

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

DETERMINATION OF NEPA ADEQUACY (DNA) WORKSHEET

OFFICE: Siuslaw Resource Area, Eugene District

TRACKING NUMBER: DOI-BLM-OR-E050-2013-0014-DNA

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

LOCATION/LEGAL DESCRIPTION and BACKGROUND:

Low Pass OHV Damage Mitigation – Approximately a mile of OHV damage has been documented in the Michael's Creek sub basin of the Long Tom River drainage. Direct sediment delivery to streams in T16S R6W Section 7 from this recreational vehicle activity is occurring in two distinct locations. OHV damage appears to have been initiated from roads 16-6-7.3 and 7.2. Sediment is being delivered from these roads to unnamed tributaries of Michaels Creek (GIS Stream Link numbers 123461854419974 and 123465564419286. No listed fish species are located in the Long Tom River basin.

Bear Creek Culvert Replacement – A large corrugated metal pipe (CMP) at mile post 0.125 of the 19-5-22.1A road has failed. The bottom of this flat bottom pipe (squash) has rusted out and poses a danger to vehicular traffic. Water flow out of the culvert plunges into an oversized pool, indicating that the culvert is undersized for the drainage above. This culvert is located in T19S R5W Section 21 and the associated road maintenance is under BLM control.

Bear Creek Tree Tipping and Instream Placement – Twenty and thirty year old Douglas fir trees are to be pulled from upslope (one site tree distance) BLM lands in T16S R6W Section 21 adjacent to the 19-5-21A road and placed into Bear Creek as instream structure or woody debris.

South Fork Ferguson Instream Log Placements – Douglas fir trees transported on log trucks from the Findley Refuge will be placed into the stream reach of South Fork Ferguson located in T15S R6W Section 27, adjacent to BLM road No. 15-6-26.2.

DESCRIPTION OF THE PROPOSED ACTION AND ANY APPLICABLE MITIGATION MEASURES

Low Pass OHV Damage Mitigation – The proposed action is to decommission OHV routes in the project area and includes sub-soiling or soil decompaction and scattering debris over the existing routes or trails to prohibit future damage. A small excavator equipped with a digging bucket and narrow tracks to allow small trail access, will be used.

Bear Creek Culvert Replacement – The proposed action of removing the damaged, undersized culvert and replacing it with a larger, aquatic species friendly pipe will occur within the "in water work period" for the Long Tom River which is July 1 – October 15.

Bear Creek Tree Tipping and Instream Placement – Conifer trees (age 20-30) will be removed from the upslope plantation using an excavator and placed into an adjacent stream reach of Bear Creek. This action will occur within the "in water work period" for the Long Tom River which is July 1 – October 15.

South Fork Ferguson Instream Log Placements - Approximately 17 project sites within three stream reaches of the south fork will receive logs via excavator. The objective of these log placements are to add channel complexity, create deep scour pools and provide cover for aquatic species.

B. Land Use Plan (LUP) Conformance

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).

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.

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-RF/ACE RGP4 (2009)

2013 4D Take Permit #17741. 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?

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 four 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 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. Project design criteria from this EA will be followed as such: minimize pulling and felling of trees from within 60 feet of stream channels and where appropriate, pull or fall trees from the north or east side of a stream channel to avoid impact to shading in the primary shade zone.

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).

Some restoration activities are considered to likely adversely affect Oregon Coastal coho salmon due to short term sediment delivery. These actions comply with the Record of Decision and Standards and Guidelines of the Northwest Forest Plan (USDA and USDI 1994), INFISH (USDA and USDI 1995a), PACFISH (USDA and USDI 1995b), and respective BLM Resource Management Plans and FS Land and Resource Management Plans. The proposed activities are authorized under the National Marine Fisheries Service Reinitiation of Aquatic Restoration Activities in States of Oregon and Washington (ARBO II, NWP-2013-9664), signed April 25, 2013.

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 Assistant	US Army Corps of Engineers, Portland Dist.
Sarah Kelly	Reviewing Agent	Oregon Dept. State Lands, Bend, OR
Kent Howe	Planning Commissioner	Lane County Planning
John Petsch	Planner	Lane County Planning
Stacy Scott	Cult. Res. Protection Spc.	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 SPC	Grand Ronde Tribe
Liz Volmer	Buhl Coordinator	Siuslaw Watershed Council
Jed Kaul	Fisheries Biologist	Long Tom Watershed Council
Dana Dedrick	Program Director	Long Tom Watershed Council
Dan Crannell	Wildlife Biologist	BLM
Doug Goldenberg	Botanist	BLM
Steve Steiner	Hydrologist	BLM
Heather Ulrich	Archeologist	BLM
Mike Fieber	Archeologist Technician	BLM
Karin Baitis	Soil Scientist	BLM
	Engineering Staff	BLM
	Road Maintenance Staff	BLM

Note: Refer to the previously mentioned environmental assessments, environmental impact statements and watershed analysis 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
Signature of Project Lead

Date: 7/1/2013

/s/ Sharmila Premdas
Signature of NEPA Planner

Date: 7/1/2013

/s/ Charles L. Fairchild
Signature of Field Manager

Date: 7/1/2013

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program specific regulations

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DECISION RECORD
Documentation of NEPA Adequacy
2013 Long Tom River Basin Projects
DOI-BLM-OR-E050-2013-0014-DNA

DECISION

It is my decision to implement the 2013 Long Tom River Basin aquatic restoration projects as described in the Documentation of NEPA Adequacy **DOI-BLM-OR-E050-2013-0014-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 2013 Long Tom River Basin aquatic restoration projects are 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

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 Long Tom River Basin aquatic restoration projects entail 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 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.

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 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.

Authorizing Official:

/s/ Charles L. Fairchild
Charles L. Fairchild
Field Manager
Siuslaw Resource Area

7/1/2013
Date