

Determination of NEPA Adequacy (DNA)
U.S. Department of the Interior
Bureau of Land Management

OFFICE: Siuslaw Resource Area, Eugene District

TRACKING NUMBER: DOI-BLM-OR-E050-2010-0012-DNA

CASEFILE/PROJECT NUMBER: 1790A

PROPOSED ACTION TITLE/TYPE: Siuslaw River Basin Aquatic Restoration

LOCATION/LEGAL DESCRIPTION:

Cascade Repairs - Doe: T20S R6W Sec.11 SW ¼; Bottle: T20S R6W Sec.9 NW ¼; Frying Pan: T20S R6W Sec.5 SE ¼; Dogwood: T19S R6W Sec.29 NW ¼; Siuslaw Bend: T19S R7W Sec.21 SW ¼; Burntwood: T19S R7W Sec.21 NW ¼.

Instream Materials Placement - Siuslaw Spawning Ground creation: T18S R8W Sec. 27 NW ¼; Kelley Cr.: T20S R4W Sec.29 NW ¼; Barlow Cr.: T20S R4W Sec. 3 NW ¼.

Culvert Removals – Turner Cr.: T18S R9W Sec.14 SW ¼; Swamp Cr.: T15S R7W Sec.31 SW & SE ¼.

Barrier Culvert Removals/New Culvert Installations - Unnamed Tributary of Whittaker Cr.: T18S R9W Sec.32 SE ¼; Luyne Cr.: T19S R7W Sec.22 SW ¼; Perry Road (Fox Hollow Cr.): T19S R4W Sec.4 SW ¼; South Fork Ferguson Cr. (3): T15S R6W Sec.26 NW ¼; South Fork Alsea River: T15S R6W Sec. 17 SW ¼; Hawley Creek tributaries (2): T19S R4W Sec.33 SE ¼.

Fish Ladder Modification – Triangle Lake (upper ladder): T16S R7W Sec. 20 SW ¼.

A. Description of the Proposed Action and any applicable mitigation measures

Cascade Repair: From FY 1998-2000 the BLM and cooperators ODFW and Roseburg Resources Co. installed 18 major structures or "cascades" in the mainstem Siuslaw River. The main function of these structures is to increase upstream channel elevation which in turn provides more ground water charging, sediment drop out and channel complexity above. Several of the first designed structures have end cut and effectively caused a loss in stream elevation. The principle objective of this summer's efforts will be to reestablish the channel elevation by placing rock and possibly logs and other woody debris in failed portions of a few of the original projects. Anticipated gravel accumulations have not occurred up stream of all these structures in the last 10+ years. The proposed action includes the placement of gravels directly above previously placed instream structures (FY1998-2000) to provide spawning substrate in reaches dominated by bedrock.

Chinook spawning ground creation: The proposed action is to replicate one of the few chinook salmon spawning areas in the resource area. This site will include 3 specific locations within a 1400 foot bedrock reach that will receive boulder and gravel placements. The objective with this installation is to reduce chinook spawning superimposition in downstream reaches of the Siuslaw River.

Barrier culvert removals (6): The proposed action is to remove aquatic species barrier culverts and restore natural hydraulic function.

Fish friendly culvert installations (10): The proposed action is to remove aquatic species barrier culverts and install fish passage culverts in the same location.

Fish ladder modification: To create the ideal salmon holding pool below the upper ladder by further jack hammer work in bedrock below.

B. Land Use Plan (LUP) Conformance

LUP Name: Eugene District Record of Decision and Resource Management Plan (RMP)

Date Approved: June 1995; as amended.

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the Eugene District RMP. As stated in the RMP: Maintain or enhance the fisheries habitat potential of streams and other waters consistent with the SEIS/ROD (page 44). As stated in ACS objective 2: Maintain and restore spatial and temporal connectivity (RMP, page 18).

C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.

LUP Name: Upper Siuslaw River Aquatic Habitat Management Plan (EA)

Date Approved: March, 1998

LUP Name: Lake Creek Aquatic Habitat Management Plan and Environmental Assessment

Date Approved: May, 2000

LUP Name: Record of Decision for the Upper Siuslaw Late-Successional Reserve Restoration Plan (EIS). **Date Approved:** July 2004.

LUP Name: Upper Siuslaw Landscape Plan Environmental Assessment

Date Approved: December, 2008

LUP Name: Record of Decision for the Eugene District Aquatic and Riparian Restoration Activities (EDARRA) Environmental Assessment. **Date Approved:** August 2010

The ROD for the Upper Siuslaw Late-Successional Reserve Restoration Plan: Watershed Restoration Actions, July 2004 states “Increasing stream structure will provide stream shading, trap sediments and improve water quality by creating deeper pools and replenishing groundwater reservoirs that are vital for water storage, water purification and temperature regulation (EIS, pp 90, 135).”

The 2007 Upper Siuslaw Landscape Plan states that “within the riparian LUA ... actions be undertaken to attain ACS Objectives (page 2).”

As stated in the Siuslaw HMP: The purpose of this restoration plan is to improve the quality and quantity of suitable habitat ... to benefit anadromous and resident fish and other aquatic species.

The Lake Creek HMP, which is fully consistent with the objectives and management recommendations in the Eugene District RMP and ROD, and the Aquatic Conservation Strategy in the Northwest Forest Plan, was prepared as part of an effort to increase potential for production of anadromous salmonids and improve associated habitats (from purpose and need).

The 2010 Environmental Assessment for Aquatic and Riparian Restoration Activities (pages 5-6) provides for the removal of fish barriers (ACS Objective 2), placing materials instream to provide

complexity (All ACS Objectives), and managing riparian plant species for the betterment of aquatic habitats (ACS Objective 1, 3, 4, 8, 9).

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report).

Wyden Authority - Congress, House of Representatives. Signing the Omnibus Consolidated Appropriations Act – Wyden Amendment Authority. Public Law 104-208, Watershed Restoration and Enhancement Agreements (Sept. 30, 1996). Allows for the expenditure of Federal funds on adjacent private lands for restoration actions that benefit BLM managed lands.

Biological Opinion and Letter of Concurrence, USDA Forest Service, USDI Bureau of Land Management and the Coquille Indian Tribe for Programmatic Aquatic Habitat Restoration Activities in Oregon and Washington That Affect ESA-listed Fish, Wildlife, and Plant Species and their Critical Habitats – June, 2007 (USFWS)

National Marine Fisheries Service Biological Opinion for Fish Habitat Restoration Activities in Oregon and Washington” (NMFS No. 2008/03506)

Oregon Dept. of State Lands/U.S. Army Corps of Engineers Programmatic Fill Permit Coverage. NOAA ARBO/DSL GP42104-RF/ACE RGP4 (2009)

2010 4D Take Permit #15013. Authorized by ODFW and NMFS.

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

Yes. The 1995 ROD for the RMP dictates the need for watershed and habitat restoration (pages 28-31). The ROD (Watershed Restoration Actions) for the Upper Siuslaw Late-Successional Reserve Plan EIS (all alternatives) stated that the construction of in-stream structures would be used to improve aquatic habitats and related complexity. In addition, instream culvert barrier removal would open habitat to aquatic species. Chapter Two (alternatives) of the Eugene District Aquatic and Riparian Restoration Activities (EDARRA) Environmental Assessment provides a description of the covered activities which are the same actions proposed in this restoration plan. The proposed action was analyzed in the Upper Siuslaw Landscape Plan (USLP) Environmental Assessment under the effects to Aquatic Conservation Strategy number two. The Watershed Restoration Actions for the Upper Siuslaw River and Lake Creek Aquatic Habitat Restoration Plans stated that the construction of in-stream structures would be used to increase aquatic and riparian connectivity and associated habitats. The proposed action has not changed from that which was identified in 1998 and 2000.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

All NEPA documents mentioned in D.1 analyzed an appropriate range of alternatives (see these documents for specific alternative analysis). No unexpected changes to the existing environment or resource values have occurred that would trigger the initialization of new NEPA analysis here.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

Yes. The existing analysis is adequate for the proposed action and no new circumstances, standards or guidelines have been identified since the signing of the FONSI (May 1998) for the Siuslaw River HMP/EA, the Lake Creek FONSI (August 2000), the ROD for the Upper Siuslaw Late-Successional Reserve Restoration Plan (July 2004) and the ROD for the Siuslaw Landscape Plan (December 2008). There have been no negative resource changes since the completion of these NEPA analyses.

