

Appeals of this decision may be made as described in the Administrative Remedies section of the Decision Record.

For the purposes of filing an appeal, the physical address of the Eugene District BLM Office is:

Delivery to site address (Note: DO NOT send mail to this address):

3106 Pierce Parkway, Suite E  
Springfield Oregon

By mail:

Bureau of Land Management  
P.O. Box 10226  
Eugene, Oregon 97440

The address of the Regional Solicitor is:

Office of the Regional Solicitor  
U.S. Department of the Interior  
805 SW Broadway, Suite 600  
Portland, Oregon 97205

If you have any questions concerning this proposal, please call Todd Bush at (541) 683-6443.

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

Documentation of NEPA Adequacy  
Rat Creek Culvert Removal Project  
**DOI-BLM-OR-E060-2012-0015-DNA**

**Decision:**

It is my decision to implement the Rat Creek Culvert Removal Project as described in the Documentation of NEPA Adequacy **DOI-BLM-OR-E060-2012-0015-DNA** and in the attached implementation prescription.

The proposed action has been reviewed by Resource Area Staff and appropriate project Design Features specified in the EAs, which analyzed these actions, will be incorporated into the proposal. Based on the Documentation of NEPA Adequacy, I have determined that the proposed action involves no significant impact to the human environment and no further analysis is required. The Proposed Action is in conformance with the standards and guidelines of the 1995 Eugene District Record of Decision and Resource Management Plan.

**Survey and Manage**

The Rat Creek Culvert Removal 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. 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 Court's December 17, 2009 ruling, the Pechman exemptions are still in place. 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. Nevertheless, I have reviewed the Project in consideration of both the December 17, 2009 and October 11, 2006 order. Because the Seeley LWD Restoration Project entails placing LWD in stream, 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 be awarded for replacement by contract 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 to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4.

Authorizing Official:

/s/ William O'Sullivan

William O'Sullivan

Field Manager

Upper Willamette Resource Area

Date: 08/08/2012