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-E050-2013-0013-DNA

Project Name: Siuslaw River Basin Aquatic Restoration

Location/Legal Description: T. 20 S., R. 5 W., Section 18, NW1/4, T. 19 S., R. 8 W., Section 34, NW1/4, T. 19 S., R. 8 W., Section 27, S1/2, T. 19 S., R. 6 W., Section 7, NW and NE1/4, W.M.

Little Siuslaw River Culvert Replacement and Mitigation – The multi-plate culvert at mile post 0.44 on the 20-6-13.4, Segment A, currently prohibits aquatic species passage at most flows in the Little Siuslaw River, a tributary of the Siuslaw River in the Siuslaw Falls 6th Field sub watershed (171002060304). This culvert has structural damage due to age and rust which allows flow to pass through the bottom of the culvert and is likely causing substrate erosion under the culvert.

Esmond Creek Tributary Culvert Mitigation – A squash pipe was installed on an unnamed tributary of Esmond Creek (123629924388150) at milepost 2.64 of BLM Road No.19-8-21, Segment A in 1999. In-stream structure below the culvert has been lost, resulting in channel down cutting, loss of substrates within the culvert, and slight drop at the effluent end of the pipe, which could cause low flow passage difficulties for smaller aquatic species. This culvert is located in the Esmond Creek 6th Field sub watershed (171002060307).

Esmond Creek Tree Tipping and Placement – BLM conifer stands adjacent to Road No.19-8-21 will provide large woody debris (LWD) for adjacent stream reaches of Esmond Creek in Section 34, of the Esmond Creek 6th Field sub watershed (171002060307).

Eames Creek Instream Restoration – Placement of in-stream structural materials is planned for lower stream reaches of Esmond Creek within the Upper Wolf Creek 6th Field sub watershed (171002060102).

A. Description of Proposed Action and any applicable mitigation measures

Little Siuslaw River – The proposed action is to place spawning gravels directly below the effluent end of the pipe in order to pass aquatic species during low water flow.

Esmond Creek Tributary – The proposed action is to reinstall gradient control below this partial barrier culvert by placing staggered boulder structures to raise in-channel elevation. Forty five tons of 0.5 yard sized boulders and 25 tons of gravel will be placed in the channel approximately 50 feet downstream of the effluent end of the culvert which will reinstate a spawning gravel level of one foot inside of the culvert.

Esmond Creek Tree Tipping – The proposed action is to place 50-100 trees in the active channel of Esmond Creek using logs pulled from the ground or cut to the stump from BLM managed stands. Tree removal will be completed in a fashion that creates clumps or gaps that enhance area wildlife such as spotted owls (if possible). In addition, live trees in the harvest area may be snagged to create wildlife habitat.
Eames Creek – The proposed action is to place mature to old growth sized logs in the stream channel using an excavator to provide scour and cover. In addition, 0.5-1 cubic yard boulders (60 ton) would be placed to increase pool depth. Approximately 100 tons of gravel (1-2 inch river run) will be installed to provide new spawning substrate.

B. Land Use Plan (LUP) Conformance

LUP Name: Eugene District Record of Decision and Resource Management Plan (RMP), as amended. Date Approved: June 1995

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions: 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: Record of Decision for the Upper Siuslaw Late-Successional Reserve Restoration Plan (EIS). Date Approved: July 2004.

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 2010 Environmental Assessment for Aquatic and Riparian Restoration Activities (pp. 5-6) provides for the removal of fish barriers (ACS Objective 2), placing materials in-stream to provide complexity (All ACS Objectives), and managing riparian plant species for the betterment of aquatic habitats (ACS Objective 1, 3, 4, 8, 9).


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/RMP dictates the need for watershed and habitat restoration (pp. 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, in-stream 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 numbers 1-4. The Watershed Restoration Actions for the Upper Siuslaw River Aquatic Habitat Restoration Plan stated that the construction of in-stream structures would be used to increase aquatic and riparian connectivity and associated habitats.

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. No unexpected changes to the existing environment or resource values have occurred that would trigger the initialization of further NEPA analysis.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, and 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 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.


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 (June 20, 2011).

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). The second Aquatic Restoration Biological Opinion (ARBO II) covering the “likely to adversely affect” actions related to aquatic restoration activities will be signed in May 2013.
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 Siuslaw HMP/EA (pp. 30-32), LSR 267 EIS (pp. 135-136). The benefits from this action will assist in the attainment and or maintenance 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 and the attainment of (pp. 27-29) ACS objectives.

The proposed actions are located within the Siuslaw River Basin and are within ARBO II guidelines to protect against cumulative effects that may accrue as related to future state and private activities within a sub watershed. The proposed actions will not result in jeopardy to listed Oregon Coast Coho salmon as a result of direct, indirect or cumulative 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, LSR 267 EIS and USLP EA was adequate for the proposed action.

The BLM notifies 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 second Aquatic Restoration Biological Opinion (ARBO II) covering the “likely to adversely affect” actions related to aquatic restoration activities will be signed in May 2013.

**E. Persons/Agencies/BLM Staff Consulted**

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Agency Represented</th>
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<tbody>
<tr>
<td>John Spangler</td>
<td>Fish Biologist</td>
<td>Oregon Department of Fish and Wildlife</td>
</tr>
<tr>
<td>Doug Baer</td>
<td>Environmental Coordinator</td>
<td>Oregon State Marine Board</td>
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<tr>
<td>Carol Franson</td>
<td>Regulatory Support Assistant</td>
<td>US Army Corps of Engineers</td>
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<tr>
<td>Sarah Kelly</td>
<td>Reviewing Agent</td>
<td>Oregon Department of State Lands</td>
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<td>Kent Howe</td>
<td>Planning Commissioner</td>
<td>Lane County Planning</td>
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<td>John Petsch</td>
<td>Planner</td>
<td>Lane County Planning</td>
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<tr>
<td>Arrow Coyote</td>
<td>Archaeologist</td>
<td>Confederation Tribes of Coos, Lower Umpqua, Siuslaw</td>
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<tr>
<td>Jessie Plueard</td>
<td>Archaeologist</td>
<td>Cow Cr. Band of Umpqua Tribe of Indians</td>
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<td>Robert Kentta</td>
<td>Cultural Resources Director</td>
<td>Confederated Tribes of the Siletz Indians</td>
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<tr>
<td>Erik Thorsgard</td>
<td>Cultural Protections Specialist</td>
<td>Grand Ronde Tribe</td>
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<tr>
<td>Liz Volmer Buhl</td>
<td>Coordinator</td>
<td>Siuslaw Watershed Council</td>
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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 and that the NEPA documentation fully covers the proposed action and constitute BLM’s compliance with the requirements of the NEPA.

Signature of Project Lead:

/s/ Leo Poole  
Leo M. Poole, Fisheries Biologist, Siuslaw Resource Area  
Date: 7/1/2013

Signature of NEPA Coordinator:

/s/ Shamila Premdas  
Shamila Premdas, Landscape Planner, Siuslaw Resource Area  
Date: 7/1/2013

Signature of the Responsible Official:

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

It is my decision to implement this action as described in the Determination of NEPA Adequacy documentation DOI-BLM-OR-E050-2013-0013-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 Siuslaw 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.

Signature of the Responsible Official:

/s/ Charles L. Fairchild 7/1/2013
Charles L. Fairchild
Field Manager, Siuslaw Resource Area
Eugene District Office

Date: