

**DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
GRANTS PASS RESOURCE AREA
2164 NE SPALDING AVENUE
GRANTS PASS, OR 97526**

Determination of NEPA Adequacy (DNA)

Office: Grants Pass Resource Area

Tracking Number: DOI-BLM-OR-070-2013-010-DNA

Environmental Assessment: DOI-BLM-OR-M000-2009-EA

Proposed Action Title/Type: Removal of illegal water features on an unnamed tributary of North Fork Deer Creek

Location: T38S-R6W-Section 7 (38-6-8.1 Road)

A. Description of the Proposed Action and any applicable mitigation measures

In April 2013 the Josephine County water master, together with BLM staff identified a possible illegal water diversion. The diversion is fed by water discharging from a culvert on the 38-6-8.1 Road and is associated with a PVC pipe and some garbage. The water feature is located on BLM managed land in T38S, R6W, Section 7, on an unnamed tributary to North Fork Deer Creek. The action is proposed on a non-fish bearing intermittent stream. There is no record of a water right filed with the State of Oregon nor is there a valid easement for the PVC pipeline which crosses BLM land. BLM law enforcement officers were notified and attempted to contact the landowner without success. The stream system is fully allocated and there is no room for an additional water right.

The BLM proposes to remove the illegal water diversion features and associated garbage. The pipeline would be removed to the property line. All in-stream work would be anticipated to be accomplished during the in-stream work period (June 15-September 15); however, Oregon Department of Fish and Wildlife (ODFW) has granted an in-stream work period extension through October 31, 2013, in case work would need to extend beyond this time period. The removal would occur by hand and with machinery. There would be removal of ground vegetation, but this would be kept to a minimum. This proposal would not require stream reconstruction or bank stabilization. Access would be kept to a minimum to decrease the occurrence of soil compaction. The removal is estimated to be complete within twenty four hours of initiation. ODFW representatives would be notified and sent photos of the completed project via email when the work is complete.

Best Management Practices (BMPs) and PDFs identified in the Environmental Assessment for Revised Aquatic and Riparian Habitat Enhancement (DOI-BLM-OR-M000-2009-0004-EA) on

pages 28 and 30 have been incorporated into the design of this project. Additionally, the BLM would incorporate PDFs put forth by ODFW. The BLM would comply with the Clean Water Act through the use of BMPs to minimize sediment delivery to the stream. Applicable BMPs and PDFs are listed below:

- The stream is non-fish bearing and presumably dry, however, if flowing water is observed, workers would look for fish and re-locate them to the North Fork of Deer Creek before emptying the trough.
- Turbidity would be kept to a minimum by keeping equipment out of the stream and avoiding crossing the stream with mechanized equipment if water is present.
- Refueling or chemical changes for machinery would occur on existing roadways or would occur further than 150 ft from any stream.
- Removal of riparian vegetation would be minimized, limited to the work area, and ground cover would be replaced by the application of native mulch, weed free straw, or erosion blankets, where appropriate.
- Actions would occur during low flow or dry conditions when the probability of soil detachment and transport are low.
- Stored material upstream of the diversion would be partially or completely removed before the diversion is removed.

B. Land Use Plan Conformance

- *Medford District Record of Decision and Resource Management Plan* (USDI, BLM 1995 (ROD/RMP))
- *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS 2004 and ROD 2008)
- *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the Northwest Area Noxious Weed Control Program (EIS 1985)

C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents the cover the proposed action.

The proposed action is expected to have no effect to northern spotted owl sites or to Southern Oregon/Northern California coho salmon or its critical habitat. However, to ensure compliance with the Endangered Species Act the BLM consulted on all actions authorized by the decision with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Services (NMFS). The proposed project would be consistent the following consultation for Programmatic Consultation on Fish Habitat Restoration Activities in Oregon and Washington with:

- NMFS: BO # 2008/03506 and NWP-2013-9664
- USFWS: Wildlife BO # 13420-2007-F-0055 and Plant LOC # 13420-2008-1-0136

The proposed action is also consistent with, and/or tier to the following:

- *Aquatic and Riparian Habitat Enhancement Revised Environmental Assessment for* (DOI-BLM-OR-M000-2009-0004-EA)
- *Deer Creek Watershed Analysis* (November 1997)
- *Deer Creek Watershed Water Quality Restoration Plan* (December 2011)

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 proposed project is consistent with the watershed enhancement actions described in the Revised Aquatic and Riparian Habitat Enhancement EA under Alternative 2. Riparian and in-stream habitat treatments are listed as watershed enhancement action covered under this EA (p.11).

