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

DECISION RECORD

DOI-BLM-OR-E060-2012-0005-EA
McGowan Too Timber Sale Decision Record

DECISION

Based on the analysis documented in the 2014 Thinnings Project EA (DOI-BLM-OR-E060-2012-0005-EA) and the FONSI, it is my decision to implement Alternative 2 for the McGowan Too Timber Sale as described in the EA, including all applicable project design features (PDFs).

PLAN CONFORMANCE

The 2014 Thinnings 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. 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. Plaintiffs and Defendants entered into settlement negotiations that resulted in the 2011 Survey and Manage Settlement Agreement, adopted by the District Court on July 6, 2011.

The Ninth Circuit Court of Appeals issued an opinion on April 25, 2013, that reversed the District Court for the Western District of Washington's approval of the 2011 Survey and Manage Settlement Agreement. The case is now remanded back to the District Court for further proceedings. This means that the December 17, 2009, District Court order which found National Environmental Policy (NEPA) inadequacies in the 2007 analysis and records of decision removing Survey and Manage is still valid.

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;
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 District Court's December 17, 2009, ruling, the Pechman exemptions still remained in place. The 2014 Thinnings Project has been reviewed in consideration of both the December 17, 2009, partial summary judgment and Judge Pechman's October 11, 2006, order. Because the 2014 Thinnings Project includes no regeneration harvest and includes thinning only in stands less than 80 years old, the determination was made that this project meets Exemption A of the Pechman Exemptions (October 11, 2006, Order), and therefore may still proceed to be offered for sale 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.

RATIONALE FOR SELECTION

I have selected Alternative 2 because it best fits the purpose and need for action as presented in the EA. Treatments will provide and help to create a sustainable supply of timber in the Matrix while managing stocking and species composition in the Riparian Reserves.

Thinning will be designed to increase tree size through time, develop wind firm trees, extend the culmination of mean annual increment, and capture anticipated mortality. The stands will be thinned from below. Trees selected for harvest will be the suppressed, intermediate, and some of the co-dominant conifer trees. This prescription will result in a stand with variable spacing between remaining conifers and hardwoods. Hardwoods and minor conifers (incense cedar, western red cedar, and grand fir) will be retained, except where necessary to accommodate logging systems, safety, or harvest objectives to enhance larger dominant conifers (primarily Douglas fir and western hemlock). Thinning will be accomplished with a combination of cable and ground-based yarding systems.

Silvicultural treatments will occur in the middle to outer edges of approximately 65 acres of Riparian Reserves. Areas of no harvest, in close proximity to streams, will be a minimum of 75 feet; and near wetlands, will be a minimum of 25 feet. Within Riparian Reserves, the majority of the acres will be thinned to a BA of 130-170 through commercial harvest. Post-harvest assessment will evaluate snags and CWD needs to meet ACS objectives within 3 years after harvest operations.

I did not select Alternative 1 because it did not meet the Purpose and Need as outlined in the EA (pg. 1). Alternative 2 and Alternative 3 were the same for the McGowan Too Sale.

CONSULTATION AND COORDINATION

ESA consultation considers effects to general habitat due to habitat modification, and effects to site occupation and reproduction due to habitat modification and nesting behavior due to noise disturbance/disruption. Collectively these considerations result in an overall effects determination of project actions. Consultation was conducted under the following batched Province BA: Biological Assessment of NLAA Projects with the Potential to Modify the Habitat of Northern Spotted Owls Willamette Planning Province - FY2013.

It was determined that Alternative 2 would result in a "may affect, but not likely to adversely affect" determination for the McGowan Too Timber Sale units.

IMPLEMENTATION

Implementation for this Decision Record is anticipated to begin in March 2014.

RESPONSE TO PUBLIC COMMENTS

Comments received on the 2014 Thinnings Project EA fell into these general categories:

Site-Specific Disclosure v Analysis

A comment was received stated that the EA was too short and abbreviated, which precluded knowing if the issues had been adequately considered, addressed, and implemented or mitigated. Specific examples were cited of failure to present analysis of the effects of logging on northern spotted owls, on low resiliency soils, and in riparian reserves.

NEPA directs federal agencies to identify issues as part of the process outlined. At 40 CFR 1501.7(a)(2), 40 CFR 1501.7(a)(3), 40 CFR 1502.1 and 1502.2(b), the CEQ explains that issues may be identified through scoping and that only significant issues must be the focus of the environmental document. An issue is more than just a position statement. An issue is a point of disagreement, debate, or dispute with a proposed action based on some anticipated environmental effect. An issue:

- has a cause and effect relationship with the proposed action or alternatives;
- is within the scope of the analysis;
- has not be decided by law, regulation, or previous decision; and
- is amenable to scientific analysis rather than conjecture. (BLM Handbook H-1790-1, p. 40).

