

# DECISION RECORD & CATEGORICAL EXCLUSION REVIEW

**Project Name:** Tree Planting and Scalping Treatments (DOI-BLM-OR-M060-2011-0004-CX)

**BLM Office:** Ashland R.A., Medford District.

**Contact Person:** Doug Stewart (541) 618-2264

## DESCRIPTION & LOCATION OF THE PROPOSED ACTION:

The Ashland Resource Area of the Medford District Bureau of Land Management (BLM) proposes to perform silvicultural treatments throughout the Ashland Resource Area consisting of tree planting conifer seedlings on four reforestation areas (53 acres), radius scalping, a vegetation management treatment of 2-3 foot radius scalps around recently planted seedlings, on 37 acres, and vegetation cutting on 4 acres where hardwood re-sprouts need to be cut on a 2-year old burned area that was planted with conifer seedlings in the Spring of 2010. Radius scalping will require clearing all non-wood vegetation (grass/herbaceous plants) down to mineral soil around each seedling. These silviculture treatments will be scheduled for completion May – June 30, 2011.

**Table 1. Silviculture Treatment Units**

Unit Name & No.	Key No.	Legal - T/R/S	Acres	Treatments
Buck Springs #8	124322	T38S-R03E-29	5	Tree Plant & 2-Foot Scalp
Buck Springs #9	124321	T38S-R03E-29	14	Tree Plant & 2-Foot Scalp
Burnt Pond #2A	124614	T39S-R03E-08	7	Tree Plant & 2-Foot Scalp
Keno Road #9	120966	T38S-R04E-29	27	Tree Plant Only
Willow Creek #1	123046	T39S-R03E-01	7	Tree Plant & 3-Foot Scalp
Fire Pit #1A	165405	T37S-R03E-30	4	Tree Plant & 3-Foot Scalp
Bishop Creek Fire #1	124558	T38S-R03W-25	4	Vegetation Cutting (sprouts)

### Planned Treatment Periods:

- Tree Planting – May through June.
- Radius Scalping – May through June.
- Vegetation Cutting – June

### The following Project Design Features are required conditions of all silviculture treatments:

#### *For the Protection of Cultural Resources:*

- If during project implementation the contractor encounters or becomes aware of any objects or sites of cultural value on federal lands, such as historical or pre-historical ruins, graves, grave markers, or artifacts, the contractor shall immediately suspend all operations in the vicinity of the cultural value and notify the Contract Officer Representative (COR) so the site can be evaluated by a BLM archaeologist.

#### *For the Protection of Special Status Plants:*

- Areas designated as “Special Plant Area” on project maps contain protected Special Status Plants where ground disturbing silviculture treatments will not be allowed (Table 4). Boundaries of “Special Plant Areas” are flagged using orange tied with yellow and black-striped plastic flagging. The unit maps will be issued to the Contractor at the pre-work meeting.

**Table 2. Special Status Plants in Treatment Units and Management Direction**

Unit Name/ #	Acres	Prescription	Special Status Plant Sites - Management
Burnt Pond #2A	7	Plant/scalp	<i>Hackelia bella</i> – Plant has a no treatment buffer

#### *For Watershed Protection (Soils, Water Quality, Hydrological Functions):*

- Limit road use during the wet season on native surface (unsurfaced) roads to after May 15<sup>th</sup>. Road use may occur prior to May 15<sup>th</sup> if the road is sufficiently dry to protect both the road and resource values. Road use shall be suspended during precipitation events or if monitoring indicates that saturated soils exist to the extent that there is potential for causing elevated stream turbidity and sedimentation. No snow plowing of native surface roads will occur. Consultation with appropriate resource specialists (hydro, soils, fish) shall occur if road use is proposed during the wet season to determine if additional mitigation is required or use is appropriate for the conditions.
- Road use is permitted during the wet season on surfaced (aggregate, chip seal, paved) roads; however road use shall be suspended when there is potential for causing elevated stream turbidity and sedimentation. Snow plowing is permitted, but shall occur in a manner that will protect roads and adjacent resources by removing or placing snow berms to prevent concentration on the roadway or on erodible sideslopes and soils.
- All road use shall occur on existing roads only. No vehicles are permitted off-road. This will also help to minimize the spread of any invasive species.

### **PLAN CONFORMANCE**

The proposed action is in compliance with the 1995 Medford District Record of Decision and Resource Management Plan (RMP). The 1995 Medford District Resource Management Plan incorporated the *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and the Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (Northwest Forest Plan)* (USDA and USDI 1994).

The 1995 Medford District Resource Management Plan was later amended by the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*. On July 25, 2007, the *Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* amended the 1995 Medford District Resource Management Plan by removing the Survey and Manage Mitigation Measure Standards and Guidelines.

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 entered into a stipulation agreement exempting certain categories of activities from the Survey and Manage standard (hereinafter "Pechman exemptions"). Following the December 17, 2009 District Court 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.

This project meets Exemption A of the Pechman Exemptions (October 11, 2006 Order), which allows for "Thinning projects in stands younger than 80 years old," and therefore may still proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage ROD since the Pechman exemptions would remain valid in such case.

### **CATEGORICAL EXCLUSION REVIEW**

Department of the Interior Regulations (43 CFR § 46.205(c)) require that any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances listed in 43 CFR § 46.215. An action would meet one of the extraordinary circumstances if the action may:

<u>Yes</u>	<u>No</u>	<u>Categorical Exclusion Exception</u>
( )	(X)	1. Have significant adverse effects on public health or safety.
( )	(X)	2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
( )	(X)	3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)] not already decided in an approved land use plan.
( )	(X)	4. Have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.
( )	(X)	5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
( )	(X)	6. Have a direct relationship to other actions with individually insignificant, but significant cumulative environmental effects. (40 CFR 1508.7 and 1508.25(a)).
( )	(X)	7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.
( )	(X)	8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
( )	(X)	9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
( )	(X)	10. Have disproportionate significant adverse impacts on low income or minority populations (Executive Order 12898).
( )	(X)	11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
( )	(X)	12. Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

**COMPLIANCE WITH NEPA**

In accordance with 43 CFR §§ 46.205 (c) and 46.215, the proposed action has been reviewed against the above twelve criteria, and I have determined that none of the extraordinary circumstances described in 43 CFR § 46.205 (c) apply to this project. This project is categorically excluded from further documentation under the NEPA in accordance with the Department of the Interior Manual Section 516 DM 11.9 C (4) which states: *“Pre-commercial thinning and brush control using small mechanical devices.”*

**DOCUMENT PREPARATION AND REVIEW**

<u>Bob Pasley</u>	<u>Lead Operations Forester/Silviculture</u>	<u>December 27, 2010</u>
Prepared by	Title	Date

<u>Stephanie Kelleher</u>	<u>Ecosystem Planner/Env. Coordinator</u>	<u>March 1, 2011</u>
Reviewed by	Title	Date

**DECISION**

Based on this NEPA CATEGORICAL EXCLUSION REVIEW, I have determined that the proposed action involves no significant impact to the human environment and that no further environmental analysis is required. It is my decision to authorize the requested silviculture land treatments.

  
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John Gerritsma  
Field Manager; Ashland Resource Area

3/1/11  
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Date

**ADMINISTRATIVE REVIEW**

Notice of the forest management decision to be made on the action described in this categorical exclusion will be posted on the Medford District internet website. The action is subject to protest under 43 CFR 4.450-2. A decision in response to a protest is subject to appeal to the Interior Board of Land Appeals under 43 CFR part 4.