



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

1792/6711 (ORC040)

DOI-BLM-OR-C040-2010-0007-DNA

Sand Dune Habitat Restoration

EA OR128-06-01

New River Foredune Management EA

***May 28, 2010***

Dear Concerned Citizen,

We have signed the Decision Record for the Sand Dune Habitat Restoration Determination of NEPA Adequacy (DOI-BLM-OR-C040-2010-0007-DNA). The Proposed Action of this DNA is to maintain and protect Special Status Species plants by removing encroaching invasive European beachgrass. The project is located in the New River Area of Critical Environmental Concern in T. 30 S., R. 15 W., Sections 2, 3, 10, and 15. These documents have been posted on the District Internet site: <http://www.blm.gov/or/districts/coosbay/plans/index.php>.

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 at the Myrtlewood Field Office, Coos Bay BLM, 1300 Airport Lane, North Bend, OR, 97459. The appellant has the burden of showing that the decision being appealed is in error.

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

Sincerely,

*/s/ Kathy Westenskow*

Kathy Westenskow  
Myrtlewood Field Manager



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EA OR128-06-01

New River Foredune Management

## DECISION RECORD for Sand Dune Habitat Restoration

### Background

The Bureau of Land Management (BLM) previously prepared an environmental assessment (EA OR128-06-01 New River Foredune Management Environmental Assessment) which contained analysis of the effects of restoring and maintaining open sand habitat, for a host of native plant and animal species, by removing invasive European beachgrass. This EA resulted in a FONSI (Finding of No Significant Impact). As was the case with the project in the original EA, the primary goal of the project in this Determination of NEPA Adequacy (DNA) is to restore and protect open sand habitat for plant and animal species from invasive European beachgrass.

### Decision

It is my decision to authorize the activities as described in the Sand Dune Habitat Restoration DNA (DOI-BLM-OR-C040-2010-0007-DNA). The design features and environmental consequences from this type of project were fully analyzed in the original environmental assessment. The open sand habitats are found in the following locations within the New River Area of Critical Environmental Concern (ACEC): T. 30 S., R. 15 W., Sections 2, 3, 10, and 15.

The EA contained a complete list of Project Design Features (pp. 12-14) designed to avoid, minimize or rectify impacts on resources and are included as part of the Proposed Action. These and additional descriptions of the Proposed Action are hereby incorporated by reference.

### Conformance and Compliance

This project was developed 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 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).

This project fully complies with the management objectives, actions and direction of the 1995 ROD/RMP, as amended. These include:

- Manage for the conservation of federal candidate and Bureau sensitive species and their habitats so as not to contribute to the need to list and to recover the species (p. 32).
- Study, maintain or restore community structure, species composition and ecological processes of special status plant and animal habitat (p. 32).
- Maintain, protect or restore relevant and important values of areas of critical environmental concern (p. 38).

This project also complies with the Oregon and California Lands Act (O&C Act), 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 contained analysis that supported the findings in the FONSI that there would not be any significant impacts that would require the development of an EIS.

### **Public Involvement**

The general public was informed of the EA and FONSI through a letter (December 15, 2008) to those on the Field Office's mailing list, which included adjacent landowners and the others who had requested them. Concurrently, BLM posted an announcement on the District's internet site, <http://www.blm.gov/or/districts/coosbay/plans/index.php> and in a Legal Notice in *The World* newspaper (December 15, 2008) requesting comments for scoping. One comment in support of the project was received. The public was informed of the decision on March 27, 2009 through the same media outlets. The BLM received no public comments.

### **Decision Rationale**

Field Office staff has reviewed the Proposed Action. I have determined that this project meets the criteria for a Determination of NEPA Adequacy (DNA) and that no additional environmental 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 *Sand Dune Habitat Restoration* for the following reasons:

- Implementation of the Proposed Alternative best meets the Purpose and Need described in the New River Foredune Management Environmental Assessment.
- It is consistent with the 1995 *Record of Decision and Resource Management Plan* for the Coos Bay District of the Bureau of Land Management.
- It works towards the protection and maintenance of special status species and unique habitats.
- It complies with other major applicable laws, regulations and Bureau policies.

The Sand Dune Habitat Restoration 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.

Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and did not enjoin the BLM from proceeding with projects.

The project may proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision. This is because the Sand Dune Habitat Restoration project meets the provisions of the last valid Record of Decision, specifically 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 (not including subsequent Annual Species Reviews).

This project does not contain habitats for the wildlife and botany species that require pre-disturbance surveys. Nor are there any species present that require protection buffers.

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**

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 Myrtlewood Field Office, Coos Bay BLM, 1300 Airport Lane, North Bend OR, 97459. The appellant has the burden of showing that the decision being appealed is in error.

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

Decision issued by:

*/s/ Kathy Westenskow*

*May 27, 2010*

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Kathy Westenskow  
Myrtlewood Field Manager

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Date