

Reply Refer To: 2670 (FS)/ 6840 (BLM) (OR-931) P

Date: February 22, 2006

FS-Memorandum

EMS TRANSMISSION
BLM-Instruction Memorandum No. OR-2006-029
Expires: 09/30/2007

To: Bureau of Land Management District Managers (Coos Bay, Eugene, Lakeview, Medford, Roseburg, and Salem), Field Managers (Klamath Falls and Tillamook, OR; Arcata, Redding, and Ukiah, CA), and Forest Service National Forest Supervisors and Columbia River Gorge National Scenic Area Manager within the Northwest Forest Plan Area

Subject: Management Direction regarding the January 9, 2006, Order on the Plaintiffs' Motion for Injunctive Relief, *NEA et al v. Rey, et al*, Civ. No. 04-844P, W.D. Washington

On January 9, 2006, Judge Pechman issued an Order (*Northwest Ecosystem Alliance et al. v. Mark E. Rey et al.*, No. 04-844P, W.D. Wash) as follows:

- (1) The Record of Decision dated March 22, 2004, entitled "To Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines in Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl" (the "2004 ROD") is hereby set aside, and Defendants shall not rely on it or implement.
- (2) The Record of Decision dated January 2001, entitled "Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measure Standards and Guidelines" (the "2001 ROD") is hereby reinstated, including any amendments or modifications to the 2001 ROD that were in effect as of March 21, 2004.
- (3) Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2001[sic] ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004).
- (4) No project or activity enjoined under this Order may occur unless and until this Court modifies or vacates this Order.

This document follows up our January 10 and 11, 2006, conference calls that directed you to:

1. Halt all ongoing Survey and Manage (S&M) habitat-disturbing activities that do not comply with the 2001 S&M ROD as modified^a as of March 21, 2004, which is the date of the 2004 S&M ROD;
2. Not proceed with proposed S&M habitat-disturbing activities unless they comply with the 2001 ROD as modified as of March 21, 2004. Follow the management direction below to document the project's compliance; and

^a Modifications to the 2001 ROD specifically include the June 14, 2002; March 14, 2003; and December 19, 2003 Annual Species Reviews, as well as all management direction issued from the Oregon State Office of the BLM and the Regional Offices of the U.S. Forest Service which is found primarily on the S&M website:
<http://www.or.blm.gov/surveyandmanage/>

3. Proceed with projects that do not contain habitat for S&M species and clearly document the absence of this habitat in the project record.
4. For other projects, follow the management direction described below:

Management Direction
For Survey and Manage Habitat-Disturbing Projects with
Existing National Environmental Policy Act (NEPA) Decisions Prior to January 9, 2006

SCENARIO 1: For projects with NEPA decisions issued before March 21, 2004 (2004 ROD), that are:

- A. compliant with the 2001 ROD as modified as of March 21, 2004.

Management Direction: Implement or continue to implement project.

- B. not compliant with the 2001 ROD as modified as of March 21, 2004.

Management Direction: Confer with the Bureau of Land Management (BLM) State Office or Forest Service Regional Office on methods to bring the project into compliance with the 2001 ROD and other applicable law.

SCENARIO 2: For projects with NEPA decisions issued after March 21, 2004 (2004 ROD), that have:

- A. completed surveys and any required Management Recommendations implemented, and
 B. the project NEPA documents disclose implementation of the S&M Program.

Management Direction:

1. Complete the “2001 ROD Compliance Review” charts (Attachments 1 and 2);
2. Line managers sign the charts; and
3. File completed and signed charts in project record.

SCENARIO 3: For projects with NEPA decisions issued after March 21, 2004 (2004 ROD), where:

- A. all required surveys are completed and any required Management Recommendations have been implemented, but
 B. the project NEPA documents do not disclose implementation of the S&M Program.

Management Direction:

1. Complete the “2001 ROD Compliance Review” charts (Attachments 1 and 2);
2. Line managers sign the chart;
3. File the signed chart in the project record; and
4. Circulate the completed and signed “2001 ROD Compliance Review” charts to the appropriate parties as determined by the line manager with a transmittal letter similar to Attachment 3.

SCENARIO 4: For projects with NEPA decisions issued after March 21, 2004 (2004 ROD), for which no S&M is needed due to provisions in the 2001 ROD, including exceptions and exemptions.

Management Direction:

1. Complete the attached “2001 ROD Compliance Review” charts (Attachments 1 and 2);
2. Line managers sign the chart;
3. File in the project record; and
4. Circulate the completed and signed “2001 ROD Compliance Review” charts to the appropriate parties as determined by the line manager with a transmittal letter similar to Attachment 3

SCENARIO 5: For projects with NEPA decisions after March 21, 2004 (2004 ROD), which now, due to the January 9, 2006, Order, require surveys and implementation of Management Recommendations.

Management Direction:

1. Complete the attached "2001 ROD Compliance Review" charts (Attachments 1 and 2) to determine and document what surveys and Management Recommendations are required;
2. If the needed surveys require Management Recommendations that result in little or no change to the project or the projected environmental consequences for the project in the NEPA document, the line managers sign the charts;
3. File the completed and signed charts in the project record; and
4. Circulate the completed and signed "2001 ROD Compliance Review" charts to the appropriate parties as determined by the line manager with a transmittal letter similar to Attachment 3.

OR

5. If the needed surveys require Management Recommendations that result in more than a minimal change to the project or the projected environmental consequences for the project in the NEPA document, confer with the BLM State Office or Forest Service Regional Office to determine appropriate procedures.

Management Direction
For Survey and Manage Habitat-Disturbing Projects without
National Environmental Policy Act Decisions Prior to January 9, 2006

We understand that you will have project planning in various stages at the time you receive this management direction. Remember that all projects must now comply with the 2001 ROD as modified as of March 21, 2004. Your NEPA documents must reflect the basis for your findings of compliance.

Contacts and References

Technical questions (pertaining to species, Management Recommendations, etc.):

- Oregon BLM and Region 6: Rob Huff, (503) 808-6479
- California BLM: Jeanne McFarland, (707) 825-2332
- Region 5: Quentin Youngblood, (707) 441-3630

Policy-related questions:

- Oregon BLM: Mike Haske, (503) 808-6066
- California BLM: Paul Roush, (707) 825-2313
- Region 6: Alan Christensen, (503) 808-2922
- Region 5: Steve Bishop, (707) 562-8689

/s/ Elaine M. Brong
 ELAINE M. BRONG
 State Director, OR/WA
 USDI Bureau of Land Management

/s/ Linda Goodman
 LINDA GOODMAN
 Regional Forester, Region 6
 USDA Forest Service

/s/ James Wesley Abbott (for)
 MIKE J. POOL
 State Director, CA
 USDI Bureau of Land Management

/s/ Bernie Weingardt
 BERNARD WEINGARDT
 Regional Forester, Region 5
 USDA Forest Service

3 Attachments

- 1 - [Draft S&M Wildlife Compliance Format, 2-3-06](#) (2 pp)
- 2 - [Draft S&M Botany Compliance Format, 2-3-06](#) (3 pp)
- 3 - [Draft transmittal of 2001 ROD Compliance Review charts](#) (1 p)

BLM Distribution

WO-230 (204LS) (Peggy Olwell)

CA-330 (Paul Roush)

CA-932 (Edward Lorentzen)

OR-931 (Anita Bilbao, Mike Haske, Barbara Hill,
Rob Huff, Joan Seevers, Kelli Van Norman)

OR-932 (Todd Thompson)

OR-014 (Steve Hayner)

OR-015 (Todd Forbes, Alan Munhall)

OR-026 (Darren Brumback, Matt Obradovich)

OR-030 (Cynthia Tate)

OR-036 (Jon Sadowski)

OR-050 (Jan Hanf)

OR-056 (Jimmy Eisner)

OR-080 (Roy Price, Robert A. Ruediger)

OR-090 (Mark D'Aversa)

OR-095 (Eric Greenquist)

OR-100 (Scott Lightcap)

OR-104 (Christopher Foster)

OR-105 (Nancy Duncan)

OR-110 (Dale Johnson, Carole Jorgensen)

OR-125 (Bill Hudson)

OR-128 (Kerrie Palermo)

OR-134 (Joe Kelly)

OR BOTANY ALL

cc:Forest Service WO

Marc Bosch

Forest Service, Region 6

Kathy Anderson, Alan Christensen, Russell Holmes,

Carol Hughes, Cal Joyner, Sarah Madsen,

Elaine Rybak, Sue Zike

Forest Botanists

Forest Fish Biologists

Forest Wildlife Biologists

Forest Service, Region 5

Steve Bishop, Kathy Clement, Sue Danner,

Dave Gibbons, Diane Macfarlane,

Quentin Youngblood