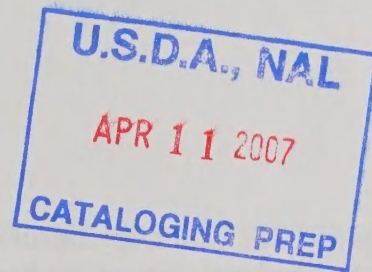


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Forest  
Service

February 2007



## Record of Decision

### Noxious Weed Management Project

#### Dakota Prairie Grasslands

**Billings, Slope, Golden Valley, Sioux, Grant,  
McHenry, McKenzie, Ransom and Richland  
Counties in North Dakota  
Corson, Perkins and Ziebach Counties in South  
Dakota**

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## **Preface**

Noxious weeds are a scourge to society. The insidious nature of some species forestalls treatment and eradication programs, allowing the plants to become well established and pervasive. Noxious weeds displace and crowd out native plants, modify wildlife habitat, reduce livestock forage, adversely impact watersheds and riparian areas, and are costly to control. Over the years in the Dakotas, federal agencies, state and local governments, county weed boards and local grazing associations have expended millions of dollars and countless hours to eradicate or control noxious weed populations. Many control projects have been successful due to coordinated efforts while others, for a variety of reasons, will continue for many more years to come.

This decision accompanying the Final Environmental Impact Statement (FEIS) approves the use of many different treatment methods to control noxious weeds through an integrated management strategy. Interestingly, even though we've been using herbicides, goats, flea beetles and other treatment methods for many years on some landscapes of the Dakota Prairie Grasslands (DPG) and surrounding lands, many of these sites continue to be infested with noxious weeds. It is reasonable *to ask why*. Have our treatments been ineffective due to poor timing or using the wrong application rates? Were funds short or non-existent, allowing populations to grow and spread? Was there a moratorium on herbicide use? Were some herbicides ineffective or not labeled for target species? Have we applied treatments on lesser priority areas while allowing populations to expand in other areas? Have treatments been curtailed or truncated to protect other plant or wildlife species such as the western prairie-fringed orchid or sensitive butterflies? The list of questions could go on and the answers would be as variable as the people asked. Undoubtedly, fluctuating funding and changing priorities have affected outcomes. However, the biology and persistence of one weed species, in particular, may offer some additional insights to the above questions.

## **Leafy Spurge**

Of the 1.25 million acres of national grasslands, an estimated 57,000 acres are currently infested with noxious weeds. Of this acreage, leafy spurge infests an estimated 53,000 acres, accounting for roughly 93 percent of weed infestations. Leafy spurge arrived in the United States from Eurasia in the 1820s and quickly established itself on the north central prairie. The species is highly adaptive and reproduces by vigorous rootstalks and seed. The root contains numerous buds which may produce new shoots or root systems. Rooting depths of over 14 feet have been reported and the extensive root system containing large nutrient reserves makes leafy spurge extremely difficult to control. Capsules containing seed explode when dry, often projecting seeds as far as 15 feet. Seeds may be viable in the soil for up to eight years.



## **Control Efforts**

Leafy spurge control on the Little Missouri National Grasslands in western North Dakota has been remarkably successful. Combinations of biological control (flea beetle) and herbicides have severely reduced or even eliminated some populations. On the Sheyenne National Grasslands, however, success has been more elusive. A perched water table and sandy soils may contribute to species persistence and competitive advantage. The flea beetle does not do as well in the sandy soils of the tall grass prairie as it does in the finer soils of the rolling prairie and badlands geographic areas. After herbicide application or grazing, nutrient reserves can eventually stimulate buds and the plant lives for another cycle. Repeated applications of herbicides, expanding beetle populations and intensive goat and sheep grazing, however, can keep populations in check or reduce or even eliminate some populations.

