

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-E050-2015-0011-DNA

CASEFILE/PROJECT NUMBER: 1790A

PROPOSED ACTION TITLE/TYPE: Long Tom River Basin Aquatic Restoration

LOCATION/LLEGAL DESCRIPTION: **Instream Materials Placement** – Ferguson Creek (Long Tom River drainage): T15S R6W Sec. 15 NE¼. **New Culvert Install** - Unnamed Tributary of Ferguson Cr.: T15S R6W Sec. 15 NE¼.

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

Fish friendly culvert installation (1): The proposed action is to remove a failed, damaged and undersized aquatic species barrier culvert and install fish passage culverts in the same location. The culvert replacement on Ferguson Creek will be installed under the Wyden Authority in cooperation with the Long Tom Watershed Council.

Instream channel wood placements: Conifer trees from the Finley Wildlife Refuge via a BLM/ USFWS agreement will be pulled from the ground or cut with a saw and placed in Ferguson Creek Creek stream reaches within Section 15 to augment in-stream structure and complexity.

There are no wildlife concerns because surveys have been completed and suitable habitat assessments have not indicated any additional habitat. Before work begins botanical assessments will be completed, if any bureau sensitive plants are located in the vicinity, necessary measures would apply.

B. Land Use Plan (LUP) Conformance

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

Date Approved: June 1995; as amended.

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

LUP Name: Long Tom Watershed Analysis

Date Approved: September, 2000

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

Date Approved: August, 2010

LUP Name: Long Tom Landscape Plan Environmental Assessment

Date Approved: March, 2011

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). Under the Activities category for this EA, stream bank restoration includes the decommissioning of recreational vehicle trails in riparian areas (page 9).

The Long Tom Watershed Analysis states (pages 5-1 and 2) that “removal of barriers should have first priority for fish habitat improvement.” It also recognizes that there is a need for instream structural improvement utilizing the placement of wood debris.

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).

Reinitiation of the Endangered Species Act Section 7 Formal Programmatic Conference and Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Aquatic Restoration Activities in the States of Oregon and Washington (ARBO II). USDC, April 25, 2013

Oregon Dept. of State Lands/U.S. Army Corps of Engineers Programmatic Fill Permit Coverage. NOAA ARBO/DSL GP42104-GP/ACOE RGP - 4 (NWP-2007-999/1) – Reissued 2015

2013 4D Take Permit #17741. Authorized by ODFW and NMFS.

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

See list of NEPA documents in section B, Land Use Conformance

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).

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.: NWP 2013-9664), Reinitiation of the Endangered Species Act Section 7 Formal Programmatic Conference and Biological Opinion and Magnuson-Stevens Conservation and Management Act Essential Fish habitat Consultation for Aquatic Restoration Activities in the States of Oregon and Washington (ABRO II)

Oregon Dept. of State Lands/U.S. Army Corps of Engineers Programmatic Fill Permit Coverage. NOAA ARBO/DSL GP42104-RF/ACE RGP4 (2009); Oregon Dept. of State Lands/U.S. Army Corps of Engineers Joint Fill Permit extension of RGP – Through December 31, 2014; 2010 4D Take Permit #15013. Authorized by ODFW and NMFS via extension and associated letter dated December 23, 2013.

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?

The 1995 ROD for the RMP dictates the need for watershed and habitat restoration (pages 28-31). Chapter Two (alternatives) of the EDARRA Environmental Assessment provides a description of the covered activities which are the same actions proposed in this restoration plan.

Management opportunities for fish habitat restoration are discussed in the Long Tom Watershed Analysis (Chapter 5, pages 1-3) and are the same as the proposed actions. The two restoration projects are located within the area of analysis for the LUP areas of the Siuslaw Resource Area of the Eugene District. To date, there are no new or differing resource conditions than those analyzed in the LUPs previously mentioned.

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?

Reference land use documents analyzed an appropriate range of alternatives that included implementation of aquatic and riparian restoration activities that include aquatic species barrier removals, instream large wood placement, streambank restoration and reduction of recreational impacts with emphasis on listed and resident fish and high intrinsic potential habitat (EDARRA).