The Upper Siuslaw Habitat Management Plan and Environmental Assessment address the ACS as follows: The Proposed Action (Aquatic Restoration) is in compliance with the Aquatic Conservation Strategy in the Record of Decision for the Supplemental Environmental Impact Statement for the Northern Spotted Owl, 1994, and for the Eugene District Record of Decision and Resource Management Plan, 1995.

Oregon Coast coho salmon have been removed from and added to the threatened species list several times since the mid 1990's and currently are listed as "threatened" under federal ESA (February 2008).

Recent consultation has been completed as related to the proposed actions and their effects on listed OC coho salmon and Essential Fish Habitat (NMFS No. 2008/03506).

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Yes. The direct and indirect impacts of the current proposed action are the same as those denoted in Siuslaw HMP/EA, page 30-32 and the Lake Creek HMP/EA, page 25. The benefits from this action will assist in the attainment and or maintenance of all ACS Objectives.

The direct and indirect impacts of the current proposed action are the same as those denoted in LSR 267 EIS, pages 135-136. The benefits from this action will assist in the attainment of all ACS Objectives.

The EDARRA effects analysis addresses the same short term adverse and long term positive effects as other supporting NEPA documents (Chapter 4). In addition, this document analyzes (by fifth field) the effects of spreading invasive weeds as associated with aquatic restoration activities.

The Upper Siuslaw Landscape Plan analyzes the effects of proposed restoration activities by issues and alternatives (pages 27-29). Like the LSR 267 EIS, the actions are analyzed by how they would contribute toward the attainment of ACS objectives. The impacts analyzed under the USLP are the same as those that might result from the implementation of the proposed actions.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Public involvement and interagency review associated with the Upper Siuslaw and Lake Creek HMP/EAs was adequate for the proposed action. Both these HMP/EAs and corresponding, preliminary FONSI were advertised in the Eugene Register-Guard as being available for a 30-day public review period. Copies of these EAs and preliminary FONSI were mailed to interested individuals on the Eugene District mailing list. No comments were received.

With regard to the LSR 267 EIS, scoping was conducted for two years (beginning in 2000) prior to publishing the Notice of Intent to prepare said EIS. During the comment period, adjustments were made to this NEPA document in reference to public comments received.

The public comment period for the USLP EA began in December of 2008. Like other project related NEPA, scoping letters were sent to interested individuals on the District mailing list.

BLM continues to notify the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, and the Confederated Tribes of the Grand Ronde of the Upper Siuslaw LSR Restoration Plan as projects are implemented. The BLM also provides pre-project notification to various state and federal agencies, private companies and tribes as required under the programmatic coverage's for fill/removal permits and reporting for aquatic biological opinion restoration activities (NMFS No. 2008/03506).

The restoration activities have completed consultation requirements under the National Marine Fisheries Service Biological Opinion for Fish Habitat Restoration Activities in Oregon and Washington" (NMFS No. 2008/03506).

The restoration activities may affect, likely to adversely affect coho salmon in the short term due to sediment release during project implementation. Long term benefits of increased fish passage, better spawning conditions for adults, and improved rearing opportunities for juveniles would result from these restoration actions.

There are no mitigations required for spotted owls and their habitat. A two hour daily timing restriction after sunrise and before sunset applies for projects that are located within 100 yards of un-surveyed marbled murrelet suitable habitat. All project areas are compliant with this restriction. The project is not likely to adversely affect marbled murrelet habitat and will have no effect on spotted owls.

The project sites have been surveyed for listed botanical species and no restrictions have been identified. During project implementation any listed botanical species that are found and have been inadvertently overlooked during surveys will be protected by using the appropriate buffers with recommendation from the field botanist.

