

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-E050-2015-001-DNA

CASEFILE/PROJECT NUMBER: 1790A

PROPOSED ACTION TITLE/TYPE: Siuslaw Resource Area Restoration Projects

LOCATION/LEGAL DESCRIPTION: **Barrier Removals and New Culvert Installs**

Burntwood Cr.: T19S R7W Sec. 16;

Edris Cr.: T19S R7W Sec. 20;

Unnamed Tributary of the Siuslaw River: T19S R7W Sec. 19;

Laurie Edris Cr.: T19S R7W Sec. 19.

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

Fish friendly culvert installations (6): The proposed action is to remove failed or damaged aquatic species barrier culverts and install fish passage culverts/bridges in critical habitat (CH) for Oregon Coast Coho Salmon in four tributaries of the Siuslaw River within the Upper Siuslaw/ Siuslaw Bend Fifth Field Watershed.

Three of the six culvert replacements will occur in Laurie Edris Creek, which runs through Clay Creek campground. Project work includes the culvert replacements in Laurie Edris Creek and one culvert on an unnamed tributary of the Siuslaw River (see map). The other culvert replacements occur in Edris and Burntwood Creeks.

Projects are planned to be implemented over a two year period. Project work is designed around the in water work period for the mid coast which is July 1 through September 15. Due to fabrication times of concrete bridge features additional time may be needed for structural installation through the end of September. This will be achieved with a requested in water work extension through the ODFW and NMFS. Work is likely to be completed by the end of October for all proposals and will be done before migrating chinook enter adjoining reaches of the Siuslaw River.

A1. Design features to protect T and E Aquatic/Wildlife Species (Marbled Murrelets and Spotted Owls).

Marbled Murrelet: Power tools and heavy equipment are only allowed between two hours after sunrise and two hours before sunset at identified project locations from April 1 to September 15 at worksites identified on the project maps in Sections 19 and 20. These time-of-day restrictions shall be applied because activities will occur during the murrelet breeding season and are close enough to suitable habitat at two sites and may potentially disrupt and adversely affect nesting success; these time-of-day restrictions minimize the risk of disruption of nesting murrelets. Although work on Laurie Edris Creek in Section 19 has nearby suitable habitat, the work in Clay Creek Campground Area has ambient noise

levels similar to proposed culvert replacement activities; i.e., local murrelets should be accustomed to this level of noise. Similar conditions occur with work in Section 20: work is within disruption distance of the edge of suitable habitat in an occupied site, but work is on a busy road where ambient noise levels are similar to proposed culvert replacement activities. Additionally, surveys were completed in 2008 and 2009 in the suitable habitat near worksites in Sections 19 and 20, and the nearest occupied behaviors are over ½ mile from worksites. There is no suitable murrelet habitat near the worksite in Section 16, so no timing restrictions are needed.

Northern spotted owl: No restriction necessary because the closest known nest site is over 500 yards from proposed activities.

A2. If the culvert site in 19-7-19 (clay creek campground) is contaminated with shining geranium (Geranium lucidum), equipment should be protected from contamination or thoroughly washed after work.

A3. Portions of Clay Creek Campground may be closed during the recreation season to accommodate culvert replacements.

B. Land Use Plan (LUP) Conformance

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

Date Approved: June 1995; as amended.

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

Date Approved: March 1998

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 Environmental Assessment

Date Approved: August 2010

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:

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 Aquatic Conservation Strategy (ACS) objective 2: Maintain and restore spatial and temporal connectivity (RMP, page 18).

Rehabilitate streams and other waters to enhance natural populations of anadromous and resident fish by improving fish passage... (page 45, 1995 Eugene District ROD).

The 2007 Upper Siuslaw Landscape Plan states that “within the riparian Land Use Allocation (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 2010 Environmental Assessment for Aquatic and Riparian Restoration Activities (pages 5-6) provides for the removal of fish barriers (ACS Objective 2).