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?

The existing analysis is adequate for the proposed action and no new circumstances, standards or guidelines have been identified since the signing of the Eugene District RMP, the ROD/RMP for the Long Tom Watershed Analysis (2000), the ROD for the Eugene District Aquatic and Riparian Restoration Activities (EDARRA) Environmental Assessment and the ROD/RMP for the Long Tom Landscape Plan (2011). Currently, there are **no listed fish species** found in the long Tom River basin.

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?

The direct and indirect impacts of the current proposed action are the same as those denoted in the Eugene District Record of Decision and Resource Management Plan (RMP) for effects to water resources (Ch. 4, pages 21-25) and fish resources (Ch. 4, pages 66-67).

The EDARRA effects analysis addresses the same short term adverse and long term positive effects as other supporting NEPA documents (Chapter 4) and as they relate to the proposed actions of riparian restoration. The environmental consequences section of the Long Tom Landscape Plan (pages 24 – 28) addresses the impacts of removing/replacing stream crossings. The short and long term impacts of the proposed action in Bear Creek are the same as those analyzed in the Long Tom Landscape Plan.

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 Eugene District RMP, Long Tom Watershed Analysis, EDARRA Environmental Assessment and Long Tom Landscape Plan are adequate for the proposed actions. These HMP/EAs and corresponding, preliminary FONSIs were advertised for a minimum 30-day public review period. Copies of these EAs and preliminary FONSIs were mailed to interested individuals on the Eugene 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 (Regional General Permit 4 (RGP 4) and reporting for aquatic biological opinion restoration activities (NWP-2013-9664).

E. Persons/Agencies /BLM Staff Consulted

<u>Name</u>	<u>Title</u>	<u>Resource/Agency Represented</u>
Stacy Polkowske	Fisheries Biologist	Oregon Dept. Fish and Wildlife (Siuslaw R.)
Elise Kelley	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
Orin Schumackher	Planner	Lane County Planning
Dave Cramsey	Forester	Roseburg Timber Resources, Veneta, OR
Stacy Scott	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
Randy Miller	Wildlife Biologist	BLM
Doug Goldenberg	Botanist	BLM
Peter O'Toole	Forester	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.

/S/ Leo Poole _____ 7/15/15 _____
Signature of Project Lead Date

/S/ Sharmila Premdas _____ 7/13/15 _____
Signature of NEPA Lead Date

/S/ Michael J. Korn _____ 7/15/15 _____
Signature of Field Manager: Date

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

DECISION RECORD

DOI-BLM-OR-E050-2015-0011-DNA
Ferguson Creek Fisheries Restoration

DECISION

It is my decision to implement this action as described in the Determination of NEPA Adequacy documentation DOI-BLM-OR-E050-2015-0011-DNA.

DECISION RATIONALE

The proposed action has been reviewed by BLM staff. The Proposed Action is in conformance with the 1995 Eugene District Record of Decision and Resource Management Plan (as amended). Based on the Determination of NEPA Adequacy, I have determined that the existing NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of the NEPA.

SURVEY AND MANAGE

The 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.

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 District Court's December 17, 2009 ruling, the Pechman exemptions still remained in place. I have reviewed the Project in consideration of both the December 17, 2009 partial summary judgment and Judge Pechman's October 11, 2006 order. Because the project includes replacing culverts on roads that are in use and part of the road system; I have made the determination that this project meets Exemptions B of the Pechman Exemptions (October 11, 2006 Order), and therefore may proceed 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.

ADMINISTRATIVE REMEDIES

Any person adversely affected by this decision may appeal it to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, a notice of appeal must be filed in this office within 30 days of this decision for transmittal to the Board. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed. A copy of a notice of appeal and any statement of reasons, written arguments, or briefs, must also be served upon the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, OR 97205.

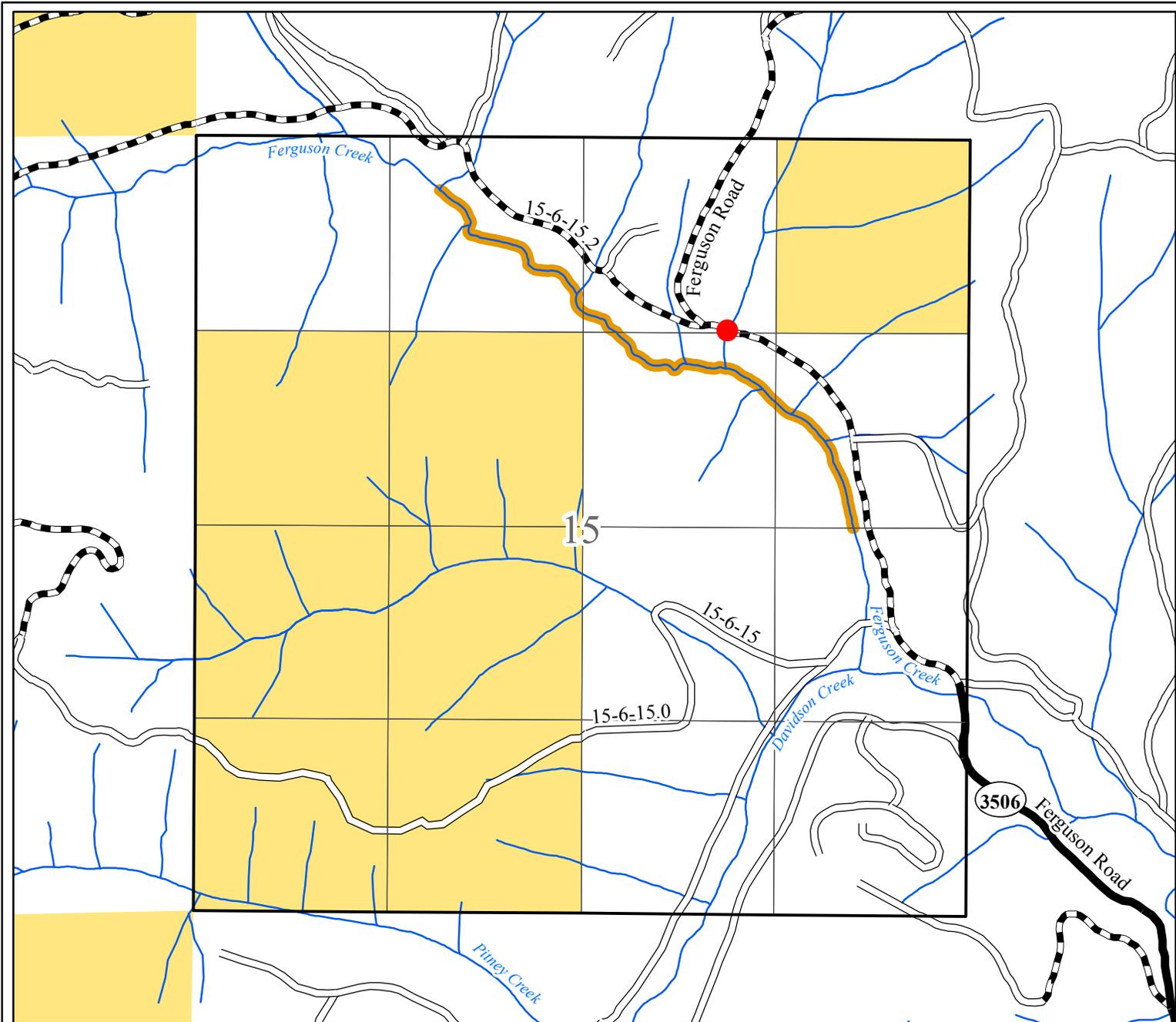
Signature of the Responsible Official:

/S/ Michael J. Korn

Michael J. Korn
Siuslaw Resource Area Field Manager
Eugene District Office

7/15/15

Date:



United States Department of the Interior
Bureau of Land Management

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Universal Transverse Mercator
Zone 10, North American Datum 1983

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Eugene District



Long Tom River Basin

Cooperative Aquatic Restoration

LTWC/BLM

T. 15 S., R. 6 W. Sec. 15