On much of the national grasslands in western North Dakota and northwestern South Dakota, selected treatment methods are fairly straight forward and successful. Resource issues are being successfully mitigated or avoided all together. I'm confident that the continued coordination among the various partners will result in even greater control and outright eradication of many noxious weed populations.

## **Sheyenne National Grassland**

Noxious weed control efforts on the Sheyenne National Grasslands are more complex than most other sites on the DPG. High water tables, sandy soils, riparian and wetland areas, a diverse array of habitats, fire history, and over thirty threatened or sensitive plant and animal species all contribute to the tall grass prairie's complexity. Invasive species such as Kentucky bluegrass crowd out native vegetation, further reducing productivity and ecological diversity. Herbicides, goat and sheep grazing, and the flea beetle are the treatment methods of choice.

Over fifty percent of this 70,000 acre remnant of tall-grass prairie, arguably one of the most endangered ecosystems in North America, is infested with leafy spurge. While treatments of well over 10,000 acres are estimated annually, past experience shows that most acres will need to be treated multiple times to reduce densities or just keep populations in check. Leafy spurge control on the Sheyenne National Grasslands will be a long-term endeavor.

## **Biological Control**

For the past five years, the noxious weed program on the Dakota Prairie Grasslands has been funded at about \$400 - \$500,000 annually. If future budgets decline and herbicide treatments are deferred, the risk of higher densities and expanding populations will increase. However, a greater emphasis on the use of biological control efforts – goats, sheep, insects, pathogens, etc., – could compensate for budget shortfalls - and help to keep spurge populations in check. While these types of efforts frequently take more time, they may also be more economical and environmentally friendly in the long term. The



flea beetle program has been remarkably successful in western North Dakota. Both the goat and sheep grazing treatment programs are in their infancy on the Sheyenne National Grasslands. The flea beetle has had limited success due to environmental factors. Through this decision, I am directing the Sheyenne District Ranger to emphasize and expand the use and research of bio-control treatment methods, particularly in sensitive habitats. Bio-control methods will not be substituted carte blanche for herbicide treatments but will be used based on values at risk, interdisciplinary recommendations, and supporting science, as described in the FEIS.

### **Noxious Weed Management and the Sheyenne National Grassland Restoration Strategy**

Practically the entire Sheyenne National Grassland has been designated for ecosystem restoration in the Dakota Prairie Grasslands Land and Resource Management Plan. The area is to be managed to restore and maintain native plant and animal species and communities and ecological processes and functions for tall-grass prairie and oak savanna. The Sheyenne Ranger District is currently drafting a restoration strategy to implement the Plan. The independent Scientific Review Team chartered to evaluate the livestock grazing portion of the Grassland Plan noted in its final report: "A well-planned, long-term management strategy that is adhered to, will be necessary to restore the ecological health of the Sheyenne National Grassland plant communities."

Key in restoring the Sheyenne National Grasslands will be the control and elimination of both noxious weeds and invasive species. Prescribed fire; herbicide use; mechanical and cultural treatments; cattle, sheep and goat grazing, rest, and other bio-control treatments will be the primary methods used to help restore the tall-grass prairie. A fully integrated systematic program will obtain the best results. Past experience and research indicate that the timing and sequencing of various activities can reduce or eliminate some invasive species while stimulating and increasing native species on selected sites.

The implementation of the restoration strategy, including treatment of noxious weeds and other invasive species, will involve tradeoffs. This noxious weed decision needs to be an integral part of the restoration strategy. In the short term, individual desirable plants and wildlife species may be displaced or killed. It will take a concerted interdisciplinary and partner effort to clearly understand tradeoffs and to minimize or mitigate unnecessary effects. Less impactful and more focused treatment options may have to be employed to maintain sensitive habitats and threatened plant species viability. The Final Environmental Impact Statement for this project describes tools appropriate to use in sensitive areas.

When the Sheyenne Restoration Plan is developed, those action that require NEPA analysis will be documented through a separate process from this analysis. However, this plan will incorporate the noxious weed strategies from this decision.



## **Collaboration**

There are a number of partnership and collaborative models being used nationally to develop strategies to protect and enhance natural resources, including organized efforts to fight weeds. Collaborative efforts can raise awareness, educate the public, and provide training opportunities on the effective management of problem weeds.

I believe the key to an effective Sheyenne National Grassland restoration strategy, which will address the control of noxious weeds and invasive species, will be through stakeholder partnerships and the development of a systematic approach. Wildlife agencies and interests, the Sheyenne Valley Grazing Association, native prairie enthusiasts, county weed boards, grassland neighbors, the scientific and research community, and the state of North Dakota should all be asked to participate. Although stakeholders may have different reasons for controlling weeds – preserving or enhancing prairie habitats, increasing forage, species viability, etc. – they should be encouraged to share in building the restoration strategy.

A noxious weed control plan should be an integral part of the restoration strategy or any other implementation plan created for any of the districts. As a minimum it should include: 1) appropriate and justifiable priorities, 2) funding and accounting guidelines, 3) an assessment of agency and partner capabilities, 4) an annual operating plan that includes treatment areas and methods of treatment, 5) inventory and mapping guidelines, including the use of Geographic Information System/Global Positioning System technology, 6) annual monitoring for results and effectiveness, and 7) a prevention and education plan.

## **Decision and Reasons for the Decision**

This Record of Decision explains my decision and rationale for selecting Alternative 2 as described in the Dakota Prairie Grasslands Noxious Weed Management Project Final Environmental Impact Statement (FEIS). This alternative has been slightly modified from the Draft Environmental Impact Statement based on comments received during the review period. The impacts of the selected Alternative are described in the FEIS. The selected alternative provides for the use of the most effective tools for controlling weeds while having minimal impact on the environment. This action was identified as the Preferred Alternative in the EIS and remains the basis for my Selected Alternative.

Under this decision, weed treatment will occur annually across the Dakota Prairie Grasslands (DPG). This includes the Medora, McKenzie, Grand River, and Sheyenne Ranger Districts and the Denbigh and Souris Experimental Forests. The DPG is located in both North and South Dakota and includes portions of Billings, Slope, Golden Valley, McKenzie, Sioux, Grant, McHenry, Ransom and Richland Counties, North Dakota; Corson, Perkins and Ziebach Counties, South Dakota. Portions of the project area are within the boundaries of the Standing Rock Indian Reservation. The project area consists of National Forest System (NFS) lands within the administrative boundaries of the DPG. Proposed treatments would occur throughout the project area.

## **Purpose and Need for Action**

In 2003, Forest Service Chief Dale Bosworth identified four interrelated threats to our ability to restore the nation's forests and grasslands to healthy conditions. One of these threats is noxious weeds. Approximately 57,234 acres, or 4 percent, of the 1.25-million acre Dakota Prairie Grasslands (DPG) are infested with a variety of noxious weeds. Currently there are 17 known noxious weed species on the unit. Leafy spurge is the predominant weed species. The DPG proposes to use an integrated adaptive approach to continue to treat existing and future infestations of noxious weeds.

The Dakota Prairie Grasslands and partners have been actively treating weeds since the early 1960s with a variety of herbicides. The introduction of biological control agents (insects), sheep and goat grazing, revegetation, and mechanical treatment began in the 1980s. In the western parts of the DPG, biological control (i.e., flea beetles), has been particularly effective in reducing the size and density of large leafy spurge patches; however, they are showing limited effectiveness within small patches because there aren't enough spurge plants to sustain viable beetle populations. Treatment with herbicides has been the primary treatment method for these smaller patches over the years. This approach has been effective and keeps leafy spurge populations in check. The purpose of this project is to implement an integrated noxious weed management control strategy consistent with the DPG Land and Resource Management Plan (Grasslands Plan).

The eradication and control of noxious weeds will meet the need and requirement of the DPG to promote the ecosystem health of forested and rangeland habitats by maintaining or improving native forbs and grass species, ultimately preventing the loss of wildlife and plant habitat. It is important to eradicate and control noxious weeds, with minimal disturbance to the soil and desired plants, in order to maintain productivity, to minimize erosion, and to maintain wildlife habitat.

Failure to control or eradicate infestation sites will increase the spread of weeds, which displace desirable native plants. Noxious weeds may be toxic to animals and humans, and few are desirable forage species for livestock or wildlife. The spread of these species increases the adverse impacts to humans, animals both domestic and wild, and native plant communities. Without treatment, weeds may increase about 14 percent a year under natural conditions.

The action is needed to control the spread of existing noxious weed populations, to reduce densities, and to treat newly found populations quickly and effectively. Studies completed in other parts of the country show that many noxious weeds have the ability to replace all native plants within a given area. These species pose a serious threat to ecosystem diversity and have a high potential to harm native plants and wildlife, especially threatened, endangered, and sensitive species. Leafy spurge is of particular concern on the DPG due to its invasiveness. This plant tends to form monocultures (areas dominated by a single plant species) and eventually eliminate all other native plants. In addition, black henbane, and other species produce toxic substances that can pose threats to humans, livestock, and wildlife.



The effects of noxious weed growth on native plants include: a decline in ecosystem diversity and health; an increase in bare soil resulting in declines in watershed condition; a decrease in the overall capacity of the land to support wild and domestic ungulates; and a reduction in the quality of habitat for many other wildlife species. Another concern is the current infestation in and along riparian corridors. Water in these habitats transports seeds and spores, spreading the infestation, which further reduces riparian habitat structure, and leads to an increase in sedimentation and a reduction water holding capacity.

The DPG has been controlling noxious weeds on the unit's Ranger Districts under previous NEPA decisions including the 1986 Custer National Forest Noxious Weed Environmental Impact Statement. However, an updated noxious weed control analysis is needed to address newly listed noxious weed species, to identify additional acres of noxious weed infestations, to ensure compliance with the revised Grasslands Plan, and to incorporate the use of new, more effective herbicides, technologies, and biological controls as appropriate.

The purpose of this project is to:

- Prevent or reduce the loss of native plant communities associated with the spread of noxious weeds.
- Improve and protect the biodiversity and ecological integrity of the DPG by preventing or limiting the spread of weeds that could alter desired plant community composition and function.
- Eradicate new invaders (weed species not previously reported on the DPG) before they become established and become more difficult to control.
- Prevent or limit the spread of established weeds into areas with few or no infestations.
- Restore and protect wildlife and plant habitat.
- Restore availability and quality of forage for livestock.
- Improve the aesthetic quality of roadside and recreation areas.
- Reduce infestation and spread of noxious weeds associated with developed sites, including oil and gas facilities, campgrounds, trailheads, roads, trails and administrative sites.
- Improve the ability to control noxious weeds in areas occupied by threatened and sensitive species without significant impacts to those species.
- Protect sensitive and unique habitats (including research natural areas, wetlands, and sensitive plant populations) from invasion by weeds.
- Continued implementation of federal and state weed policies, executive orders, and other management plans.

- Continued cooperation with county, state and federal agencies and private landowners interested in managing weed invasions.
- Implement Grasslands Plan goals and objectives.

## Decision

I have selected the Proposed Action, or Alternative 2, for this project. This means that I am authorizing treatment, through the application of an integrated noxious weed treatment strategy, of all known acres of noxious weeds (57,234) on the DPG over the next 10 to 15 years. Annual programs would treat up to approximately 25,000 acres. Many acres will experience multiple treatments over many years.

It is also reasonable to assume that new or unknown noxious weed populations will be discovered during the next 10 to 15 years and that new treatment methods may also become available. To accommodate these situations my decision includes an adaptive management process, detailed in the FEIS Chapter 2, for dealing with these eventualities. Therefore, my decision includes treatment of new or previously unknown noxious weed infestations, as they are discovered, up to 13,900 acres. At that time, the analysis should be reviewed per direction in Forest Service Handbook 1909.15 section 18. If the effects are within those described in the FEIS, then treatment will continue.

The proposed integrated treatment program would utilize a variety of tools, singularly or in combination, to treat noxious weeds. Proposed methods include the following:

- Mechanical methods, such as hand pulling, mowing, or cutting.
- Revegetation, where competitive vegetation is seeded to reduce noxious weed species, possibly after other treatments to remove the noxious weeds.
- Grazing with livestock such as goats or sheep.
- Biological control through the use of predators, parasites, and pathogens.
- Herbicide control using ground-based application methods.
- Herbicide control using aerial application methods.
- Prescribed fire in conjunction with other treatments.
- Education through the use of programs to inform people of noxious weed effects, methods of noxious weed spread and preventative management opportunities and practices.
- Prevention by using practices that reduce noxious weed spread, including a weed-free forage program and washing vehicles to remove weed seeds.

Actual acres treated will be dependent on annual funding of the noxious weed program. The Proposed Action as described in the FEIS likely represents the upper limit of annual treatment. Due to the persistence of some noxious weeds, infested areas may be annually treated or receive more than one treatment over the next 10 to 15 years. A detailed description of the Proposed Action is contained in the Alternatives section in Chapter 2 of the FEIS.

I expect that other site-specific decisions or implementation plans may further develop treatment priorities or mixes of potential methods tiered to and based on this decision. For example, the Sheyenne National Grassland restoration strategy may include determining which mix of treatments to use for a site.

The FEIS details my decision framework on page 26. I have selected the Proposed Action as described as Alternative 2 in the FEIS with all attached tables on methods, herbicides, noxious weed species, design criteria, adaptive and integrated management, and monitoring as described in the FEIS Chapter 2 and summarized below.

I considered whether or not a Grasslands Plan amendment would be needed to implement this project. No amendment is needed to implement this decision.

This alternative contains a few changes from the DEIS. The interdisciplinary team reviewed comments received on the DEIS, recommended some changes, and determined that they were within the effects described in the DEIS. The changes are described on pages 9 and 10 of the FEIS. Highlights include adding use of 2,4-D formulations allowed for water use in areas where water contact is likely and allowing use of fixed-wing aircraft if all the design criteria can be met.

The selected alternative, including the design criteria and Appendix B and C, will minimize soil and water quality contamination potential, limit effects on the western prairie fringed orchid, limit potential effects of herbicides on human health and provides opportunities for aerial applications while limiting unintentional effects on non-target species. It also meets the purpose and need for the project as described above. This alternative provides a framework for consideration of new herbicides and treatments (refer to the Adaptive Management section of FEIS Chapter 2, especially Figure 6). This will allow a broader range of options, including additional herbicides and other treatments while protecting the sensitive species and habitats and water resources of this area as research and risk assessments allow.

It should be noted that while this decision broadens many treatment options, it also restricts some past options, especially the use of picloram, commonly used on the DPG under the trade name Tordon for those areas near water or over a shallow water table. While I believe past decisions and applicators have used good judgment in following the label restrictions, this analysis, based on soil and herbicide properties, shows that a clearer definition of shallow water table is warranted for the DPG. The effects described in Chapter 3 of the FEIS include incorporation of the design criteria I am now adopting in Chapter 2 and Appendix B and C to limit the risk of herbicide contamination to the soil and water resource.

This decision approves site-specific projects. Site-specific treatments will be based on location, biology, size of the target invasive plant species, site conditions, integrated resource objectives, and adaptive management concepts. Over time, this decision may be modified in accordance with laws, policies and regulations.



