



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

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5820/1792 (ORC040)

Using Imazapyr in Sudden Oak Death Treatments

DOI-BLM-OR-C040-2011-0010-DNA

Applying Glyphosate to Aid in Sudden Oak Death Treatments

DOI-BLM-OR-C040-2010-0002-EA

August 8, 2011

Dear Concerned Citizen,

I have signed the Decision Record for the Using Imazapyr in Sudden Oak Death Treatments Determination of NEPA Adequacy (DOI-BLM-OR-C040-2011-0010-DNA). The Proposed Action of this DNA is to incorporate the use of the herbicide imazapyr in current Sudden Oak Death eradication treatments. The BLM would use the herbicide in cut stump and “hack and squirt” application methods only within the SOD quarantine area. The 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 August 23, 2011 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, Attn: Aimee Hoefs.

Respectfully,

/s/ Jeffrey K. Davis for

Kathy Hoffine
Myrtlewood Field Manager



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5820/1792 (ORC040)

Using Imazapyr in Sudden Oak Death Treatments

DOI-BLM-OR-C040-2011-0010-DNA

Applying Glyphosate to Aid in Sudden Oak Death Eradication EA

DOI-BLM-OR-C040-2010-0002-EA

DECISION RECORD for

Using Imazapyr in Sudden Oak Death Treatments

Background

The Bureau of Land Management previously prepared an Environmental Assessment (EA Applying Glyphosate to Aid in Sudden Oak Death Eradication; DOI-BLM-OR-C040-2010-0002-EA) and a Finding of No Significant Impact (FONSI) that contained the analysis of the effects of using the herbicide glyphosate in addition to current Sudden Oak Death (SOD) treatments. As was the case with the project in the original EA, the primary goal of the Proposed Action in this Documentation of NEPA Adequacy (DNA) is to manage timber stands to reduce the risk of stand loss from disease.

Decision

It is my decision to authorize the use of the herbicide imazapyr in SOD treatments as described in the DNA. The original environmental assessment contained a full analysis of the design features and environmental consequences from this type of project. This project would use the herbicide imazapyr in addition to glyphosate in ongoing treatments to reduce the spread of the infection causing Sudden Oak Death. The BLM would use the herbicide in cut stump and “hack and squirt” application methods only within the SOD quarantine area.

The EA contained a complete list of Project Design Features (pp. 9-11) 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:

- The District would use BLM-approved aquatic label formulations of imazapyr.
- Applicators would follow the product label.
- An Oregon Commercial Pesticide Operator/Applicator or a BLM-licensed Applicator certified in forestry application would apply herbicide.
- The BLM would prohibit herbicide applications when certain environmental conditions exist within the treatment area.

Conformance and Compliance

The BLM developed this project 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). This 1995 *Record of Decision* is also supported by, and consistent with, the *1994 Final Supplemental Environmental Impact Statement (FSEIS) on Management of Habitat for 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, I evaluated this project for consistency with both the 1995 RMP and the 2008 ROD and RMP. I have determined it is consistent with both plans.

Public Involvement

The BLM informed the public of the EA and FONSI through a direct notification (Nov. 16, 2009) and via a published legal notice in *The World* newspaper (Nov 16, 2009). The BLM did not receive any comments. There was no protest of the Decision (signed May 25, 2010).

Decision Rationale

Field Office staff has reviewed the Proposed Action. Based on the DNA, 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 *Using Imazapyr in Sudden Oak Death Treatments* for the following reason:

- Implementation of the Proposed Action best meets the Purpose and Need described in the *Applying Glyphosate on Tanoak to Aid in Sudden Oak Death Eradication* 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 complies with other major applicable laws, regulations and Bureau policies.

This project is 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 re-initiated consultation with the U.S. Fish and Wildlife Service (FWS) in December 2008 for FY2009-FY2012 Sudden Oak Death Eradication Activities. The Biological Opinion "includes a finding that implementation of the proposed actions would not jeopardize the continued existence of the spotted owl or the murrelet, nor result in the adverse modification of their designated critical habitats" (FWS Tails # 13420-2009-F-0022).

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order on *Conservation Northwest, et al. v. Sherman, et al.*, No. 08-1067-JCC (W.D. Wash.), granting Plaintiffs' motion for partial summary judgment and finding NEPA violations in the *Final Supplemental to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage 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 2001 ROD, as modified by the 2011 Settlement Agreement.

This project applies a 2011 Exemption from the stipulation entered by the court in litigation regarding Survey and Manage species and the 2007 Record of Decision related to Survey and Manage Mitigation Measures in *Conservation Northwest v. Sherman, Conservation Northwest et al. v. Sherman, et al.*, No. 08-1067-JCC (W.D. Wash., July 6, 2011). The language below outlines the applicable Sudden Oak Death exemption:

3. Exemptions for Weeds and Sudden Oak Death

b. "Treatments conducted to limit the spread of Sudden Oak Death when conducted in conformance with approved state and federal plans to control the disease."

Project Consistency: The Using Imazapyr in Sudden Oak Death Treatments Proposed Action is a project designed to control the disease.

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

The North Fork Chetco River Area of Critical Environmental Concern is located within the current quarantine area. The EA analysis includes the determination that the use of herbicides "would not threaten the resource values for which the area was designated" (EA p.17).

This project complies with the Clean Water Act, the National Historic Preservation Act and the Clean Water Act. The project area does not contain any designated wilderness, Wild & Scenic Rivers or prime or unique farmlands. There were no concerns identified regarding Cultural Resource Values, Native American Religious Concerns or Environmental Justice issues.

This project also 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.

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 pm) 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 Attn: Aimee Hoefs.

Decision Approved by:

/s/ Jeffrey K. Davis for

Kathy Hoffine
Myrtlewood Field Manager

August 4, 2011

Date