



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
ASHLAND RESOURCE AREA
3040 Biddle Road
Medford, Oregon 97504



DECISION RECORD #3
for the
COTTONWOOD FOREST MANAGEMENT PROJECT
(DOI-BLM-OR-M060-2011-0003-EA)

INTRODUCTION

This decision is to provide for the withdrawal of Decision Record #2 for the Cottonwood Forest Management Project, dated January 24, 2014, and to amend the Decision Record for the Cottonwood Forest Management Project dated August 23, 2013.

BACKGROUND

The Cottonwood Forest Management Project EA documented the analysis of BLM's proposal to harvest trees on 1,108 acres of conifer forest stands on BLM-administered lands. The Cottonwood Forest Management Project is located primarily within the Keene Creek drainage of the Jenny Creek Watershed; an estimated 12 acres within two units would cross over the drainage boundary into the Dead Indian Creek drainage of the South Fork Little Butte Creek Watershed. The Public Land Survey System description for the Cottonwood Project Area¹ is: T. 38 S., R. 3 E., in sections 19, 20, 29, 32, 33, 34; T. 39 S., R. 3 E., in sections 3, 4, 5, 8, 9, 10, 17, 19, 20, 21, 27, 28, 29, 30, 31, 32, 34; T. 40 S., R. 3 E., in section 3; Willamette Meridian, Jackson County, Oregon.

The project was subsequently litigated. The United States District Court Order in *Soda Mountain Wilderness Council v. BLM*, dated September 6, 2013 granted BLM's motion for summary judgment except for the no-new-road claim which was remanded to the BLM for further consideration with the guidance of *Soda Mountain Wilderness Council v. BLM*, ___ Fed. App'x ___, 2013 WL 3890008 (9th Cir. July 30, 2013) (*Soda Mountain*). In *Soda Mountain*, the 9th Circuit Court held that the district court erred in failing to preliminarily enjoin "the building of 1.15 miles of new permanent roads until the BLM either considers Soda Mountain's no-new-roads

¹ The Cottonwood Project Area includes areas where action is proposed, including units where forest thinning is proposed, roads used and maintained for hauling (up to County roads), road construction, or road improvements.

alternative for units 20-1 and 20-2, or specifies why that alternative was rejected in a manner that is consistent with the project objectives and consistent with the revised timber sale.” Decision Record #2 provided the information explaining why portions of the Proposed Action (Alternative 2) were not implemented in the previous Decision Record and specifying why rejecting the no-new-roads alternative is consistent with the project objectives, the revised timber sale and the National Environmental Policy Act.

THE DECISION

This decision withdraws Decision Record #2.

Decision Record #2 sought to explain the differences between the implementation of the Cottonwood project as authorized in the Decision Record for the Cottonwood Forest Management Project (dated August 23, 2011) and Alternative 2 (selected alternative) (as described, above).

This decision also withdraws authorization to implement units 20-1 and 20-2 (and associated 1.15 miles of road construction) from the Decision Record for the Cottonwood Forest Management Project dated August 23, 2011. By withdrawing the authorization to implement units 20-1 and 20-2, there can be no further treatment actions on those units unless additional NEPA analysis is completed and a new Decision, with full public participation, is issued. Because authorization for units 20-1 and 20-2 will be withdrawn, and because the units are currently under contract in the Cottonwood Timber Sale, BLM will execute a contract modification to remove units 20-1 and 20-2 from timber harvest.

DECISION RATIONALE

I have determined that given BLM’s focus on the Medford District’s highest priorities, including fire recovery and supporting the development of the Resource Management Plan (RMP), it is in the best interest of the government to not be burdened by additional workloads associated with Decision Record #2. Decision Record #3 does not alter the land allocation (i.e. matrix) allocated to units 20-1 and 20-2.

AUTHORIZATION

It is my decision to withdraw Decision Record #2 and withdraw the authorization to implement units 20-1 and 20-2 and associated road construction.



John Gerritsma
Field Manager, Ashland Resource Area
Medford District, Bureau of Land Management

5/13/14
Date

ADMINISTRATIVE REMEDIES

This decision is a Forest Management Decision. Administrative remedies are available to persons who believe that they will be adversely affected by this decision. The United States District Court Order in *Soda Mountain Wilderness Council v. BLM*, dated September 6, 2013, granted BLM's motions for summary judgment on the original decision except for the no-new-road claim (the building of 1.15 miles of new roads to access units 20-1 and 20-2). The principle of administrative finality precludes any further protest of the original August 23, 2011 Cottonwood Forest Management Project Decision and the findings contained therein except for the issue vacated by the United States District Court Order of September 6, 2013. This supplemental decision does not include any new or additional issues from the original decision and, except for the withdrawal of Decision #2 and cancelling previously authorized treatments units 20-1 and 20-2 and associated road construction, is not subject to protest consistent with the Doctrine of Administrative Finality. The only part of this decision that is protestable is the withdrawal of construction of 1.15 miles of new permanent road to provide access to units 20-1 and 20-2 and the withdrawal of previously authorized treatments in 20-1 and 20-2.

In accordance with the BLM Forest Management Regulations 43 CFR §5003.2 (a & c), the effective date of the decision, as it pertains to actions described above that are not part of an advertised timber sale, is the date of publication of this Notice of Decision in *Medford Mail Tribune* newspaper. Any protest must be made within 15 days of the publication of this Notice of Decision in the Medford Mail Tribune. Any contest of this decision should state specifically which portion or element of the decision that is being protested and cite the applicable regulations. 43 CFR § 5003.3 subsection (b) states: "Protests shall be filed with the authorized officer and shall contain a written statement of reasons for protesting the decision." This precludes the acceptance of electronic mail (email) or facsimile (fax) protests. Only written and signed hard copies of protests delivered to the Medford District Office will be accepted. The Medford District Office is located at 3040 Biddle Road, Medford, Oregon. The EA (DOI-BLM-OR-M060-2011-0003-EA) referenced above and associated DR, Finding of No Significant Impact and Environmental Assessment are available for review at the Medford District Office, 3040 Biddle Rd, Medford, OR and on the Medford District's website (<http://www.blm.gov/or/districts/medford>) under planning documents.

If no protest is received by the close of business (4:30 p.m.) within 15 days after publication of the Notice of Decision, the decision will become final. If a timely protest is received, the project decision will be reconsidered in light of the statement of reasons for the protest and other pertinent information available, and the Ashland Resource Area will issue a protest decision. For more information about this project contact John Gerritsma at (541) 618-2438.