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 (ARBO II)

Oregon Dept. of State Lands/U.S. Army Corps of Engineers Programmatic Fill Permit Coverage. NOAA ARBO/DSL GP42104-RF/ACE RGP4 (2015).

2015 4D Take Permit #19072 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 Habitat Restoration Plan 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 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 Aquatic Conservation Strategies 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.: NWP 2013-9664).

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. 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 Rhonde 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.: NWP 2013-9664).

E. Persons/Agencies /BLM Staff Consulted

<u>Name</u>	<u>Title</u>	<u>Resource/Agency Represented</u>
John Spangler	Fisheries Biologist	Oregon Dept. Fish and Wildlife (Siuslaw R.)
Doug Baer	Environmental Coordinator	Oregon State Marine Board
Carol Franson	Regulatory Support Assist.	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	Grand Ronde Tribe
Liz Volmer Buhl	Coordinator	Siuslaw Watershed Council
Jed Kaul	Restoration Biologist	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 constitutes BLM's compliance with the requirements of the NEPA.

Signature of Project Lead:

/S/ Leo Poole
Leo Poole, Fish Biologist, Siuslaw Resource Area

Date: 5/14/15

Signature of NEPA Coordinator:

/S/ Sharmila Premdas
Sharmila Premdas, Landscape Planner, Siuslaw Resource Area

Date: 5/14/15

Signature of the Responsible Official:

/S/ Michael J. Korn
Michael J. Korn, Field Manager, Siuslaw Resource Area

Date: 5/14/15

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

DECISION RECORD
DOI-BLM-OR-E050-2015-0001-DNA
Siuslaw Fisheries Restoration

DECISION

It is my decision to implement this action as described in the Determination of NEPA Adequacy documentation DOI-BLM-OR-E050-2015-0001-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.

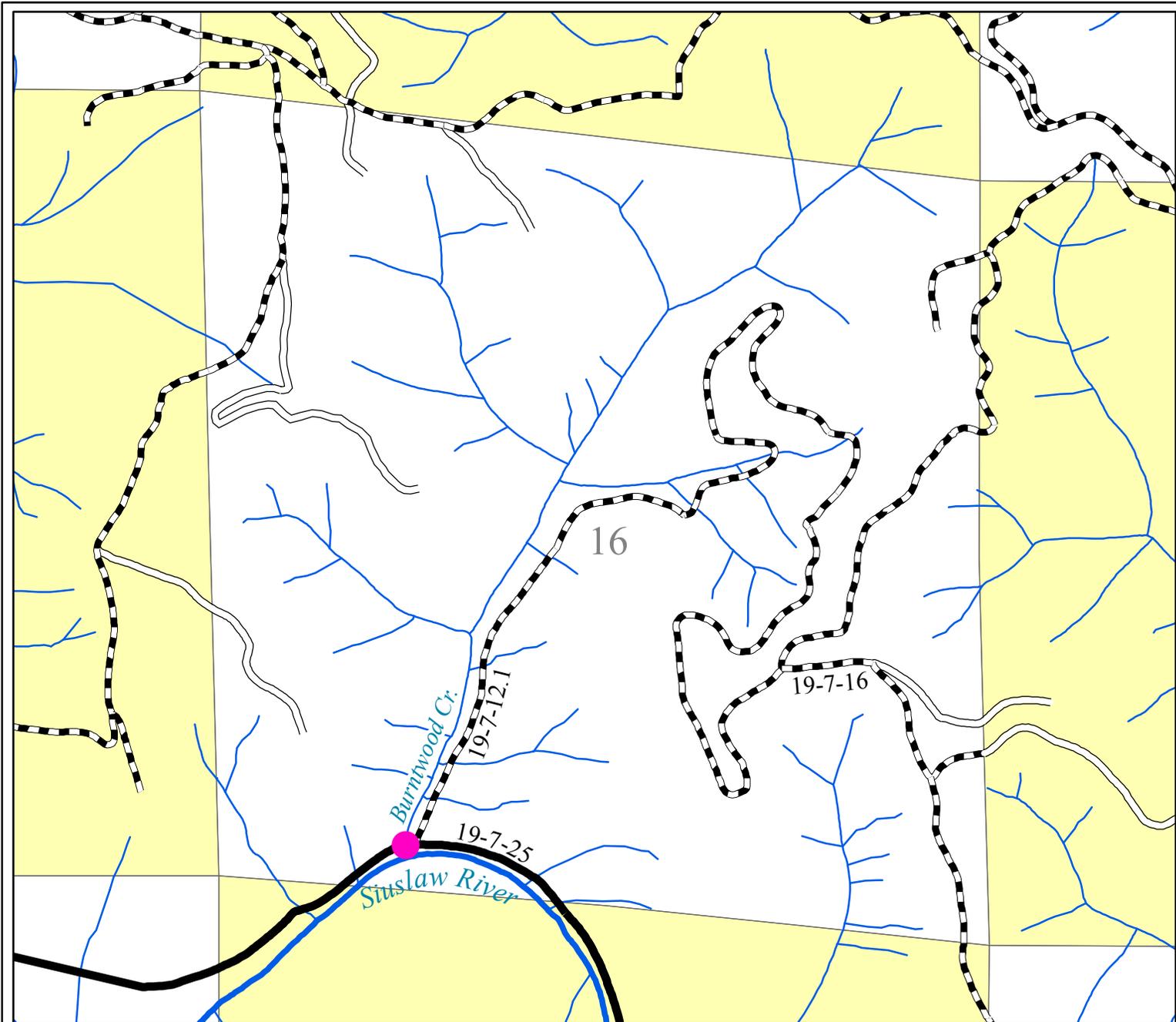
On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey, et al.*, No. 08-1067 (W.D. Wash.) (Coughenour, J.), granting Plaintiffs' motion for partial summary judgment and finding a variety of NEPA violations in the 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 (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



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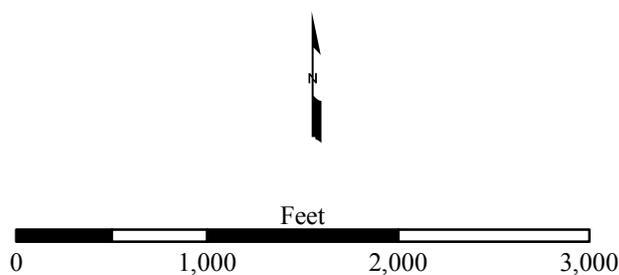
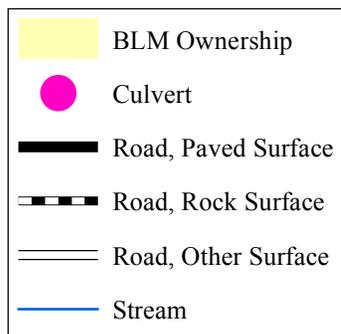
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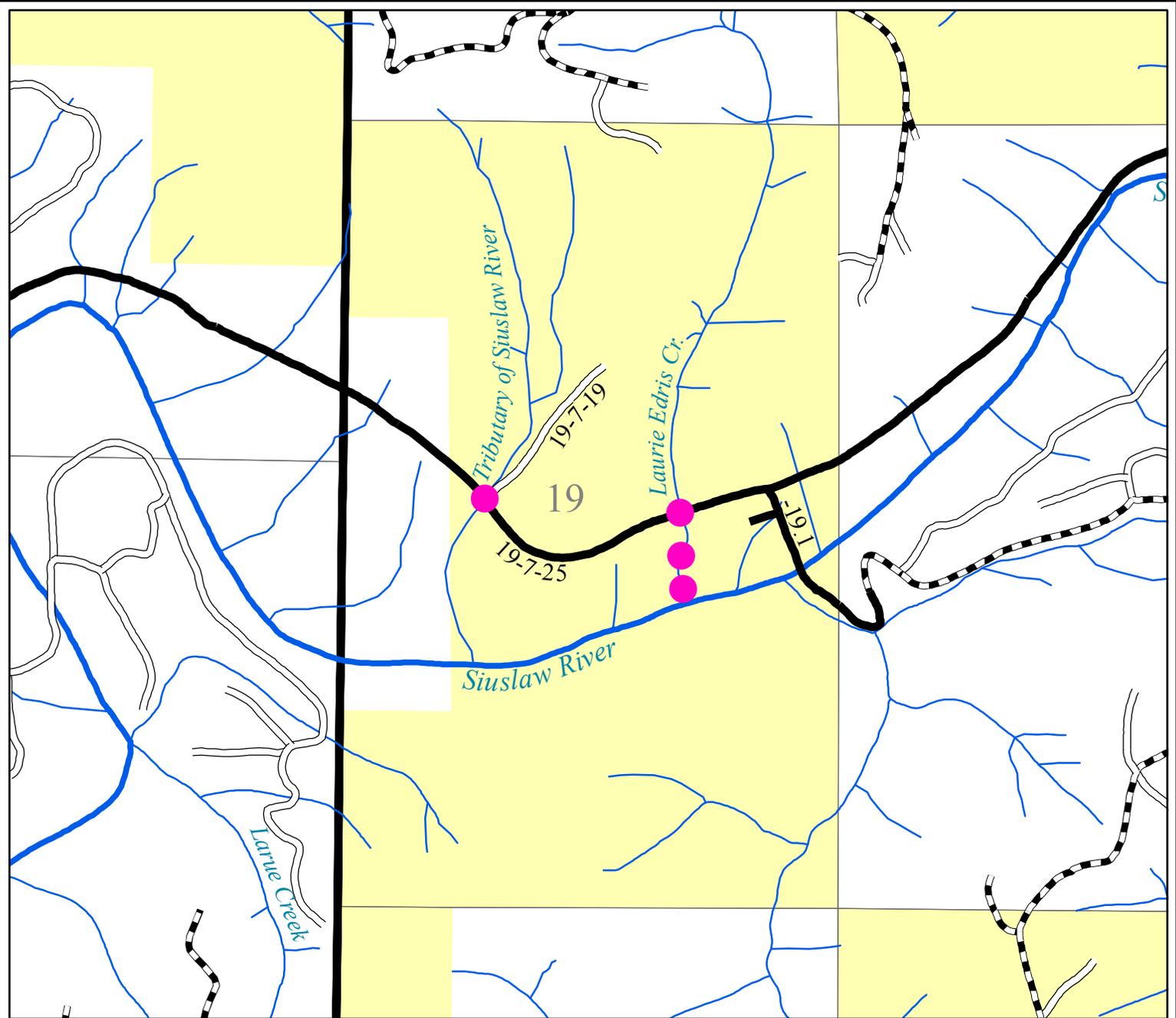
Page 1 of 3

