

**United States Department of Interior
Bureau of Land Management
Coos Bay District**

Decision Record for DOI-BLM-OR-C030-2010-0013-DNA

Background

The Bureau of Land Management (BLM) previously prepared an Environmental Assessment (Coos Bay District Culvert and Stream Crossing Environmental Assessment, OR125-02-12) and a Finding of No Significant Impact (FONSI) which evaluated the effects of replacing culverts at various locations across the Coos Bay District. The action as described in DOI-BLM-OR-C030-2010-0013-DNA proposes to replace a culvert on the Middle Creek mainline road (#27-11-29, mp 12.1). This proposed project is of like action and similar design to that analyzed in OR125-02-12.

Decision:

It is my decision to implement the Middle Creek Tributary Culvert Replacement project. The design features and actions of this project and the anticipated environmental consequences are essentially the same as those analyzed in the existing NEPA document.

Conformance and Compliance

This DNA in conformance with the *Coos Bay District Resource Management Plan/Final Environmental Impact Statement* (USDI 1994) and its *Record of Decision* (ROD/RMP), as supplemented and amended. The Coos Bay ROD/RMP is supported by and consistent with 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).

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:

“Develop and maintain a transportation system that serves the needs of users in an environmentally sound manner.” RMP page 69. “New structures and improvements will be designed to accommodate at least the 100-year flood, including associated bedload and debris”. RMP, page 69

The Middle Creek Tributary Culvert Replacement project is consistent with 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*, as incorporated into the Coos Bay District Resource Management Plan.

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 BLM and USFS Record of Decision eliminating the Survey and Manage mitigation measure. Previously, in 2006, the District Court (Judge Pechman) had invalidated the agencies’ 2004 RODs eliminating Survey and Manage due to NEPA violations. Following the District Court’s 2006 ruling, parties to the litigation had entered into a stipulation exempting certain categories of activities from the Survey and Manage standard (hereinafter “Pechman exemptions”). The replacement of culverts on roads that are in use and part of the road system meets Exemption B of the Pechman Exemptions (October 11, 2006 Order); “replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned”.

This project also complies with the Oregon and California Lands Act (O&C Act) and the Federal Land Policy and Management Act (FLPMA), the Endangered Species Act, the Clean Water Act, the Magnuson-Stevens Fishery Conservation Act and the BLM Special Status Species Program. The EA and FONSI analyzed the selected alternative and found no significant impacts that would require the development of an EIS.

Public Involvement

The public was informed of the EA and FONSI through a direct notification and via a published Legal Notice in The World newspaper. The EA had a 30 day comment period, providing opportunity for the public or other agencies to comment on the proposed actions. No comments were received during the comment period.

Decision Rationale:

The proposed action has been reviewed by Resource Area Staff and appropriate project Design Features as specified will be incorporated into the proposal. Based on this review, I have determined that the proposed action is adequately analyzed in the existing NEPA document EA OR125-02-12 and is in conformance with the Coos Bay RMP and no further analysis is required.

Signature of Authorizing Official:

/s/ Glenn Harkleroad

for Dennis Turowski, Field Manager

Date: 9/8/2010

Administrative Remedies:

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations contained in 43 CFR Part 4. If an appeal is taken, your notice of appeal must be filed with the Umpqua Field Office, Coos Bay BLM, 1300 Airport Lane, North Bend OR, 97459 (43 CFR 4.411 and 4.413). A copy of the Notice of Appeal must also be sent to the BLM Regional Solicitor, Pacific Northwest Region, 500 NE Multnomah St. Suite 607, Portland, OR 97232.

The appellant has the burden of showing that the decision being appealed is in error.

For further information, contact Dan VanSlyke, Team Lead, at 1300 Airport Lane, North Bend OR 97459 or (541) 756-0100, or e-mail at OR_CoosBay_Mail@blm.gov Attn: Dan VanSlyke.