



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

COOS BAY DISTRICT OFFICE

1300 AIRPORT LANE, NORTH BEND, OR 97459

Web Address: <http://www.blm.gov/or/districts/coosbay> E-mail: OR_CoosBay_Mail@blm.gov

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



In Reply Refer To:

1972/2800 (ORC040)

DOI-BLM-OR-C040-2009-0005-EA

Lone Rock O&C ROW Permit

NEPA and Lands DECISION

Lone Rock O&C ROW Permit

Environmental Assessment DOI-BLM-OR-C040-2009-0005-EA

Background

Upon receipt of a crossing plat and road right-of-way permit application, the Bureau of Land Management (BLM) has prepared an Environmental Assessment (EA DOI-BLM-OR-C040-2009-0005-EA) and a Finding of No Significant Impact (FONSI) which evaluated the effects of issuing a perpetual O&C ROW permit to the applicant to provide legal access across BLM-managed lands. The proposed road would cross the BLM lands in T. 31 S., R. 12 W., Section 3 to access privately owned lands within the same Section.

Decision

It is my decision to authorize the proposed action analyzed in the Lone Rock O&C ROW Permit Environmental Assessment for issuing an O&C ROW permit to Lone Rock Timber Management Co. The proposed action is described on page 5 of the EA, which is incorporated by reference:

In order to access their lands located in T. 31 S., R. 12 W., Section 3 N $\frac{1}{2}$ NW $\frac{1}{4}$, the Lone Rock Timber Company proposes to construct approximately 1623 feet of road on BLM-administered lands located in the same section but in the SE $\frac{1}{4}$ NW $\frac{1}{4}$. The proposed road grade would not exceed 18% and the road width would be 16 ft. with standard turnouts and curve widening. The road would be natural surface and decommissioned at the end of harvest. The applicant requests a perpetual right-of-way. Merchantable trees removed for the road construction would be sold pursuant to 43 CFR 2812.5-1. These lands are classified as Matrix.

The project design features are located on pages 5 and 6 of the EA. These include:

- Construction and road use would be limited to the dry season.
- All applicable Best Management Practices (BMPs) for road construction would be followed.
- The road would be decommissioned and blocked at the end of harvest activities.

This decision document applies only to the Lone Rock O&C Right-of-Way Permit activities associated with construction and log hauling on 1623 feet of road.

Conformance and Compliance

On July 16, 2009 the U.S. Department of Interior withdrew the Records of Decision (2008 ROD) for the Western Oregon Plan Revision and directed the BLM to implement actions in conformance with the Resource Management Plans for western Oregon that were in place prior to December 30, 2008.

Although project planning and preparation of National Environmental Policy Act documentation for this project began after the effective date of the 2008 ROD, this project is designed to comply with the land use allocations, management direction, and objectives of the 1995 Resource Management Plan (1995 RMP).

This EA is in conformance with the *Coos Bay District Resource Management Plan/Final Environmental Impact Statement* (USDI 1994) and its *Record of Decision* (USDI 1995) because it meets the objectives listed above. The analysis supporting this EA is also tiered to the *Final Supplemental Environmental Impact Statement (EIS) on Management of Habitat for Late Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl (Northwest Forest Plan)* (USDA and USDI 1994a) and its *Record of Decision* (USDA and USDI 1994b) as supplemented and amended by:

- *Management of Port-orford-cedar in Southwestern Oregon Final Supplemental Environmental Impact Statement* (USDA and USDI 2004) and its *Record of Decision* (USDI 2004)
- *The Final Supplement to The 2004 Environmental Impact Statement to Remove or Modify The Survey and Manage Mitigation Measure Standards and Guidelines* (USDA and USDI 2007) and its *Record of Decision* (USDI 2007b)

The proposed project was evaluated for consistency with the Aquatic Conservation Strategy (ACS) of the Northwest Forest Plan ROD (1994) and the Coos Bay District RMP (1995). This analysis is included on pages 11-14, which concludes that implementation of the project and issuing the permit would not retard or prevent attainment of the nine ACS Objectives or the four main components.

Consultation with the National Marine Fisheries Service is not required, as the proposed project has been determined to have “*no effect*” to threatened Oregon Coast coho salmon. Additionally, project activities would not adversely effect Essential Fish Habitat under the Magnuson-Steven 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 Service’s 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. Botanical Special Status Species surveys have been completed on the proposed road location for which surveys are practical for those species included in the 2008 State Director’s Special Status Species List; none were found. There is a nesting pair of Bald Eagles on BLM lands; however, “the proposed action would occur outside of the 330- and 660-foot buffers recommended in the National Bald Eagle Management Guidelines (USDI 2007a) and is outside the 0.25 mile buffer recommended in the 1995 Coos Bay District ROD/RMP” (EA p. 8).

The Lone Rock O&C ROW Permit EA is in compliance 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 O&C ROW Permit EA (DOI-BLM-OR-C040-2009-0005-EA) resulted in a Finding of No Significant Impact (FONSI; signed 8/25/2009), thus development of an Environmental Impact Statement (EIS) is not required.

Decision Rationale

I am choosing to implement the *Lone Rock O&C ROW Permit* for the following reasons:

- Implementation of the Proposed Alternative best meets the Purpose and Need described in the Lone Rock O&C ROW Permit 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 Bureau of Land Management.
- It complies with other major applicable laws, regulations and Bureau policies.

Effective Date of the Decision

This is a land 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 emailed 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 a 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.

Contact Person

For additional information concerning this decision or the BLM administrative review process contact Brett Jones, Project Lead, at 1300 Airport Lane, North Bend, Ore. 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, USDI
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

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

/s/ Jill Williams for

August 27, 2009

Paul Flanagan
Myrtlewood Field Manager

Date



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

COOS BAY DISTRICT OFFICE

1300 AIRPORT LANE, NORTH BEND, OR 97459

Web Address: <http://www.blm.gov/or/districts/coosbay> E-mail: OR_CoosBay_Mail@blm.gov

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



In Reply Refer To:

1792/2800 (ORC040)

DOI-BLM-OR-C040-2009-005-EA

FINDING OF NO SIGNIFICANT IMPACT

For the

Lone Rock O&C ROW Permit

DOI-BLM-OR-C040-2009-005-EA

I. Introduction

An Interdisciplinary Team has prepared an Environmental Assessment (EA) in response to a request from Lone Rock Timberlands for a right-of-way crossing across BLM managed lands. This EA is hereby incorporated by reference. This document analyzed two alternatives: a no-action alternative and a proposed action alternative. As the applicants have other alternatives to access their lands, the no-action includes the analysis of their proposed harvest activities. The proposed action consists of the temporary construction of 1623 feet of a dirt road across BLM lands located in T. 31 S., R. 12 W., section 3. The term of the request is perpetual; however, after harvest is completed on Lone Rock owned lands, the road would be decommissioned.

II. Background

This EA is in conformance 1995 Coos Bay District Record of Decision and Resource Management Plan (1995 ROD/RMP). The analysis supporting this decision tiers to the *Final Supplemental Environmental Impact Statement (EIS) on Management of Habitat for Late-Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl (Northwest Forest Plan)* (USDA and USDI 1994) and its *Record of Decision* (USDA and USDI 1994a).

III. Finding of No Significant Impact

I am adopting the EA, in which the effects analysis indicates that there would not be a significant impact on the quality of the human environment from the implementation of either alternative. This finding and conclusion is based on my consideration of the Council of Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and intensity of the impacts described in the EA.

Context

The proposed action would occur within the Matrix land use allocation as designated by the 1995 Coos Bay District ROD/RMP. The RMP anticipated that right-of-way requests would occur to cross BLM-managed lands (p. 65). As stated in the ROD for the Northwest Forest Plan, the Aquatic Conservation Strategy (ACS) was developed to restore and maintain the ecological health of watersheds and aquatic ecosystems on public lands within the range of Pacific Ocean anadromy. Consistency of the proposed alternative with the ACS Objectives is included in Chapters 3 & 4 of the Lone Rock O&R ROW Permit EA (pp. 12-15).

