and are better left to the determination of field personnel in individual situations.

Several commenters suggested that the Forest Service must prepare an environmental impact statement. Our position is that there is no environmental impact from this change of administrative and analysis procedures contemplated in this amendment. See EA page 15. We have modified plan language specifically to prevent any change from being caused to the ground emphasis or management. MIS analysis and monitoring requirements are intended as a mechanism to understand the effects of management decisions, and in and of themselves have no

effects. We have used an EA as a familiar vehicle to disclose our process of considering this change to the Plan to facilitate public review and comment. See also Finding of No Significant Impact in the Decision Notice.

Concern or question was raised in comments about which regulation this amendment is being prepared under. This amendment has been prepared under the 1982 rule. See EA page 7 last full paragraph above regulations quotation. Under the 1982 rule, an amendment to the plan addressing MIS selected may be prepared at any time. See EA page 7 second paragraph for discussion of this. The amendment follows procedures laid out in the regulation and in Forest Service Manual at FSM 1920, and Forest Service Handbook 1909.12. The only portion of the new (2005) planning rule that applies is 219.14(f) providing relief from gathering quantitative population data for MIS. By identifying a more appropriate list of species as MIS, and by incorporating this one provision of the new rule, MIS become a more useful tool in monitoring plan implementation, and in considering the effects of proposed management activities.

Concern was also expressed about the use and/or removal of use of ecological indicators in the amendment. It was thought that inclusion, in the monitoring section of the Forest Plan, of ecological indicators as direct measures of the condition of riparian and down wood and standing dead (snags) would be welcomed. This seemed more thorough and comprehensive in evaluating true condition of those habitats, and all species that would use them, than the selection of a single species as a surrogate for all. Instead, however, the ecological indicator concept was sharply criticized during scoping and in comments on the EA. As discussed at page 14 of the EA, these indicators have been dropped as a requirement, as there is no legal requirement to have them. They may be used at the discretion of biologists during analysis in project planning. Removal of these in no way obligates the agency to include a specific MIS species for each of these habitats. As discussed above with regard to selecting species for every vegetation zone and specialty habitat, the decision as to whether to have a representative MIS species for each of these ecological niches is subject to the broad discretion of the Forest Service in selecting MIS.

Finding of No Significant Impact

After considering the documentation in the EA, I have determined that this decision 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.

What follows below is a recital of the factors to be considered in determining significance under 40 CFR 1508.27. As is declared in the EA page 15 at the top and bottom, and on pages 15 through 22 of the EA, there are no environmental effects of this decision. The NEPA documentation has been used as a vehicle for public information and consideration of all factors in coming to this decision, but there are no environmental effects. Hence there is no possibility of any significant effect on the quality of the human environment from this decision.

Here, below, are the factors to be considered in making this determination, and which I have thought about individually and taken together to come to my conclusion:

- Finding of no significant environmenal effects is not biased by the beneficial effects of the action.
- There will be no significant effects on public health and safety.
- There will be no significant effects on unique characteristics of the area.
- The effects on the quality of the human environment are not likely to be highly controversial. There is no known scientific controversy over the impacts of the proposed action.

- The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk.
- The action is not likely to establish a precedent for future actions with significant effects.
- There are no cumulative impacts.
- The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. The action will also not cause loss or destruction of significant scientific, cultural, or historical resources.
- The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
- 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.

Findings Required by Other Laws and Regulations

There is no effect on any Threatened, Endangered or Sensitive species from this decision (Endangered Species Act). There is no effect on any cultural or heritage property (Section 106 of the National Historic Preservation Act). There is no effect on any low income or minority population from this decision (Executive Order 12898). There is no effect on the waters of the United States or any wetland (Clean Water Act).

Determination of Forest Plan Significance

Appendix C of the EA provides excerpts from Forest Service Manual and Handbook applicable to determination of plan amendment significance.

FSH 1909.12 Chapter 5.32 lists specific criteria for making this determination. Each is discussed below in terms of this decision.

a. Timing. This amendment to the plan will take effect immediately. However, with approaching Forest Plan revision, and with implemetation of new planning rules, this decision will be short term.
b. Location and Size. While the amendment does apply to the entire National Forest covered by the Plan, it has no actual environmental effect on the ground. See first paragraph of page 15 of the EA.
c. Goals, Objectives, and Outputs. As in above, his amendment will have no effect on any goals, objectives or outputs on the Forest. See page 15 same paragraph as above.
d. Management Prescription. Changes to management area direction in MA 4B will result in no difference to wildlife populations, or management emphasis. See explanation above under Reasons for Decision. The action taken here results in a difference in monitoring and analysis for Forest Plan monitoring and project environmental analysis and reporting. There is no effect on the ground.

It is my finding that this amendment to the Forest Plan is not significant, as defined in applicable direction in Appendix C of the EA, and procedures prescribed for issuing and implementing non-significant amendments in that direction may be followed.

Implementation Date

Implementation of this decision will not occur until 7 calendar days following publication of a legal notice of the decision in the Grand Junction Daily Sentinel. In the case of this decision, actual implementation does not consist of on the ground activity, but rather of using revised processes for monitoring and environmental analysis of projects.

Administrative Review or Appeal Opportunities

This decision is subject to administrative review pursuant to Federal Regulations at 36 CFR 217. It should be noted that this is not the appeal regulation that more commonly applies to project decisions. In accordance with 36 CFR Sec. 215.12: "The amendment, [or] revision, [of a Forest Plan] ….is subject to either the objection process of Sec. 219.32 or the administrative appeal and review procedures of part 217 in effect prior to November 9, 2000 (see 36 CFR parts 200 to 299, Revised as of July 1, 2000)". In this case, as the amendment is prepared under the 1982 Planning Regulations at 36 CFR 219 in effect prior to 2000, the decision is subject to review procedures of part 217 as referenced above.

Appeals must be in writing and filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the Appeal Reviewing Officer (see addresses below) within 45 days following the date of publication of a legal notice of this decision in the Grand Junction Daily Sentinel. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an appeal. Those wishing to appeal should not rely upon dates or timeframe information provided by any other source.

Where to File an Appeal

For delivery services to a physical street address	**For U.S. Postal Service delivery**
Appeals Reviewing Officer U.S.D.A., Forest Service Rocky Mountain Region 740 Simms Golden, Colorado 80401	Appeals Reviewing Officer U.S.D.A., Forest Service Rocky Mountain Region P.O. Box 25127 Lakewood, Colorado 80225

Fax: 303-275-5134 to the attention of Appeals
Email: appeals-rocky-mountain-gmug@fs.fed.us.

Implementation of this decision may occur 7 calendar days after publication of a legal notice in the paper of record, the Grand Junction Daily Sentinel.

Contact

For additional information concerning this decision or the Forest Service appeal process, contact:

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/s/ Charles S. Richmond — May 11, 2005
CHARLES S. RICHMOND — Date
Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests