

ENVIRONMENTAL ASSESSMENT, FINDING OF NO SIGNIFICANT IMPACT, and DECISION RECORD¹

ENVIRONMENTAL ASSESSMENT

EA Number: OR-086-08-03

BLM Office: Tillamook Resource Area, 4610 Third Street, Tillamook, Oregon, 97141

Proposed Action Title: Yaquina Head Outstanding Natural Area Contaminated Soil Project

Type of Project: Removal and Treatment of Lead-Contaminated Soil

Location of Proposed Action: T10S, R11W, Sections 29 and 30, Willamette Meridian, Lincoln County; 3 miles north of Newport, OR.

Conformance with Applicable Land Use Plan: The proposed action is in conformance with the *Salem District Record of Decision and Resource & Management Plan (ROD/RMP)*, dated May 1995; *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and Standard and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl*, dated April, 1994; *Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* (July 2007).

Purpose of and Need for Action:

The National Contingency Plan (NCP) establishes the processes and procedures used by lead agencies to respond to releases of hazardous substances pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). The NCP is published in the Code of Federal Regulations (CFR) under 40 CFR 300, and BLM has been delegated lead agency authority under Executive Order 12580. CERCLA section 104 (a), (b), (c)(4), and (e) gives the lead agency the authority to respond to hazardous substance releases. This includes selecting and implementing removal and remedial actions.

¹ Pursuant to BLM Handbook 1790-1, Rel. 1-1547, 10/25/88, page IV-11, it is appropriate to use this format when all the following conditions are met: 1/ Only a few elements of the human environment are affected by the proposed action; 2/ Only a few simple and straightforward mitigation measures, if any, are needed to avoid or reduce impacts; 3/ There are no program-specific documentation requirements associated with the action under consideration; 4/ The proposed action does not involve unresolved conflicts concerning alternative uses of available resources and, therefore, alternatives do not need to be considered; 5/ The environmental assessment is not likely to generate wide public interest and is not being distributed for public review and comment; and 6/ The proposed action is located in an area covered by an existing land use plan and conforms with that plan.

Soil testing has indicated that lead-contaminated soils exceeding EPA cleanup standards exist around and in the general vicinity of the lighthouse at the Yaquina Head Outstanding Natural Area (YHONA). The lead was derived from lead paint historically used on the lighthouse and other structures at the site. Lead levels are highest in the upper six to eight inches of soil between the lighthouse and asphalt sidewalk surrounding it. The Bureau of Land Management (BLM) has decided to remove or chemically treat contaminated soils in an area near the lighthouse. Soils with lead levels greater than 631 mg/kg total lead would be excavated and replaced with uncontaminated soil. Soils with total lead levels between 400 and 631 mg/kg are below EPA cleanup standards but pose a moderate environmental risk and would be treated in place using a phosphate compound to immobilize the lead.

Description of the Proposed Action:

The Proposed Action is to remove contaminated soils from an area of approximately 2,600 square feet near the lighthouse. An estimated 72 cubic yards of soil would be excavated with power equipment and placed in temporary storage nearby while laboratory analysis determines the actual lead levels in the excavated soil. Once the lead levels in the excavated soil have been determined the soil will be disposed of at an appropriate landfill. Uncontaminated soil would be brought in to replace the excavated soil, and the site would be re-contoured and revegetated with red fescue. Another approximately 5,800 square feet of the area east of the lighthouse would be treated with phosphate solution to immobilize lead in the soil and reduce leaching and effects on humans and wildlife. This would involve spraying a liquid solution on the soil surface and, where existing vegetation allows, tilling the surface soil to increase distribution of the phosphate solution. Tilling would be accomplished with a small tractor-mounted tiller or walk-behind tiller.

It is anticipated that the project would be accomplished in the fall of 2008, after the volume of visitors to the site drops and before the fall rains begin. The soil removal, replacement and treatment portion of the project is expected to take about five days to complete; revegetation would occur when soil and weather conditions are appropriate. Visitor access to the treatment area would be restricted during project implementation.

Design Features:

Disturbed soils would be seeded with *Festuca rubra* (red fescue) to control growth and spreading of noxious weeds, and reduce soil erosion.

Consultation and Public Involvement:

ESA consultation:

- Wildlife: The proposed action would have No Effect on ESA listed wildlife species or their critical habitats. Consultation with USFWS would not be required.

- **Fish:** The proposed action would have no effect on ESA listed fish or Essential Fish Habitat under the Magnuson-Stevens Fisheries Conservation and Management Act.

Public Involvement: In compliance with the National Environmental Policy Act, the proposed action was listed in the March 2008 edition of the quarterly *Salem District Project Update*, which was mailed to over 1,200 addresses. No public comments were received in response to this scoping.

Affected Environment:

General: The project is located at the Yaquina Head Outstanding Natural Area (YHONA), approximately three miles north of Newport, Oregon. The land use allocation at YHONA is Congressionally Reserved. The proposed action would occur near the lighthouse, a 93-foot tall brick structure built in 1873 by the U.S. Lighthouse Service which has been operated by the U.S. Coast Guard continuously since that time. The lighthouse is located on a volcanic headland surrounded by the Pacific Ocean on three sides. The site is open to the public and popular with both tourists and locals. There are no surface drainage features or standing water on the site.

Threatened/Endangered (T/E) Fish: There is no surface water or fish in or near the project area.

Threatened/Endangered (T/E) Wildlife: The project area is not located within spotted owl or marbled murrelet Designated Critical Habitat. There are no known spotted owl or marbled murrelet nest sites within the vicinity of the proposed action and there is no suitable nesting habitat for these or any other listed wildlife species within 0.25 miles of the project area.

Soil Resources: According to the NRCS Lincoln County Soil Survey, soils in the project area are Neskowin and Salander series. They are volcanic ash influenced, moderately deep to deep (20 to 60 inches thick), well-drained, moderate permeable, silt loam and silty clay textured soils underlain by fractured basalt.

Water Resources: There are no surface drainage features or standing water in the project area. The depth to groundwater is unknown, although saltwater intrusion is likely on the headland.

Other Special Status Species Fish: There is no surface water or fish in or near the project area.

Invasive / Noxious Weeds: All noxious weeds identified within the vicinity of the project area are designated Priority III (established infestations) on the Oregon Department of Agriculture (ODA) noxious weed list. These weed species are commonly found throughout Western Oregon tending to occupy areas that have soil disturbance and an increase of available light. Because there is an existing seed source, some degree of invasive / noxious weed / non-native species introduction or spread is expected within the project area. Project design features require seeding disturbed areas with an appropriate grass species to mitigate the invasion of noxious weeds.

Environmental Effects:

The interdisciplinary team reviewed the elements of the environment, required by law, regulation, Executive Order and policy, to determine if they would be affected by the proposed action. *Table 1* (Critical Elements of the Environment from BLM H-1790-1, Appendix 5) and *Table 2* (Other Elements of the Environment) and *Table 3* (Aquatic Conservation Strategy Summary) summarize the results of that review. Affected elements are **bold**. Unless otherwise noted, the effects apply to the proposed action; and the No Action Alternative is not expected to have adverse effects to these elements.

<i>Table 1: Environmental Review for the Critical Elements of the Environment (BLM H-1790-1, Appendix 5)</i>			
<i>Critical Elements Of The Environment</i>	<i>Status: (i.e., Not Present , Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Air Quality (Clean Air Act)	Not Affected	No	Dust created from removal of contaminated soil is predicted to be local and of short duration. As such, the proposed action would have no adverse impact on air quality and would comply with the provisions of the Clean Air Act.
Areas of Critical Environmental Concern	Not Present		There are no ACECs in the project area.
Cultural, Historic, Paleontological	Not Affected	No	No cultural or historic sites would be affected by the proposed action.
Energy (Executive Order 13212)	Not Affected	No	There are no known energy resources located in the project area. The proposed action would have no effect on energy development, production, supply and/or distribution.
Environmental Justice (Executive Order 12898)	Not Affected	No	The proposed action is not anticipated to have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.
Prime or Unique Farm Lands	Not Present		There are no prime or unique farm lands in the project area.
Flood Plains (Executive Order 11988)	Not Present		There are no flood plains in the project area.
Hazardous or Solid Wastes	Not Affected	No	The proposed action involves use of existing roads. There would be no effect on hazardous or solid wastes.
Invasive, Nonnative Species (Executive Order 13112)	Not Affected	No	Areas affected by removal of contaminated soil would be revegetated by grass seeding to mitigate introduction of invasive non-native species.
Native American Religious Concerns	Not Affected		Past projects of this type within this area have not resulted in tribal identification of concerns.
Threatened or Endangered (T/E) Species	Fish	Not Present	There are no fish present in the project area.
	Plants	Not Present	No threatened or Endangered species are located within the project area

Table 1: Environmental Review for the Critical Elements of the Environment (BLM H-1790-1, Appendix 5)

<i>Critical Elements Of The Environment</i>		<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
and/or Habitat	Wildlife (including Designated Critical Habitat)	Not Present		No Threatened or Endangered species known sites or Designated Critical Habitat are located within or near the project area.
Water Quality (Surface and Ground)		Not Affected	No	There is no surface water present in the project area. Removal of contaminated soil would have no effect on ground water quality.
Wetlands (Executive Order 11990)		Not Present		There are no wetlands within the project area.
Wild and Scenic Rivers		Not Present		There are no Wild or Scenic Rivers within the project area
Wilderness		Not Present		There are no wilderness areas within the project area.

Table 2: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)

<i>Other Elements Of The Environment</i>		<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Coastal Zone (Oregon Coastal Management Program)		Not Affected	No	The project is consistent with the Coastal Zone Act and Oregon Coastal Management Program.
Essential Fish Habitat (Magnuson-Stevens Fisheries Cons. /Mgt. Act)		Not Present		There is no fisheries habitat in the project area.
Fire Hazard/Risk		Not Affected	No	The proposed action would have no effect on fire hazard or fire risk.
Forest Productivity		Not Present		No forest vegetation is present in the project area.
Land Uses (right-of-ways, permits, etc)		Not Affected	No	The proposed action would have no effect on land uses in the project area.
Late successional / old growth		Not Present		No forest vegetation is present in the project area.
Mineral Resources		Not Present		There are no known mineral resources of commercial value in the project area.
Recreation		Affected	No	Public access to the project area, predominantly the lighthouse, would be restricted for several days while the contaminated soil is being removed.
Rural Interface Areas		Not Present		There are no rural interface areas within the project area.

Table 2: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)

<i>Other Elements Of The Environment</i>		<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Soils		Affected	No	Contaminated soil would be removed from around the lighthouse, and other soils in the project area would be treated with phosphorus to make the lead in the soil biologically unavailable and not a threat to the environment. Uncontaminated soil will be brought in to replace the soil that is removed.
Special Areas outside ACECs (Within or Adjacent) (RMP pp. 33-35)		Not Present		There are no Special Areas within the project area.
Other Special Status Species/Habitat	Fish	Not Present		There are no fish or fisheries habitat in the project area.
	Plants	Not Present		There are no special status species plants or their habitats present in the project area.
	Wildlife	Not Affected	No	Due to the scope of the project, as well as the nature of the habitats impacted, it would not be expected to result in the loss of population viability for any Special Status wildlife Species that may occur in the project area, or result in the need to elevate their status to any higher level of concern including the need to list under the ESA.
Visual Resources		Not Affected	No	The BLM lands are managed as VRM Class I, which provides for management activities which require major modification of the existing landscape.
Water Resources (except Water Quality)		Not Affected	No	There is no surface water present in the project area, and the proposed action would have no effect on ground water.
Other Wildlife Structural or Habitat Components (Snags /CWD / Special Habitats, road densities)		Not Affected	No	The proposed action would have no effect on wildlife structural or habitat components.

Aquatic Conservation Strategy Review: Table 3 shows the project's effect on the 4 components of the Aquatic Conservation Strategy (1/ Riparian Reserves, 2/ Key Watersheds, 3/ Watershed Analysis and 4/ Watershed Restoration).

Components	Effect	Remarks /References
Riparian Reserves	None	There are no riparian reserves in the project area.
Key Watershed	None	Not in a key watershed.
Watershed Analysis	None	Midcoast Watershed Assessment, July 2001.
Watershed Restoration	None	Although the proposed action is not a component of the resource area's watershed restoration program, it would not have an adverse effect on restoration efforts.

Interdisciplinary Team:

Affected Resource	Specialist	Initial	Date
Botany/Vegetation	Kurt Heckerth	<i>KH</i>	6/10/08
Cultural Resources	Dennis Worrel	<i>DW</i>	6/3/08
Fisheries	Matt Walker	<i>MW</i>	6/5/08
Hydrology, Water Quality	Dennis Worrel	<i>DW</i>	6/3/08
Other Resources/ NEPA	Bob McDonald	<i>RM</i>	6/10/08
Recreation, Visual and Rural Interface Resources	Debra Drake	<i>DD</i>	6/10/08
Soils	Dennis Worrel	<i>DW</i>	6/3/08
Wildlife	Steve Bahe	<i>SB</i>	5/29/08

EA Prepared By: Bob McDonald

Date: 6/20/08

FINDING OF NO SIGNIFICANT IMPACT and DECISION RECORD

Based upon my review of this EA (Environmental Assessment Number OR-086-08-03), I have determined that the proposed action is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. Therefore, an environmental impact statement is not needed. I have also determined that the proposed action is in conformance with the approved land use plan. It is my decision to implement the proposed action, as described in the EA.

Right to Appeal: This decision may be appealed to the Interior Board of Land Appeals in accordance with the regulations contained in 43 Code of Federal Regulations (CFR), Part 4 and Form 1842-1. Form 1842-1 is attached.

If you appeal: A public notice for this decision is scheduled to appear in the **Newport News-Times** newspaper on **July 2, 2008**. Within 30 days of this notification, a *Notice of Appeal* must be filed in writing to the office which issued this decision – Brad Keller, Field Manager, Bureau of Land Management, 4610 Third Street, Tillamook, OR, 97141. A copy of the *Notice of Appeal* must also be sent to the BLM Regional Solicitor (see Form 1842-1). The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 CFR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your *Notice of Appeal*. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Board and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay: Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

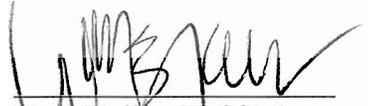
- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Statement of Reasons: Within 30 days of the filing of the *Notice of Appeal*, a complete statement of reasons why you are appealing must be filed with the Interior Board of Land Appeals (see Form 1842-1).

Implementation Date: If no appeals are filed, this decision will become effective and be implemented 30 days after the public notice of this Decision Record appears in the Newport News-Times newspaper.

Contact Person: For additional information concerning this decision or the appeal process, contact Bob McDonald at (503) 815-1110, Tillamook Resource Area, Salem District, 4610 Third Street, Tillamook, Oregon 97141.

Authorized Official:


Brad Keller, Field Manager
Tillamook Resource Area

Date:

June 23

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

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1. **NOTICE OF APPEAL**..... A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
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2. **WHERE TO FILE NOTICE OF APPEAL**..... **A. Brad Keller, Tillamook Resource Area Field Manager, Bureau of Land Management, 4610 Third Street, Tillamook, OR 97141**
WITH COPY TO SOLICITOR... **B. Regional Solicitor, Pacific Northwest Region, 500 NE Multnomah St. Suite 607, Portland, OR 97232**
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3. **STATEMENT OF REASONS** Within 30 days after filing the Notice of Appeal, File a complete statement of the reasons why you are appealing. This must be filed with the **United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203**. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR..... Same as 2 B.
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4. **ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
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5. **PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the **United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203**. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
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6. **REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.
- Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)