

CATEGORICAL EXCLUSION DOCUMENTATION FOR DNRC FOREST MANAGEMENT ACTIVITY

Project Name: Cripple Horse Cost Share road construction

Proposed Implementation Date: July 2016

Proponent: State of Montana DNRC

Type and Purpose of Action: The DNRC proposes to construct three short segments of new road and replace one undersized culvert on National Forest System (NFS) lands. This work will meet the state's obligation that was committed to in the Cripple Horse Cost Share Supplement #38 signed in November 2012. All work will be conducted on NFS lands and the Forest Service has completed their Decision Document approving this work. Please see attached NEPA CATEX.

Location: T31N R29W sections 2, 11 & 12

County: Lincoln

Category (refer to ARM 36.11.447 (3)(a) through (w) for additional detail):

- a) Temporary Uses of Land with Negligible Effects
- b) Plans and Policies
- c) Leases and Licenses
- d) Acquisition of Land or Interest in Land
- e) Road Maintenance and Repair
- f) Bridges and Culverts
- g) Crossing Class 3 Streams
- h) Temporary Road Use Permits
- i) Road Closure
- j) Material Stockpiles
- k) Backfilling
- l) Gathering Forest Products for Personal Use
- m) Regeneration
- n) Nursery Operations
- o) Water Wells
- p) Herbicides and Pesticides
- q) Other Hazardous Materials
- r) Fences
- s) Waterlines
- t) Removal of Small Trees
- u) Removal of Hazardous Trees
- v) Cone Collection
- w) Timber Harvest (<100 MBF green or 500 MBF salvage)

By process of the adoption of the Forest Management Rules on February 27, 2003, pursuant to ARM 36.2.523(5)(a), the Department of Natural Resources and Conservation, Trust Land Management Division, has adopted the above categorical exclusions for activities conducted on state forested trust lands. "Categorical Exclusion" refers to a type of action that does not individually, collectively, or cumulatively require an EA or EIS unless extraordinary circumstances occur (ARM 36.2.522(5)).

Extraordinary Circumstances:

Will the proposed action affect one or more of the following resources, species or situations in the project area? If the resource, species, or situation is present, but project design avoids potential adverse effects on the resource, the answer is "No". One "Yes" answer indicates that Categorical Exclusion is not appropriate for the project, and an EA or EIS must be conducted.

YES NO

- YES NO a) Sites with high erosion risk.
- YES NO b) Federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS.
- YES NO c) Municipal watersheds.
- YES NO d) The SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures.
- YES NO e) State natural area.
- YES NO f) Native American religious and cultural sites.
- YES NO g) Archaeological sites.
- YES NO h) Historic properties and areas.
- YES NO i) Several related projects that individually may be subject to categorical exclusion but that may occur at the same time or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review.
- YES NO j) Violations of any applicable state or federal laws or regulations.

The project listed above meets the definition of the indicated categorical exclusion, including specified conditions and extraordinary circumstances, as provided in the Forest Management Rules (ARM 36.11.447).

Prepared by: Jeremy Rank
(Name)

12/11/2015
(Date)

Decision by: Douglas Turman
(Name)

Libby Unit Manager
(Title)


(Signature)

12/11/15
(Date)

Decision Memo



FILE COPY

Cripple Horse Cost Share Supplement State of Montana Department of Natural Resources and Conservation Libby Ranger District Kootenai National Forest Lincoln County Montana

File Code: 1950, 2730, 5460
Date: July 2012

PROPOSED ACTION

The Kootenai National Forest proposes to grant a cost share road easement to the State of Montana, hereafter referred to as "State" under the authority of the Forest Roads and Trails Act (FRTA) of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532-538) and the Northern Region/State of Montana, Dept. of Natural Resources and Conservation Road Right of Way Construction and Use Agreement, dated January 13, 2003. State has initiated a proposal that provides permanent legal access to their ownership across existing Forest Service controlled roads on the Libby Ranger District in the Cripple Horse area (see attached map), Principal Meridian Montana:

1. Boundary Mountain Road No. 4904, crossing National Forest System (NFS) lands, as follows:

<u>Twn.</u>	<u>Rge.</u>	<u>Section</u>
31N	29W	11, 12

2. Road No. 4925, crossing National Forest System (NFS) lands, as follows:

<u>Twn.</u>	<u>Rge.</u>	<u>Section</u>
31N	29W	11, 12

The proposed action includes construction of three short segments of new road on NFS lands, as follows:

1. Road No. N40 – 0.22 miles

<u>Twn.</u>	<u>Rge.</u>	<u>Section</u>
31N	29W	2

2. Road No. N41 – 0.03 miles

<u>Twn.</u>	<u>Rge.</u>	<u>Section</u>
31N	29W	12

3. Road No. N42 – 0.04 miles

<u>Twn.</u>	<u>Rge.</u>	<u>Section</u>
31N	29W	12

State will buy-in to the existing roads mentioned above. The Forest Service will convey access rights via a cost share road easement to State across National Forest System lands and on an assignable easement previously acquired.

The Forest Service would share in the new construction on NFS Road N40 (0.22 miles) to be constructed off existing US Hwy 37, in Section 2, T31N, R29W, PMM.

Public access as a result of this project will not change. State will be subject to such traffic control rules and regulations as reasonably imposed by the Government upon or required of other users. All new roads will be closed year-round to motorized traffic.



PURPOSE AND NEED

State has requested permanent access to their lands for natural resource management under the authority of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532-538), by and through the Regional Forester, Northern Region, Forest Service, Department of Agriculture.

The proposed action meets the goal of the Kootenai National Forest Land and Resource Management Plan (Forest Plan) of providing access through management areas where such grants do not conflict with the Forest Plan, or where other statutory rights prevail (Kootenai National Forest Plan, 1987 p. II-9).

DECISION

It is my decision to approve this Supplement to the Northern Region/State of Montana, Dept. of Natural Resources and Conservation Road Right of Way Construction and Use Agreement and exchange of easements with State of Montana as described in this Decision Memo and the supporting documentation contained in the project file. The easement grant to State is perpetual, authorizes all lawful proposes and cannot be re-conveyed by the State of Montana. The use of National Forest System Lands for these purposes is subject to terms and conditions specified in the cost share easement and Cooperative Road Maintenance Agreement which is included in the district files. This decision is consistent with policies found in Forest Service Handbook 7709.59 (Transportation Operations Handbook, Chapter 20), FSH 5409.17 (ROW Acquisition Handbook) and Forest Service Manual 5460 (ROW Acquisition Manual) and FSM 2730 (ROW Grants Manual). This decision is also consistent with Title 36 CFR 212.5 and 212.9.

My decision to approve the proposed action is subject to the terms and conditions specified in the cost share supplement road construction plans, the Kootenai National Forest/DNRC Annual Road Maintenance Plan and cost share road easement (see district files) as well as the following design criteria.

1. The project would follow Best Management Practices (BMPs) and the Programmatic Road Maintenance Biological Assessment.
2. The State will be made aware of the buried powerlines on NFS Road 4925.
3. To minimize potential impacts to soils resources, sensitive soils would be avoided; rehabilitate and re-seed project areas deemed necessary upon completion; all necessary BMPs would be implemented.
4. To minimize potential impacts to water resources Riparian Habitat Conservation Areas (RHCA) boundaries would be identified; there would be no fuel storage in RHCAs; all necessary BMPs would be implemented; the DNRC would be in possession of all applicable permits. (A 124 and 318 Permits have been authorized by the Montana DEQ and FWP for implementation of this project.)
5. Road construction/reconstruction activities will cease during wet periods where project activities would cause excessive ground disturbance or resource damage. The Forest Service will determine what constitutes a "wet period".
6. Coordinate with Montana DNRC on noxious weed management strategies in Cripple Horse area.
7. Prior to entering the project area, State will be required to pre-wash (pressure wash) all equipment to remove weed seeds, soils and vegetative materials which may transport noxious weed seeds; pressure washed equipment will be made available for inspection by the Forest Service.
8. Certified weed-free straw will be used for all activities if needed.
9. Minimize soil disturbance and mineral soil exposure during activities. Soil disturbance should be no more than needed to meet project objectives.
10. State will use only certified weed-free seed for seeding all disturbed areas within the project area. Exposed soils will be seeded immediately after final grading and before the soil surface hardens. Utilize the Kootenai National Forest native seed mix.
11. Use weed-free gravel and fill for road construction.
12. Keep administrative traffic on closed roads to a minimum. Whenever possible, time activities prior to seed set of the primary weed species or emphasis weeds on a given road.
13. Plan follow up noxious weed treatment the spring or early summer, following final activity and closure of temporary roads used for this project.
14. Treat existing noxious weeds on roads to be reconstructed, or stored prior to that activity, (if possible schedule spraying two or more seasons before activities are expected to occur to reduce the amount of

14. Treat and sign sites if new invaders are located and defer ground disturbing activities within those sites until the weed specialist determines the site is no longer a threat, and approves those activities.
15. All noxious weed control activities would comply with state and local laws and agency guidelines, and the Kootenai National Forest Invasive Plant Management FEIS.
16. Pre-treat open access routes within the project area prior to activities with appropriated funds.
17. All herbicides used in the project area would be applied according to the labeled rates and recommendations to ensure the protection of surface water, ecological integrity and public health and safety. Herbicide selection would be based on target species on the site, site factors (such as soil types, distance to water, etc.), and with the objective to minimize impacts to non-target species.
18. COR will notify Fuels AFMO as to the location (lat/long and physical description is best) of woody piles created from road construction so they can be burned.
19. Road construction may pose increased potential of starting fires when machinery is operated in the hot and dry times of the year. Notify Fire FMO/AFMO's when operations are occurring.
20. Contract language should include mitigation measures to keep roads from producing excessive amounts of dust. This minimizes impacts to air quality as well as reduces the chance of dust generated from construction mistakenly thought to be a new fire start by our fire lookouts and/or the public.

SCOPING AND PUBLIC INVOLVEMENT

The proposed action was publicly scoped in *The Daily Interlake* on April 28, 2012, *The Western News* on May 2, 2012 and *The Kootenai Valley Record* on May 1, 2012. No public comments were received during the comment period.

The proposed action was internally scoped by an interdisciplinary team consisting of a cost share specialist, road maintenance engineer, NEPA specialist, transportation planner, wildlife biologist, noxious weed specialist, fisheries biologist, hydrologist, soils specialist, scenery management specialist, archeologist and fuels specialist. These specialists conducted an analysis of site-specific concerns.

Scoping consisted of a review of the proposed action by the above-mentioned specialists. A Travel Analysis Process (TAP) was done and can be found in the Project File. No significant issues or extraordinary circumstances were identified.

REASONS FOR CATEGORICALLY EXCLUDING THE PROPOSED ACTION

The action falls within category Section 31.2(3) of the Forest Service Environmental Policies and Procedures Handbook (FSH 1909.15) that includes "approval, modification or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land" and there are no extraordinary circumstances related to the Proposed Action. The proposed action would affect approximately 4.41 acres within the authorized right of way on National Forest System Lands.

As summarized below, no extraordinary circumstances (Title 36 CFR 220.6(b)) related to the proposed action exist.

Federally Listed Threatened or Endangered Species or Designated Critical Habitat, Species Proposed for Federal Listing or Proposed Critical Habitat, or Forest Service Sensitive Species – The district wildlife biologist, fisheries biologist and botanist reviewed the proposal to determine potential effects to threatened/endangered species. It was determined that it would have **no effect** to Canada lynx, critical lynx habitat, grizzly bear, bull trout, white sturgeon, water howellia and Spalding's catchfly. The proposal **may effect, not likely to adversely affect** the taper-tipped onion (*Allium acunatum*).

The proposed action would have **no impact** to the bald eagle, black-backed woodpecker, fisher, common loon, harlequin duck, wolverine, bighorn sheep, gray wolf, northern bog lemming, Coeur d'Alene salamander, northern leopard frog, northern goshawk, peregrine falcon, westslope cutthroat trout, redband rainbow trout and western pearlshell mussel. It **may impact individuals or habitat but will not contribute to a trend toward federal listing or loss of species viability** to flammulated owl, Townsend's big-eared bat, western toad and

pileated woodpecker. The biological assessments are included in the project file.

Floodplains, Wetlands, Municipal Watersheds, or Impaired Waters – On-the-ground investigations determined that the proposed action is not within a floodplain, wetland, or impaired waters.

Congressionally Designated Areas, Such As Wilderness, Wilderness Study Areas, or National Recreation Areas - The proposed action is not within a congressionally designated area such as wilderness, wilderness study area, or National Recreation Area or in any area under consideration by Congress for wilderness designation.

Inventoried Roadless Areas – The proposed action is located in a roaded area and is not part of an inventoried roadless area.

Research Natural Areas – The proposed action is not located within a Research Natural Area.

American Indians and Alaska Native Religious or Cultural Sites – The site was reviewed by the district archeologist who determined there are no known sites within or adjacent to the proposed action. No significant cultural resource issues were identified for this project. There was no tribal response to the internal scoping of this project.

Archaeological Sites, or Historic Properties or Areas - The site was reviewed by the district archeologist who determined there are no known sites within or adjacent to the proposed action. Consultation on this finding occurred with the Montana State Historic Preservation Office.

In addition to the above, I considered other elements in my determination there would be no effects to “extraordinary circumstances”, as defined by the National Environmental Policy Act (NEPA), nor other adverse effects associated with this project. I have examined past, present, ongoing, and reasonably foreseeable future actions and considered the potential for cumulative effects. The cumulative effects analysis is consistent with Forest Service NEPA Regulations (36 CFR 220.4(f), July 24, 2008) in accordance with the Council on Environmental Quality Memorandum, *Guidance on the Consideration of Past Actions in Cumulative Effects Analysis*.

I have concluded that without notable individual effects from the Proposed Action, there would be no significant cumulative effects. My conclusion is based on: 1) findings related to extraordinary circumstances; 2) the small scale of activity constituting the Proposed Action; 3) on-the-ground review and discussions with district resource specialists; 4) a review of similar projects on the Forest or district; 5) lack of change in existing use and 6) the low risk of environmental impact.

COMPLIANCE WITH FOREST PLAN AND FINDINGS REQUIRED BY OTHER LAWS

My decision complies with all applicable laws and regulations. I have summarized pertinent ones below.

Consistency with Forest Plan - The proposed action is consistent with the standards, goals, and objectives of the Kootenai Forest Plan, as amended by the Inland Native Fish Strategy, for lands special use activities. The proposed activity is located in Forest Plan Management Areas 15 (Timber Production) and 17 (Viewing with Timber) where lands special uses may be permitted but will include provisions for scheduling to prevent conflicts during periods of wildlife use (Kootenai National Forest Plan, Vol. 1, p. III-45, 1987).

Endangered Species Act – The District Fisheries Biologist, Wildlife Biologist and Botanist evaluated the proposed action for compliance with the Endangered Species Act and determined there will be **no effect** to Canada lynx, critical lynx habitat, grizzly bear, bull trout, white sturgeon, water howellia and Spalding’s catchfly. The proposal **may effect, not likely to adversely affect** *Allium acunatum* (taper-tipped onion).

American Indian Religious Freedom Act, and Native American Graves Protection and Repatriation Act - The proposed action would comply with these Acts by following the Kootenai National Forest Heritage Guidelines. These guidelines provide a forum for tribal consultation for government-to-government coordination

under the Hellgate Treaty of 1855.

Natural Historic Preservation Act – Pursuant to implementing regulations of the Historic Preservation Act (36 CFR 801); the area was surveyed for possible cultural and historical sites. No sites were located within the affected area.

Clean Water Act and Montana State Water Quality Laws – The District Hydrologist has determined this project complies with the Clean Water Act and state water quality laws. This decision incorporates road maintenance which includes Best Management Practices to ensure protection of soil and water resources.

Environmental Justice – The proposed action was assessed to determine whether it would disproportionately impact minority or low income populations, in accordance with Executive Order 12898. No impacts to minority or low income populations were identified during scoping or the effects assessment.

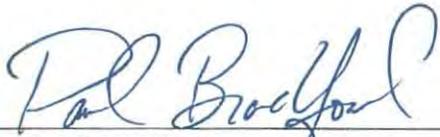
Migratory Bird Treaty Act - I find that there are no known substantial losses of migratory bird habitat expected from the implementation of this proposal. It is my determination that the proposed action will not cause a trend toward federal listing of any migratory bird species, or loss of habitat viability within the general location of the proposed activity.

ADMINISTRATIVE REVIEW AND IMPLEMENTATION DATE:

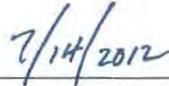
This decision is not subject to appeal pursuant to 36 CFR 215 since no comments were received. Implementation of this project may begin immediately.

CONTACT PERSON:

For further information, please contact Mark Petersen at the Kootenai National Forest, 31374 US Hwy 2, Libby, MT 59923, 406 293.6211.



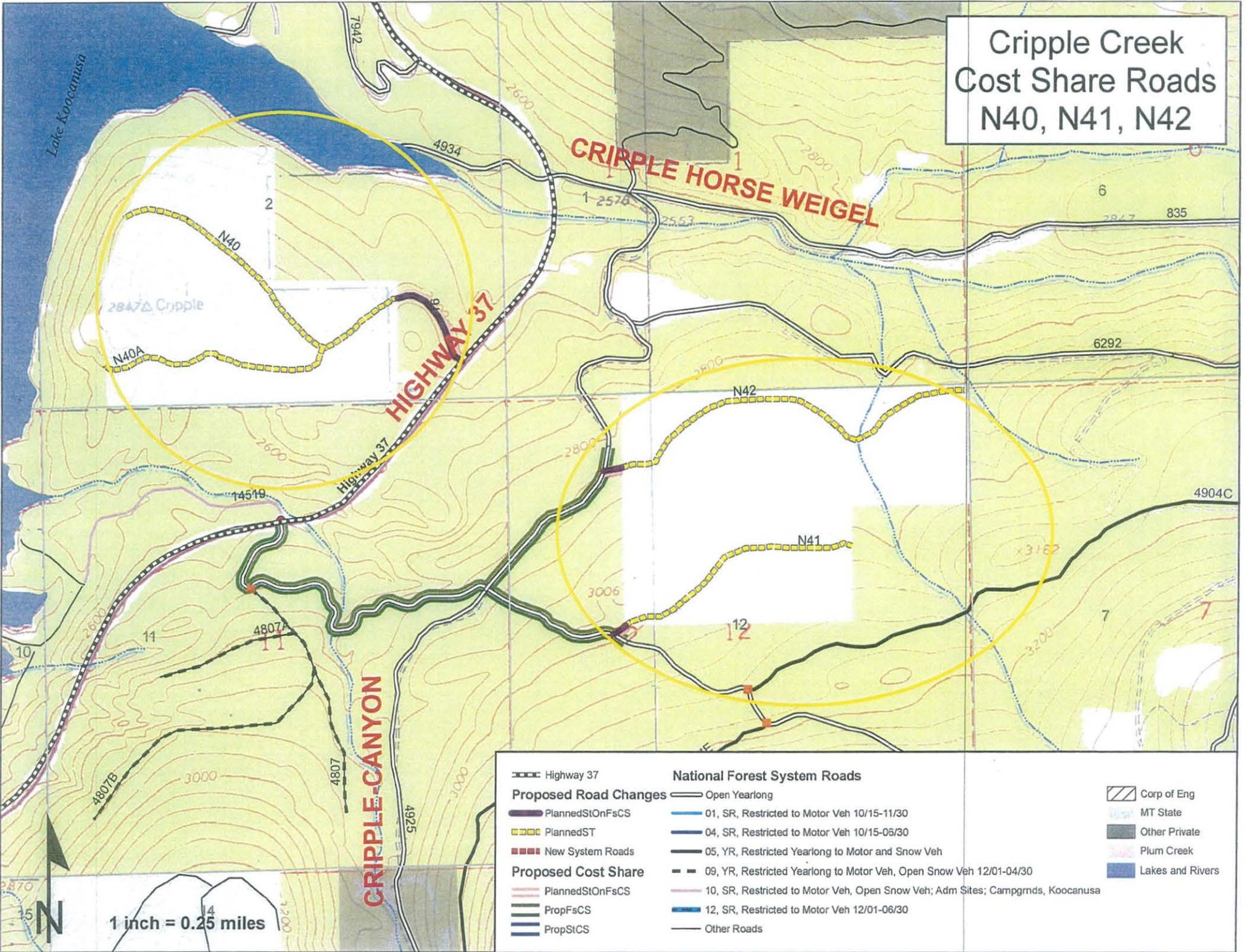
PAUL BRADFORD
Forest Supervisor
Kootenai National Forest
Northern Region



Date

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Cripple Creek Cost Share Roads N40, N41, N42



Proposed Road Changes		National Forest System Roads		Ownership	
Highway 37	PlannedStOnFsCS	Open Yearlong	01, SR, Restricted to Motor Veh 10/15-11/30	Corp of Eng	Lakes and Rivers
PlannedST	New System Roads	04, SR, Restricted to Motor Veh 10/15-06/30	05, YR, Restricted Yearlong to Motor and Snow Veh	Other Private	Plum Creek
Proposed Cost Share	PropFsCS	09, YR, Restricted Yearlong to Motor Veh, Open Snow Veh 12/01-04/30	10, SR, Restricted to Motor Veh, Open Snow Veh; Adm Sites; Campgrnds, Koocanusa	MT State	
PropStCS		12, SR, Restricted to Motor Veh 12/01-06/30	Other Roads		