I have reviewed discussions on the current environmental conditions particular to this project, and the direct, indirect and cumulative effects analyses for all actions proposed in each of the alternatives, as described in the Comparison of Alternatives (FEIS Table 7) and in Chapter 3 of the FEIS. I have also considered comments received from the public and other agencies.

I did not select Alternative 1 as described below because it would not meet the purpose and need for this project. This no action alternative clearly shows the adverse environmental effects of allowing noxious weeds to go virtually unchecked on the DPG (see FEIS Chapter 3). This is not a situation that would be environmentally or socially acceptable.

### **Other Alternatives Considered**

In addition to the selected alternative, I considered one other alternative, which is discussed below. Alternative 2 is the environmentally preferred alternative. A more detailed comparison of these alternatives can be found in the FEIS on pages 53 through 55.

#### **Alternative 1 - No Action**

This alternative would call for no weed management treatments applied to any National Forest System (NFS) lands, except for those NFS lands under road right-of-way (ROW) agreements with the different counties within the DPG. In these situations, the authority to undertake treatments is vested within those agencies. This alternative provides a baseline for comparison of effects and analysis of effects.

There would be no herbicide application (ground based or aerial application), mechanical methods (hand or tool grubbing, mowing), revegetation, goat or sheep grazing, use of fire or biological control. Existing biological controls would be allowed to progress naturally, but no supplementation would occur. Ongoing weed prevention and education would still continue, but additional treatment measures would not.

### **Public Involvement**

A scoping letter was sent out to 160 organizations, county, state and federal agencies, county commissioners, individuals, businesses, media, and organizations on March 31, 2004. News releases were sent to the DPG's paper of record, The Bismarck Tribune, and other daily and weekly newspapers and radio stations. The proposed project has been published in the DPG National Environmental Policy Act (NEPA) Quarterly Schedule of Proposed Actions since the First and Second Quarters, January-June 2003 edition. The Notice of Intent (NOI) for the Draft EIS (DEIS) was published in the Federal Register on June 14, 2005. The NOI notified the public that a DEIS would be prepared for this project. The comment period associated with the NOI was 45 days. Twelve responses were received from scoping and two from the NOI.

Using these comments, the interdisciplinary team identified several issues regarding the effects of the proposed action including: herbicide effects on human health, and

treatments effects on soil and water quality, the western prairie fringed orchid, and non-target species (see EIS pages 28 and 29). To address these concerns, the Forest Service created the alternatives described above.

A Notice of Availability for the DEIS was published in the Federal Register on May 5, 2006, and copies of the DEIS were sent to 42 individuals, organizations, and county, state and federal agencies. The comment period was 45 days, and the Forest Service received 12 responses. In addition, an open house was held on May 3, 2006 in McLeod, ND. Twenty people attended. The response to these comments is included in the FEIS in Appendix H. Several changes were made in the FEIS based on comments. These changes are summarized on pages 9 and 10 of the FEIS.

### **Alternatives Considered But Not Studied in Detail**

Federal agencies are required by NEPA to rigorously explore and objectively evaluate all reasonable alternatives and to briefly discuss the reasons for eliminating any alternatives that were not developed in detail (40 CFR 1502.14). Five additional alternatives were considered, but dismissed from detailed consideration as described in Chapter 2 of the FEIS. These alternatives are described as follows: 1) prevention only; 2) continuing the current weed treatment program; 3) use all treatments except for herbicides; 4) included the use of the herbicides quinclorac (Paramount), diflufenzopyr (Overdrive) and fosamine (Krenite); and 5) included invasive plants. I consider these adequately described and explained in the FEIS.

### **Monitoring and Evaluation**

Monitoring is the process of collecting information to determine the effectiveness of management actions in meeting prescribed objectives. Monitoring will focus on the: 1) density and rate of spread, and the effect noxious weeds have on natural resources; 2) effects of treatments on noxious weeds; and 3) presence of herbicide in surface or groundwater. I am including all of the monitoring described in Chapter 2 of the FEIS as part of my decision. This includes record keeping, implementation, treatment effectiveness, water quality, western prairie fringed orchid, sensitive species, human health and drift decision monitoring.