E. Persons/Agencies /BLM Staff Consulted

<u>Name</u>	<u>Title</u>	<u>Resource/Agency Represented</u>
Jason Kirchner	Fisheries Biologist	Oregon Dept. Fish and Wildlife (Siuslaw R.)
Steve Mamoyac	Fisheries Biologist	Oregon Dept. Fish and Wildlife (Calapooya R.)
Doug Baer	Environmental Coordinator	Oregon State Marine Board
Carol Franson	Regulatory Support Assistant	US Army Corps of Engineers, Portland Dist.
Sarah Kelly	Reviewing Agent	Oregon Dept. State Lands
Kent Howe	Planning Commissioner	Lane County Planning
John Petsch	Planner	Lane County Planning
Arrow Coyote	Archeologist	Confederated Tribes of Coos, Lower Umpqua, Siuslaw
Jessie Plueard	Archeologist	Cow Cr. Band of Umpqua Tribe of Indians
Robert Kentta	Cultural Resources Director	Confederated Tribes of the Siletz Indians
Eirik Thorsgard	Cultural Protections Specialist	Grand Ronde Tribe
Liz Volmer Buhl	Coordinator	Siuslaw Watershed Council
Jed Kaul	Restoration Technician	Long Tom Watershed Council
Cindy Thieman	Program Director	Long Tom Watershed Council
Jeff Jones	Owner	Habitat Contracting, LLC
Dan Crannell	Wildlife Biologist	BLM
Doug Goldenberg	Botanist	BLM
Steve Steiner	Hydrologist	BLM
Heather Ulrich	Archeologist	BLM
Karin Baitis	Soil Scientist	BLM
	Engineering Staff	BLM
	Road Maintenance Staff	BLM

Note: Refer to the previously mentioned EA/EIS for a complete list of the team members participating in the preparation of the original environmental analyses or planning documents.

Conclusion

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan(s) and that the NEPA documentation fully covers the proposed action and constitute BLM's compliance with the requirements of the NEPA.

Leo M. Poole, Fisheries Biologist

Signature of Project Lead

Sharmila Premdas 08/10/2010

Signature of NEPA Lead

William E. Hatton

Signature of Field Manager:

08/10/2010

Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
EUGENE DISTRICT OFFICE

DECISION RECORD

Documentation of NEPA Adequacy
2010 Siuslaw Restoration Project
DOI-BLM-OR-E050-2010-0012-DNA

Decision:

It is my decision to implement the 2010 Siuslaw Restoration Project as described in the Documentation of NEPA Adequacy **DOI-BLM-OR-E050-2010-0012-DNA** and in the attached implementation prescription.

The proposed action has been reviewed by Resource Area Staff and appropriate project Design Features specified in the EAs, which analyzed these actions, will be incorporated into the proposal. 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 Proposed Action is in conformance with the standards and guidelines of the 1995 Eugene District Record of Decision and Resource Management Plan.

Survey and Manage

The 2010 Siuslaw Restoration Project is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Eugene 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 a variety of NEPA violations in the BLM and USFS 2007 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").

Judge Pechman's Order from October 11, 2006 directs: "Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004), except that this order will not apply to:

- A. Thinning projects in stands younger than 80 years old (emphasis added);
- B. 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;
- C. Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions; and
- D. The portions of project involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging will remain subject to the

survey and management requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph.”

Following the Court’s December 17, 2009 ruling, the Pechman exemptions are still in place. 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. Nevertheless, I have reviewed the Project in consideration of both the December 17, 2009 and October 11, 2006 order. Because the 2010 Siuslaw Restoration Project entails replacing culverts on roads that are in use and part of the road system; and consists of stream improvement projects, I have made the determination that this project meets Exemption B and C of the Pechman Exemptions (October 11, 2006 Order), and therefore may be awarded for replacement by contract even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision since the Pechman exemptions would remain valid in such case.

It is my decision to implement the project, as described, with the mitigation measures identified in the DNA Worksheet.

Administrative Remedies:

Any person adversely affected by this decision may appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4.

Authorizing Official:

William E. Hatton

William E. Hatton

Field Manager

Siuslaw Resource Area

08/10/2010

Date