Small diversion dams used for irrigation may also be removed to restore aquatic connectivity. This action, as defined in the NMFS biological opinion covering restoration projects, includes the removal of diversion structures that are less than 6 feet high, or that impound less than 15 acre-feet of water. Construction would involve use of heavy equipment, such as excavators, backhoes, front-end loaders, dump trucks, and bulldozers.

The impacts that are described in the EA refer to removing dam like structures, although the structural feature for removal under this Proposed Action is more like a small stock tank, and the impacts would be well below to the impacts described in the EA. No streambed or stream bank material would be excavated for this Proposed Action. Removal in the stream would be limited to a trough and pipeline.

The proposed project is consistent with the Project Design Features of ARBO II which allows “equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment [to] be used to implement projects” p.25.

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?

The range of alternatives analyzed in the Revised Aquatic and Riparian Habitat Enhancement EA is appropriate because the Grants Pass Resource Area has not received or aware of any new environmental concerns or interest since the decision was signed in 2009.

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 removal of illegal water features on an unnamed tributary of North Fork Deer Creek is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Medford District Resource Management Plan.

This work applies a 2006 Exemption from a stipulation entered by the court in litigation regarding Survey and Manage species and the 2004 Record of Decision related to Survey and Manage Mitigation Measure in *Northwest Ecosystem Alliance v. Rey*, No. 04-844-MJP (W.D. Wash., Oct. 10, 2006). The 2012 Crooks Creek Riparian Restoration Project meets Exemption C of the Pechman Exemptions:

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.

The analysis in the Revised Aquatic and Riparian Habitat Enhancement EA is appropriate because Grants Pass Resource Area has not received or aware of any other new information and new circumstances since the decision was signed in 2009.

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 proposed project is very similar to the proposed action, Alternative 2, (Revised Aquatic and Riparian Habitat Enhancement EA, pp.5-8), which lists riparian vegetation and stream enhancement projects. The removal of illegal water features on an unnamed tributary of North Fork Deer Creek is fully analyzed under the Revised Aquatic and Riparian Habitat Enhancement EA.

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 for the EA were adequate. The EA was available for public comment for 21 days beginning on April 15, 2009. BLM received one comment but determined (Decision Record, p. 6) that their specific concerns were not affected by this project.

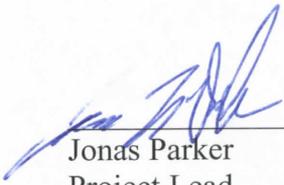
E. Persons/Agencies /BLM Staff Consulted

| Name | Title | Resource/Agency Represented |
|------------------|---------------------|------------------------------------|
| Jon Raybourn | Fisheries Biologist | Fisheries |
| Jonas Parker | Hydrologist | Hydrology |
| Marlin Pose | Wildlife Biologist | Wildlife |
| Merry Haydon | Archaeologist | Cultural |
| Rachel Showalter | Botanist | Botany/Weeds |
| Sarah Davison | Silviculturist | Port-Orford-Cedar |

Note: Refer to the Revised Aquatic and Riparian Habitat Enhancement EA for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

Conclusion

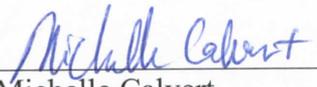
Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of the NEPA.



 Jonas Parker
 Project Lead

9-12-13

 Date



 Michelle Calvert
 NEPA Coordinator

9/11/13

 Date



 Allen Bollschweiler
 Responsible Official

9/17/13

 Date

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.