The proposal consists of only 1623 feet of new construction, which would comprise 1.5 acres. The project would not be regional or national in scope.

Intensity

Impacts that may be both beneficial and adverse (40 CFR 1508.27 (b)(1))

All impacts have been considered in the EA. The 1995 ROD/RMP anticipated these kinds of effects from right-of-way requests.

Public Health and Safety (40 CFR 1508.27(b)(2))

No aspect of the proposed action would have an effect on public health and safety.

Unique characteristics of the geographic area (40 CFR 1508.27(b)(3))

There are no known historic or cultural resources within the project area and the terrain (>20% slopes) is not likely to contain cultural deposits (EA p. 11). There are no parklands, prime or unique farmlands, wetlands (p. 7), floodplains, Wild and Scenic Rivers, wilderness or Areas of Environmental Critical Concern.

Degree to which effects are likely to be highly controversial (40 CFR 1508.27(b)(4))

The effects on the quality of the human environment of the proposed activity are not highly controversial. The processing of right-of-way requests has occurred since the first perpetual Right-of-way grants were established in as early as the 1950's. The checkerboard pattern of ownership between the BLM and private landowners makes this an integral part of business in Western Oregon.

Degree to which effects are highly uncertain or involve unique or unknown risks (40 CFR 1508.27(b)(5))

The possible effects of the proposed action on the quality of the human environment are not highly uncertain and do not involve unique or unknown risk.

Consideration of whether the action may establish a precedent for future actions with significant impacts (40 CFR 1508.27(b)(6))

The proposed project does not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant effects. As stated above, rights-of-way requests are very common in western Oregon with the checkerboard ownership pattern.

Consideration of whether the action is related to other actions with cumulatively significant impacts (40 CFR 1508.27(b)(7))

There are no cumulatively significant cumulative impacts identified by the environmental assessment.

Scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places (40 CFR 1508.27(b)(8))

The proposed activities would not affect districts, sites, highways, structures or objects listed in or potentially eligible for listing in the National Register of Historic Places. Nor would the activities cause a loss or destruction of significant scientific, cultural or historical resources.

Threatened or endangered species and their critical habitat (40 CFR 1508.27(b)(9))

- The removal of trees classified as suitable nesting, roosting and foraging habitat for the northern spotted owl is covered under the Programmatic Biological Opinion issues from the Fish and Wildlife Service (1340-2008-F-01-0118) dated 8 October 2008.
- There would be “no effect” to the marbled murrelet.
- There would be “no effect” to Oregon Coast coho salmon.
- There is not any designated Critical Habitat for the marbled murrelet, northern spotted owl or coho salmon that would be impacted by the proposed action.

Any effects that threaten a violation of Federal, State, or local laws or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10))

The proposed action would not violate Federal, State or local laws imposed for the protection of the environment. These include the Endangered Species Act and the Clean Water Act.

Analysis has also concluded that implementation of the proposed actions will not change the likelihood of and need for listing of any Special Status Species under the ESA as identified in BLM Manual 6840 and BLM OR/WA 6840 policy.

Pursuant to Executive Order 13212, the BLM must consider the effects of this decision on the National Energy Policy. As there would be no impact to the exploration, development or transportation of undeveloped energy sources from the proposed action, a Statement of Adverse Energy Impacts is not required.

Conclusion

Based on the information contained in the EA (DOI-BLM-OR-C040-2009-005-EA), and all other information available to me I have determined that the proposed action would not have a significant impact on the human environment within the meaning of section 102(2) (c) of the National Environmental Policy Act of 1969, and that an Environmental Impact Statement is not required. I have determined that the effects of the proposed activities would be in conformance with the 1995 *Record of Decision/Resource Management Plan* for the Coos Bay District.

/s/ Jill Williams for

August 25, 2009

Paul T. Flanagan
Myrtlewood Field Manager

Date