### **Environmentally Preferable Alternative**

Alternative 2 is the environmentally preferred alternative because it allows for the use of all available tools for weed control. Consequently, it best protects native species and habitat diversity while having a minimal negative impact on other resources. Concerns of herbicide impacts on aquatic resources, wildlife and humans have been minimized through effective protection measures and monitoring.

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

NEPA at 40 CFR 1502.25(a) directs "to the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with ...other environmental review laws and executive orders."



The selected alternative is consistent with the goals, objectives, standards and guidelines of the Dakota Prairie Grasslands Land and Resource Management Plan (USDA Forest Service 2001b). Noxious weed management direction from the Grasslands Plan is identified in Chapter 1 of this document.

The purposes of the National Environmental Policy Act (NEPA) of 1969 are to “encourage productive and enjoyable harmony between man and his environment, to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.” I believe Alternative 2 meets the purposes of the Act because of the reasons already stated and as disclosed in this record of decision and associated FEIS.

The selected alternative complies with the National Forest Management Act of 1976 (PL-94-588) requirement to remove deleterious plant growth.

This decision is consistent with the Endangered Species Act of 1973. The selected alternative was evaluated with regard to threatened and endangered animal and plant species. Findings are summarized in the Affected Environment and Environmental Impact section of the EIS and in the Biological Assessment (project file). The conclusions of the Biological Assessment determination for the federally threatened western prairie fringed orchid is “may effect, not likely to adversely affect” the species. Some treatments may impact individual plants; other treatments will not impact orchids at all. Long-term, there is a beneficial impact to orchid habitat as noxious weeds are controlled. Concurrence with these conclusions was received from US Fish and Wildlife Service on September 25, 2006.

Federal law and direction applicable to sensitive species include the National Forest Management Act and the Forest Service Manual (FSM) 2670. Those plants and animals, for which population viability is a concern, are periodically identified by the Regional Forester. In making my decision, I have reviewed the analysis of projected effects on all sensitive species listed as occurring or possibly occurring on the Dakota Prairie Grasslands. Based on this discussion I have concluded that Alternative 2 will have no adverse impacts on sensitive species.

The Forest Service will consult with the North Dakota State Historic Preservation Office (NDSHPO) and the South Dakota State Historic Preservation Office (SDSHPO) to ensure compliance with the National Historic Preservation Act of 1966, as amended in 1999 before fire or ground disturbing activities take place.

The Proposed Action is consistent with The Clean Water Act of 1972 as amended in 1977 and 1987. Consistency with the Act is assured through the application of the Design Criteria identified in Chapter 2.

Executive Order 12898, issued in 1994, ordered federal agencies to identify and address the issues of environmental justice (i.e. adverse human health and environmental effects



of agency programs that disproportionately impact minority and low income populations). The Environmental Justice analysis conducted for this FEIS determined that the Proposed Action will not have a disproportional impact on minority or low income populations. The Environmental Justice analysis is contained in the Project Record.

All alternatives are consistent with Environmental Protection Agency, Occupational Health and Safety Administration, State and Federal water and air quality regulations, and Forest Service regulations (FSM 2080) regarding pesticide use and worker safety.

The selected alternative is consistent with the National Forest Noxious Weed Management Policy (FSM 2080-2083), which requires district rangers to implement prevention measures to minimize the introduction and establishment of weeds, along with providing for the containment and suppression, of noxious weeds.

Forest Service Manual 2259.03 directs Forest officers to control noxious weeds on National Forest System lands, and cooperate fully with State, County and Federal officers in implementing 36 CFR 222.8 and the Carlson-Foley Act. My decision is consistent with this direction.

36 CFR Sub A, Sec 222.8: The selected alternative complies with the following direction: "The Chief, of the Forest Service, will cooperate with County or other local weed control Districts in analyzing noxious farm weed problems and developing control programs in areas which the National Forests and National Grasslands are a part."

The selected alternative complies with the Federal Noxious Weed Act of 1974 (sec 9), which authorizes the Secretary to cooperate with other Federal and State Agencies or political subdivisions thereof, and individuals in carrying out measures to eradicate, suppress, or control the spread of noxious weeds.

The selected alternative complies with the February 3, 1999, Presidential Executive Order 13112, Invasive Species, directing Federal Agencies whose actions may affect the status of invasive species to detect and respond rapidly to, and control, populations of such species in a cost-effective and environmentally sound manner, as appropriations allow.

## **Implementation**

### **Implementation Date**

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.



## **Administrative Review or Appeal Opportunities**

This decision is subject to appeal pursuant to 36 CFR 215.11. Only individuals or organizations that submitted comments or other expression of interest during the comment period may appeal. A written appeal must be submitted within 45 days following the publication date of the legal notice of this decision in the Bismarck Tribune, Bismarck, North Dakota. It is the responsibility of the appellant to ensure their appeal is received in a timely manner. The publication date of the legal notice of the decision in the newspaper of record is the exclusive means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source.

Paper appeals must be submitted to:

USDA Forest Service, Northern Region  
ATTN: Appeal Deciding Officer  
P.O. Box 7669  
Missoula, MT 59807

Or

USDA Forest Service, Northern Region  
ATTN: Appeal Deciding Officer  
200 East Broadway  
Missoula, MT 59802

Office hours: 7:30 a.m. to 4:00 p.m.

Electronic appeals must be submitted to:

[appeals-northern-regional-office@fs.fed.us](mailto:appeals-northern-regional-office@fs.fed.us)

Faxed appeals must be submitted to:

Fax: (406) 329-3411

In electronic appeals, the subject line should contain the name of the project being appealed. An automated response will confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF).

It is the appellant's responsibility to provide sufficient project- or activity-specific evidence and rationale, focusing on the decision, to show why the decision should be reversed. The appeal must be filed with the Appeal Deciding Officer in writing. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14, and include the following information: the appellant's name and address, with a telephone number, if available; a signature, or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal); when multiple names are

listed on an appeal, identification of the lead appellant and verification of the identity of the lead appellant upon request; the name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision; the regulation under which the appeal is being filed, when there is an option to appeal under either 36 CFR 215 or 36 CFR 251, subpart C; any specific change(s) in the decision that the appellant seeks and rationale for those changes; any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement; why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and, how the appellant believes the decision specifically violates law, regulation, or policy.

If an appeal is received on this project there may be informal resolution meetings and/or conference calls between the Responsible Official and the appellant. These discussions would take place within 15 days after the closing date for filing an appeal. All such meetings are open to the public. If you are interested in attending any informal resolution discussions, please contact the Responsible Official or monitor the following website for postings about current appeals in the Northern Region of the Forest Service: [http://www.fs.fed.us/r1/projects/appeal\\_index.shtml](http://www.fs.fed.us/r1/projects/appeal_index.shtml)."

### Contact Person

The responsible official is David M. Pieper, Grasslands Supervisor on the Dakota Prairie Grasslands. Copies of the Record of Decision and Final Environmental Impact Statement are available on the internet at <http://www.fs.fed.us/r1/dakotaprairie/> or a paper or CD copy will be mailed to those who request a copy. Should you desire a copy of the Final EIS and the Record of Decision please contact Sheila McNee, Project Leader, Dakota Prairie Grasslands, 240 W. Century Ave., Bismarck, ND 58503, or phone (701) 250-4443.

*/s/ David M. Pieper*

*March 2, 2007*

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**David M. Pieper**  
Grasslands Supervisor

Date