



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

COOS BAY DISTRICT OFFICE

1300 AIRPORT LANE, NORTH BEND, OR 97459

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Telephone: (541) 756-0100 Toll Free: (888) 809-0839 Fax: (541) 751-4303

In Reply Refer To:

1792/2800 (ORC040)

DOI-BLM-OR-C040-2012-0002-EA

Lone Rock Permit 2012

April 26, 2012

CERTIFIED MAIL – 7011 0470 0001 6444 8809
RETURN RECEIPT REQUESTED

Lone Rock Timber Company
P.O. Box 1127
Roseburg, Oregon 97470

Dear Lone Rock Timber Management Co.:

Enclosed is our NEPA decision to authorize the right-of-way permit per your request in May 2011. This decision is appealable to the Interior Board of Land Appeals for 30 days from your receipt of this letter. If you choose not to appeal, I will issue a permit to you upon the closing date of the 30-day appeal period.

Sincerely,

/s/ Kathy Hoffine

Kathy Hoffine

Myrtlewood Field Manager



United States Department of the Interior

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NEPA and Lands Decision

Lone Rock Permit 2012

Environmental Assessment

DOI-BLM-OR-C040-2012-0002-EA

Background

Upon receipt of a crossing plat and right-of-way permit application, the Bureau of Land Management (BLM) has prepared an Environmental Assessment (DOI-BLM-OR-C040-2012-0002-EA) which contains analysis of the effects of issuing a permit to the applicant to provide temporary legal access across BLM-managed lands. The analysis in this EA supported a Finding of No Significant Impact, which I signed on April 5, 2012. The applicant requested use of existing roads, temporary construction of a new road, and use of a yarding wedge to facilitate extraction of their timber in T. 28 S., R. 10 W., Section 27.

Decision

It is my decision to authorize the proposed action analyzed in the Lone Rock Permit 2012 EA for issuing an O&C ROW permit to Lone Rock Timber Management Co. The proposed action is described on page 3 of the EA, which is incorporated by reference:

The new road construction would consist of 704 feet beginning from the 28-10-9.4 road. The road would extend west to a proposed 60' x 60' ridge top landing on BLM land. This spur would be temporary and decommissioned after use. A 3.5-acre yarding wedge is also requested from this landing down to the applicants' property line. The yarding wedge consists of 1.3 acres of a rock outcropping and 2.2 acres of merchantable timber approximately 60 years of age. The yarding wedge would be planted following completion of their harvest. The BLM land use allocation is GFMA. The applicant also requests conditions of use for paved road segments 28-10-9.4L and 29-10-15.0D that are not included in their right-of-way agreement C-625.

The project design features are located on pages 6 and 7 of the EA. These include:

- During construction of the temporary road segment, balanced construction techniques would be used to minimize loading additional soil material on the outside edges of the roadway.
- To prevent the introduction and spread of noxious weeds during the project, equipment would be washed prior to entering the project area.
- The new road construction would be decommissioned at the conclusion of project activities.

This decision document applies only to the Lone Rock Permit 2012 activities associated with new road construction, use of a yarding wedge, and use of existing roads for log hauling.

Conformance and Compliance

This project is designed to conform to both the 2008 *Final Environmental Impact Statement for the Revision of the Resource Management Plans of the Western Oregon Bureau of Land Management* (USDI 2008a) and its *Record of Decision* (2008b) and the 1994 *Final Coos Bay District Proposed Resource Management Plan/Environmental Impact Statement* (USDI 1994) and its *Record of Decision* (USDI 1995), as supplemented and amended. Consequently, this project will be consistent with the goals and objectives of both the 1995 and 2008 ROD/RMPs.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest et al. v. Sherman, et al.*, No. 08-1067-JCC (W.D. Wash.), granting the Plaintiffs' motion for partial summary judgment and finding NEPA violations in the *Final Supplemental to the 2004 Supplemental Northwest Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (USDA and USDI 2007). In response, parties entered into settlement negotiations in April 2010, and the Court filed approval of the resulting Settlement Agreement on July 6, 2011. Projects that are within the range of the northern spotted owl are subject to the survey and manage standards and guidelines in the 2001 ROD, as modified by the 2011 Settlement Agreement.

I have reviewed the EA for the Lone Rock Permit 2012 project and have determined it is consistent with the Coos Bay District Resource Management Plan as amended by the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (2001 ROD), as modified by the 2011 Settlement Agreement.

The proposed project has been determined to have "no effect" to threatened Oregon Coast coho salmon. Additionally, project activities would not adversely affect Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(b)).

Consultation with the U.S. Fish and Wildlife Service (USFWS) as provided in Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536 (a)(2) and (a)(4) as amended has been completed for Programmatic Activities on the Coos Bay District. "Individual Tree Removal" which covers tree removal from right-of-way requests are addressed in the Fish and Wildlife Services' Biological Opinion and Concurrence on the FY 2008-2013 Programmatic Suite of Activities Planned by the District and the Tribe (FWS Reference Number 1340-2008-F-01-0118), dated 8 October 2008. Actions covered under this category such as the tree removal for this right-of-way are considered "may affect, not likely to adversely affect" for the northern spotted owl.

There would be "no effect" to marbled murrelets.

Analysis has also concluded that implementation of the proposed actions will not contribute to the need to list any Special Status Species as identified in BLM Manual 6840 and BLM OR/WA 6840 policy. Botany Special Status Species surveys have been completed on the proposed road location and yarding wedge for which surveys are practical for those species included in the 2011 State Director's Special Status Species List; none was found.

The Lone Rock Permit 2012 EA complies with the Clean Water Act, the National Historic Preservation Act, and the Clean Air Act. The project area does not contain any Areas of Critical Environmental Concern, designated Wilderness, Wild & Scenic Rivers, or prime and unique farmlands. There were no concerns identified regarding Cultural Resource Values, Native American Religious Concerns, or Environmental Justice issues.

The Lone Rock Permit 2012 EA (DOI-BLM-OR-C040-2012-0002-EA) resulted in a Finding of No Significant Impact, thus development of an Environmental Impact Statement (EIS) is not required.

Decision Rationale

I am choosing to implement the activities analyzed in the Lone Rock Permit 2012 EA for the following reasons:

- Implementation of the proposed action best meets the Purpose and Need described in the Lone Rock Permit 2012 EA.
- It responds to the applicants request for the use of right-of-way across public lands.
- It is consistent with the *1995 Record of Decision and Resource Management Plan* for the Coos Bay District of Bureau of Land Management.
- It complies with other major applicable laws, regulations, and Bureau policies.

Effective Date of the Decision

This is a lands decision on a right-of-way action in accordance with BLM regulations at 43 CFR Subpart 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after receipt of this decision by certified mail) where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals, or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR 4.21(b).

Right of Appeal

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case.” (See 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days from receipt of this decision by certified mail. Only signed hard copies of a notice of appeal that are delivered to the Coos Bay District will be accepted. Faxed or e-mailed appeals will not be considered.

In addition to the applicant, anyone who has participated in the National Environmental Policy Act process for this project by providing public comments on the environmental assessment will qualify as party to the case. (See 43 CFR § 4.410(b)). However, in order to qualify as an appellant, a “party to the case,” you also have the burden of showing possession of a “legally cognizable interest” that has a substantial likelihood of injury from the decision. (See 43 CFR § 4.410(d)). Furthermore, you may raise on appeal only those issues you raised in comments on the environmental assessment or that have arisen after the opportunity for comments closed. (See 43 CFR § 4.410(c)).

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed, and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for 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.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor, and Lone Rock Timber Company at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations 43 CFR § 4.413(a). At the end of your notice of appeal you must sign a certification that service has been, or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413), and specify the date and manner of such service.

The Board will review any petition for a stay and may grant or deny the stay. If the Board takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until the Board makes a final ruling on the case.

How to File an Appeal

The enclosed Form 1842-1 provides the information for filing an appeal.

Contact Person

For additional information concerning this decision or the BLM administrative review process, contact Perry Wickham, Project Lead, at 1300 Airport Lane, North Bend, OR. 97459 or (541) 751-0100.

Additional addresses to serve documents include:

USDI, Office of Hearings and Appeals, IBLA
801 N. Quincy Street, MS 300-QC
Arlington, Virginia 22203

Regional Solicitor, Pacific Northwest Region
U.S. Department of the Interior
805 S.W. Broadway, Suite 600
Portland, Oregon 97232

Lone Rock Timber Company
P.O. Box 1127
Roseburg, Oregon 97470

/s/ Kathy Hoffine

April 26, 2012

Kathy Hoffine
Myrtlewood Field Manager

Date

Enclosure: Bureau Form 1842-1 – How to File an Appeal