Universal Transverse Mercator
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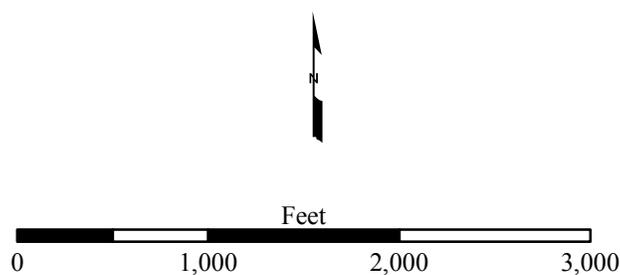
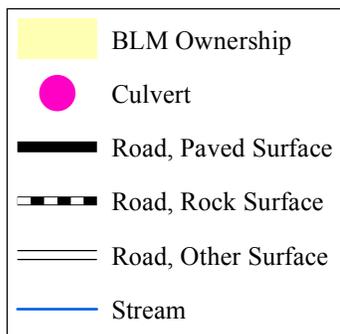
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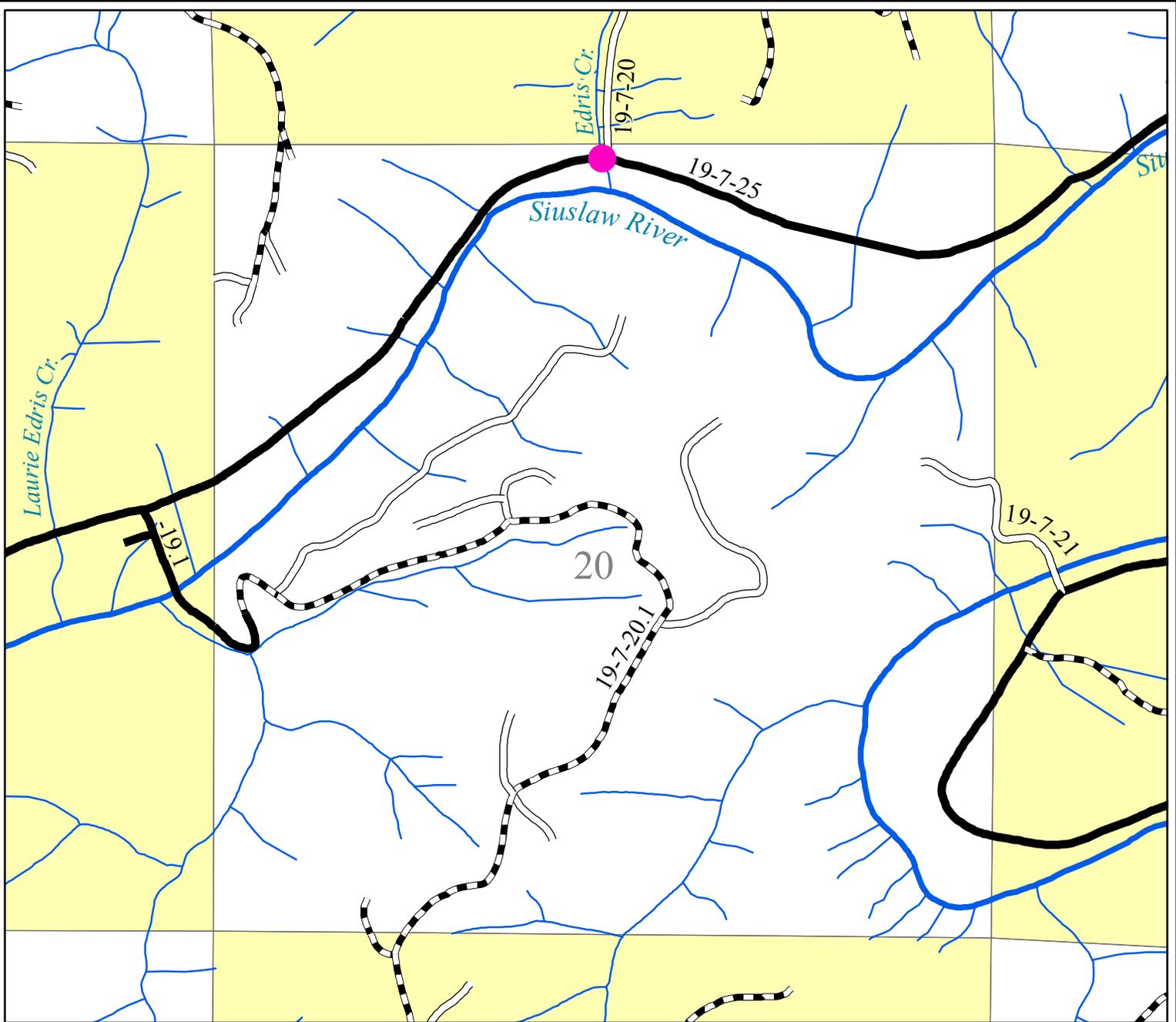
Page 2 of 3

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T.19 S., R.7 W., Sec. 20

Page 3 of 3

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