



# 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: [BLM\\_OR\\_CB\\_Mail@blm.gov](mailto:BLM_OR_CB_Mail@blm.gov)

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

### **In Reply Refer To:**

1792/6843 (ORC040)

DOI-BLM-OR-C040-2012-0001-DNA

Myrtlewood Culverts FY2012

EA-OR125-02-12

Coos Bay District Culvert and Stream Crossing Environmental Assessment

***March 8, 2012***

Dear Concerned Citizen:

We have signed the Decision Record for Myrtlewood Culverts FY2012 Documentation of NEPA Adequacy (DOI-BLM-OR-C040-2012-0001-DNA). The Proposed Action of this DNA is to restore, enhance and maintain ecological functions by improving passage of aquatic organisms. The culverts are located on Lausch Creek and a tributary to Sandy Creek. The Bureau of Land Management (BLM) has posted these documents on the District internet site: <http://www.blm.gov/or/districts/coosbay/plans/index.php>.

The decision to implement this forest management project may be protested under 43 CFR 5003 – Administrative Remedies. As outlined in 43 CFR 5003 (a) and (b), protests of a forest management decision may be made within 15 days of the publication date of the decision notice and shall contain a written statement of reasons for protesting the decision. In accordance with the regulations, this notice constitutes the decision document for the purpose of protests which must be filed by close of business (4:30 p.m.) on March 23, 2012 with the Myrtlewood Field Manager, *Kathy Hoffine*, at the Coos Bay District Office, 1300 Airport Lane, North Bend OR., 97459. As interpreted by BLM, the regulations do not authorize acceptance by the BLM of protests in any form other than a signed, paper document that is delivered to the physical address of the BLM office within the 15-day period. Therefore, e-mail, verbal, or facsimile protests will not be accepted.

For further information, contact Aimee Hoefs, Team Lead, at 1300 Airport Lane, North Bend, OR. 97459 or (541) 756-0100, or e-mail at [BLM\\_OR\\_CB\\_Mail@blm.gov](mailto:BLM_OR_CB_Mail@blm.gov), Attn: Aimee Hoefs.

Respectfully,

*/s/ Kathy Hoffine*

Kathy Hoffine

Myrtlewood Field Manager



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DOI-BLM-OR-C040-2012-0001-DNA

Myrtlewood Culverts FY2012

EA-OR125-02-12

Coos Bay District Culvert and Stream Crossing Environmental Assessment

### **DECISION RECORD for**

### **Myrtlewood Culverts FY2012**

#### **Background**

The Bureau of Land Management (BLM) previously prepared an Environmental Assessment (EA OR125-02-12 Coos Bay District Culvert and Stream Crossing Environmental Assessment) and a Finding of No Significant Impact (FONSI), which contained the analysis of the effects of replacing, removing, or modifying existing culverts at several locations within the boundaries of the Coos Bay District. As was the case with the projects in the original EA, the primary goal of the Proposed Action in this Documentation of NEPA Adequacy (DNA) is to restore, enhance, and maintain ecological functions by improving passage of aquatic organisms and reduce impacts from structurally failing culverts.

#### **Decision**

It is my decision to authorize the replacement of two culverts identified in the Myrtlewood Culverts FY2012 DNA (DOI-BLM-OR-C040-2012-0001-DNA). The original environmental assessment contained a full analysis of the design features and environmental consequences from this type of project. There are two culverts considered in this DNA:

Sandy Creek Tributary – T. 29 S., R. 10 W., Section 3

Lausch Creek – T. 28 S., R. 9 W., Section 13

The EA contained a complete list of Project Design Features (pp.11-13) designed to avoid, minimize, or rectify impacts on resources, and are included as part of this Proposed Action. These and additional descriptions of the Proposed Action are hereby incorporated by reference. The following is a brief summary of these design features:

- During construction, BLM will use techniques designed to minimize sediment delivery and turbidity.
- Instream work will occur during instream work periods designated by the Oregon Department of Fish and Wildlife.
- Upon completion of construction activities, BLM will stabilize all exposed soils and waste areas with a mixture of weed-free straw mulch and seed.
- Upon completion of construction activities, BLM will stabilize all exposed soils and waste areas with a mixture of straw mulch and certified weed free, native grass seed.

## Conformance and Compliance

The BLM developed the Coos Bay District Culvert and Stream Crossing EA under the management direction of the 1995 *Coos Bay District Record of Decision and Resource Management Plan* (1995 ROD/RMP). The analysis supporting this decision tiers to the *Final Coos Bay District Proposed Resource Management Plan/Environmental Impact Statement* (USDI 1994). The 1995 *Record of Decision* is also supported by, and consistent with, the 1994 *Final Environmental Impact Statement on Management of Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* and its associated *Record of Decision* (USDA/USDI 1994).

The Coos Bay District initiated planning and design for this project to conform and be consistent with the Coos Bay District's 1995 Resource Management Plan (RMP). Following the March 31, 2011 decision by the United States District Court for the District of Columbia in *Douglas Timber Operators et al. v. Salazar*, which vacated and remanded the administrative withdrawal of the Coos Bay District's 2008 ROD and RMP, we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD and RMP. We have determined it is consistent with both plans.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey et al.*, No 08-1067 (W.D. Wash.) (Coughenour, J.) granting Plaintiffs' motion for partial summary judgment and finding of a variety of NEPA violations in the *Final Supplement to the 2004 Supplemental Environmental Impacts Statement to Remove or Modify the Survey and Management Mitigation Measure Standards and Guidelines* (USDA and USDI, June 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 2011 ROD, as modified by the 2011 Settlement Agreement.

I have reviewed the NEPA document for the *Myrtlewood Culverts FY2012* 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 culvert replacements are covered for Endangered Species Act consultation for listed fish species by the Aquatic Restoration Biological Opinion, Fiscal Year 2008-2012 Programmatic Biological Opinion (National Marine Fisheries Service, April 28, 2007 P/NWR/2006/06532).

The BLM would implement seasonal restrictions during spotted owl and marbled murrelet critical breeding periods as well as daily operating restrictions during the later murrelet breeding periods at the Sandy Creek tributary culvert. This project complies with the Aquatic Restoration Biological Opinion from the U.S. Fish and Wildlife Service concerning these two wildlife species (U.S. Fish and Wildlife Service, October 8, 2008 13420-2008-F-0118).

There is no habitat for any special status vascular plant species so no surveys were deemed necessary. Botany surveys were completed for lichens and bryophytes, but no special status species were located. This project does not contain habitats for any wildlife special status species that require pre-disturbance surveys. Nor are there any species present that require protection of known sites. The BLM has designed this project to work towards the recovery of listed fish species, thus special status fish species would benefit from implementation of the project.

Therefore, the *Myrtlewood Culverts FY2012* project will not increase the likelihood of and need for listing any Special Status Species as identified in BLM Manual 6840 and BLM OR/WA 6840 policy.

This project complies with the Coastal Zone Management Act and I have determined that there would be no adverse effects to Coastal Zone resources from implementing this project. There would be no effects to water quality, and the Aquatic Conservation Strategy Objectives would be restored or maintained.

The *Myrtlewood Culverts FY2012* project complies with the Clean Water Act, the National Historic Preservation Act, and the Clean Air Act. This project area does not contain any designated Wilderness, Wild & Scenic Rivers, Areas of Critical Environmental Concern, or prime or unique farmlands. There were no concerns identified regarding Cultural Resource Values, Native American Religious Concerns, or Environmental Justice issues. The Coos Bay District Culvert and Stream Crossing EA (EA OR 125-02-12) resulted in a Finding of No Significant Impact (FONSI), thus development of an Environmental Impact Statement (EIS) is not required.

### **Public Involvement**

The BLM informed the public of the EA and FONSI through a direct notification June 3, 2002 and via a published Legal Notice in *The World* newspaper (June 10, 2002). The BLM received one public comment that dealt with O&C plowback funds and decommissioning of roads. However, no substantive comments required a change to the EA or the FONSI determination. None of the subsequent 14 DNAs received public comments.

### **Decision Rationale**

Field Office staff has reviewed the Proposed Action. Based on the Documentation of NEPA Adequacy, I have determined that the proposed action involves no significant impact to the human environment and no further analysis is required. The supporting analysis and NEPA documentation fully covers the Proposed Action and constitutes BLM's compliance with the requirements of NEPA.

I am choosing to implement the *Myrtlewood Culverts FY2012* for the following reasons:

- Implementation of the Proposed Alternative best meets the Purpose and Need described in the Coos Bay District Culvert and Stream Crossing Environmental Assessment.
- It is consistent with both the *2008 Record of Decision and Resource Management Plan* and the *1995 Record of Decision and Resource Management Plan* for the Coos Bay District Bureau of Land Management.
- It works towards the recovery of fish species currently listed under the ESA.
- It complies with other major applicable laws, regulations, and Bureau policies.

### **Administrative Remedies**

The decision described in this document is a forest management decision and is subject to protest by the public. In accordance with Forest Management Regulations at 43 CFR Subpart 5003 Administrative Remedies, protests of this decision may be filed with the authorized officer *Kathy Hoffine* within 15 days of the publication date of the notice of decision advertisement in *The World*, Coos Bay, OR.

43 CFR § 5003.3 subsection (b) states: "Protests shall be filed with the authorized officer and would contain a written statement of reasons for protesting the decision." This precludes the acceptance of electronic mail (email) or facsimile (fax) protests. Only written and signed hard copies of protests that are delivered to the Coos Bay District Office will be accepted.

The protest must clearly and concisely state which portion or element of the decision is being protested, and the reasons why the decision is believed to be in error.

43 CFR § 5003.3 subsection (c) states: “Protests received more than 15 days after the publication of the notice of decision or the notice of sale are not timely filed and shall not be considered.” Upon timely filing of a protest, the authorized officer shall reconsider the project decision to be implemented in light of the statement of reasons for the protest and other pertinent information to her. The authorized officer shall, at the conclusion of the review, serve the protest decision in writing to the protesting party (ies). Upon denial of a protest, the authorized officer may proceed with the implementation of the decision as permitted by regulations at 5003.3(f).

If no protest is received by the close of business (4:30 p.m.) within 15 days after publication of the decision notice, this decision will become final. If a timely protest is received, the project decision will be reconsidered in light of the statement of reasons for the protest and other pertinent information available, and the Coos Bay District Office will issue a protest decision.

For further information, contact Aimee Hoefs, Team Lead, at 1300 Airport Lane, North Bend OR. 97459 or (541) 756-0100, or e-mail at [BLM\\_OR\\_CB\\_Mail@blm.gov](mailto:BLM_OR_CB_Mail@blm.gov) Attn: Aimee Hoefs.

Decision issued by:

*/s/ Kathy Hoffine*

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Kathy Hoffine  
Myrtlewood Field Manager

*March 8, 2012*

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Date