Additionally, issues point to environmental effects; as such, issues can help shape the proposal and alternatives. While many issues may arise during scoping, not all of the issues raised warrant analysis in an EA or EIS. Issues may lead to the identification of design features that are incorporated into the proposed action or mitigation measures, thereby eliminating the issue (e.g., designing logging systems in operating seasons that mitigate wildlife disturbance issues). NEPA identifies that federal agencies need not analyze issues associated with the proposed action that do not meet the criteria described above or that are otherwise mitigated.

All comments received on the 2014 Thinnings Project were read and reviewed to identify public concerns and determine the concerns that were issues. 40 CFR §1500(g) directs federal agencies to use "the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (§1501.7)". Section 1.4 of the EA presented the issues identified for the 2014 Thinnings Project. Four issues were presented in detail, and six issues were considered, but not presented in detail. 40 CFR §1500.4(c) directs agencies to reduce excessive paperwork by "discussing only briefly issues other than significant ones (§1502.2(b))". For some of the issues not presented in detail, the issues have been raised on previous projects and analysis conducted has resulted in determinations of negligible impacts, which helped inform the IDT on the need for detailed analysis in this document. For other issues, the IDT conducted substantial analysis, including inventory and assessment, before concluding that no further analysis was needed. Summaries of each of the six issues were presented in the EA, including effects determinations on the issues.

Each of the examples cited were addressed as part of the IDT process in NEPA planning. All topics were presented in the EA. Federal agencies are directed to prepare analytic, rather than encyclopedic, NEPA documents (40 CFR §1500.4(b)), and to summarize and incorporate by reference to eliminate repetitive discussions of the same issues (40 CFR §1500.4(l and j)).

We believe that all issues for the 2014 Thinnings were identified and addressed appropriately as directed under NEPA. We believe we have fulfilled our obligations to "[i]mplement procedures to make the NEPA process more useful to decision-makers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. [EAs] shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses," (40 CFR 1500.2(b)).

Pursue Regeneration Harvest

A comment was received on this EA requesting consideration of some of the stands for regeneration harvest. The choice of silvicultural systems for management of forest stands depends on three general factors (RMP, p. 199):

1. Resource Management Objectives - Silvicultural systems will be designed to meet a wide range of management objectives, including the aquatic conservation strategy, development, or maintenance of particular habitat types, restoration or maintenance of forest health, and production of merchantable forest products. These objectives vary by land use allocation.
2. Ecological Type and Site Conditions - Silvicultural systems will be selected to meet the ecological requirements of the communities of plants and animal species present. The silvicultural systems

selected must also be compatible with soil conditions, slope, aspect, elevation, blowdown potential, and other physical characteristics of each site.

3. Forest Condition - The selection of silvicultural treatments will vary depending on the current condition of each stand. Factors considered include species mix, stand age and structure, density, vigor, previous management, damage or disturbance, and insect or disease problems.

The assessment of these three general factors is combined with selection guidelines for determining the appropriate silvicultural system to apply. For regeneration harvests, treatment areas will be selected when feasible from the least productive stands first. Stands that appear to have low stocking, damage, disease, generally low growth rates, or a predominance of noncommercial species resulting from past management will receive higher priority for harvest. For commercial thinning, treatment areas will be selected from well-stocked or overstocked stands where density reduction is needed to maintain good diameter growth rates, live crown ratios, and stand stability. Selection of thinning areas may depend on access and logging feasibility. The stands presented in this EA were determined under assessment of the three factors and selection guidelines to be appropriate for commercial thinning management. We believe this assessment to be correct and that the appropriate silvicultural system was identified for stands considered in this analysis.

Road Blocking

A comment was received on this project requesting consideration to block all new road construction after harvest. The comment stated that road maintenance or use of these roads would not be needed until the next proposed harvest entry and that blocking would reduce illegal activities (dumping, target shooting, and OHV use).

Roads considered for rocking on the landscape are generally designed to provide for long-term access and infrastructure to reduce future needs for new construction to provide continued access for timber harvest or other land management practices. Partial decommissioning typically puts this road infrastructure into a “stored” state with the BLM’s infrastructure to protect investments in this infrastructure where a future need has been identified to be likely. Typically, these roads are ridgetop roads and are located outside of riparian reserves.

Determining which roads remain open and which would be partially decommissioned incorporates more factors than consideration of next timber harvest entry. As stated in the comment received, some areas of BLM land are subject to illegal activities, which can sometimes be facilitated by improved access timber harvest roads. Conversely though, on-going BLM management other than timber harvest, including fuels and fire management and recreation management, can benefit from access roads created for timber harvest provide. Finding a balance to meet continuing management needs while limiting access to known areas where illegal activities occur is a balance the BLM strives to achieve. For the 2014 Thinnings, approximately 3.15 miles of road would be partially decommissioned. This includes new roads and existing roads that are currently closed. The remaining roads would not be partially decommissioned to better allow the BLM to access lands for other land management needs.

Snag and Course Woody Debris

A comment received stated that the EA erroneously implies that the no action alternative would not recruit large snags and dead wood when, in reality, trees grow, self-thinning happens through a variety of natural mortality processes, and large trees develop.

Firstly, we agree with the commenter that timber stands, when left un-managed, create coarse woody debris (CWD) through self-thinning and a variety of natural processes. As such, we disagree that the EA implies differently. The EA specifically states that “[e]xisting CWD and snags would not be physically degraded or removed, nor would their quality or function change due to alteration of surrounding microclimate. Stands would continue to recruit small to medium-sized CWD and snags, primarily through suppression mortality,” (p. 15).

Analysis of the No Action Alternative serves as a baseline for comparison of the action alternative(s) presented in an EA. The EA explores the rate of CWD creation at the varying size classes. Under the No

Action Alternative, there are no proposed or reasonably foreseeable future actions that would influence current CWD recruitment rates. Proposed actions under the action alternatives would create CWD of large diameter classes faster than what would be reasonably be foreseeable to be created if no management occurred. The analysis conducted for the 2014 Thinnings is consistent with analysis conducted throughout the region on timber management and snag and CWD recruitment.

Thinning in Riparian Reserves
A commenter felt that the analysis relating to CWD and thinning in riparian reserves should have been presented in greater detail in the EA. They additionally expressed the opinion that thinning does not "…increase the recruitment of functional wood, and any increase in very large wood is very minor and comes at great cost in terms of a significant reduction in recruitment of functional wood in size classes smaller than "very large"."

Federal agencies are directed to prepare analytic, rather than encyclopedic, NEPA documents (40 CFR §1500.4(b)), and to summarize and incorporate by reference to eliminate repetitive discussions of the same issues (40 CFR §1500.4(I and j)). The EA (p. 14-15) discussed the current conditions and future effects of thinning on CWD and snags.

The Goal of treating Riparian Reserves: The Eugene RMP (p. 24) states that timber harvest should be undertaken in Riparian Reserves to "…control stocking, reestablish and manage stands, and acquire desired vegetation characteristics needed to attain ACS Objectives." A Late Successional forest type is the standard to which riparian reserve function is compared, so expediting a previously harvested stand toward late successional stand characteristics is the goal of treating riparian reserves by thinning. Therefore, thinning treatments are considered compatible with ACS Objectives when it can be shown that late successional characteristics will be achieved more quickly than non-treatment. Negative trade-offs associated with treatment include degradation of existing habitat characteristics and the loss of future snag and coarse wood recruitment, an essential component of a functional riparian environment.

A Riparian Reserve Subgroup worked to identify a variety of metrics for evaluating the suitability for thinning. Factors considered included diameter distribution, relative density, crown ratio, height:diameter ratio, tree volume, canopy closure, tree species diversity, secondary canopy, shrub layer, herb layer, crown architecture, and snag/CWD requirements. Modeling showed very modest growth response to a range of typical thinning prescriptions. Despite the fact that thinning is not expected to markedly increase the number or size of snags/CWD in Riparian Reserve, the overall effects were judged to be beneficial. Additionally, untreated areas (minimum 75 foot no-cut buffers, deferred stands, and portions evaluated but not deemed suitable for treatment) in and adjacent to the project area will remain and partially mitigate negative effects..

ADMINISTRATIVE REMEDIES

The decision to implement this project may be protested under 43 CFR 5003 - Administrative Remedies. In accordance with 43 CFR 5003.2, the decision for this project will not be subject to protest until the notice of sale is first published in the Eugene Register-Guard. This published notice of sale will constitute the decision document for the purpose of protests of this project (43 CFR 5003.2b). Protests of this decision must be filed with this office within fifteen (15) days after first publication of the notice of sale. As interpreted by BLM, the regulations do not authorize the acceptance of protests in any form other than a signed, written hard copy that is delivered to the physical address of the BLM Eugene District Office.

Signature of the Responsible Official:

/s/ William O'Sullivan
William O'Sullivan
Upper Willamette Resource Area Manager
Eugene District Office

February 25, 2014
Date: