



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



FINDING OF NO SIGNIFICANT IMPACT (FONSI)

For the

HOXIE ROAD RIGHT-OF-WAY PROJECT (OR 65809)

(DOI-BLM-OR-M060-2012-0004-EA)

INTRODUCTION

The Medford District Bureau of Land Management (BLM), Ashland Resource Area analyzed the impacts of granting a long term (30 years) right-of-way for road use, road construction, road decommissioning, and road maintenance in accordance with Federal Land Policy and Management Act (FLPMA) regulations. The analysis is documented in the *Hoxie Road Right-of-Way Project Environmental Assessment* (EA). The right-of-way would provide the applicant 1) legal access (ingress and egress) to their private parcel along BLM-managed roads, 2) permission to replace the log and earth barricade that currently exists on the 38-4E-32.3 road, with a gate and large boulders, 3) the right to construct approximately 1,445 feet of new road on BLM land, and 4) the right to conduct maintenance work along the right-of-way where needed. The applicant would be required to decommission a user created jeep road as a condition of the right-of-way (EA p. 2-1).

The proposed right-of-way follows approximately 11,000 feet of existing road(s) which crosses public land in Section 32 and a small portion of Section 29, T. 38 S., R. 4 E., Willamette Meridian, Jackson County, Oregon. The proposed new road construction is located on public land in the NE ¼ of Section 31, T. 38 S., R. 4 E. The road to be decommissioned is located in the SW ¼ of Section 29, T. 38 S., R. 4 E.

Based on the context and intensity of the impacts analyzed in the EA (Chapter 3), I have determined that Alternative 2, the selected alternative, with the associated project design features from the Hoxie Road Right-of-Way Project EA, is not a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. I considered the following criteria, suggested by CEQ (40 CFR 1508.27), for evaluating intensity or severity of the impact of the Hoxie Road Right-of-Way Project.

The Hoxie Road Right-of-Way Project will:

1. *Not result in significant beneficial or adverse effects.*

- The Hoxie Creek ACEC was nominated in 1992 due to its remaining old-growth, natural systems, wildlife and botanical values. The proposed action will have minimal negative impacts

to the ACEC and it will continue to function as it did when it was nominated in 1992 (EA p. 3-12).

- The proposed new road construction in the Hoxie Creek ACEC would modify approximately one (1) acre of habitat. This one acre represents 0.40 percent of the 255 acres in the ACEC and 0.26 percent of late-successional habitat within ½ mile of the ACEC. This narrow linear gap in the stand, although not a naturally occurring event, would not represent a barrier to any Bureau species of concern because of the natural surface and the limited vehicle use. See criteria #9 for more discussion of wildlife species listed or proposed to be listed as Federally Endangered or Threatened Species, and their designated critical habitat.
 - From a botanical standpoint, the impact on old-growth characteristics in this stand would be minimal because of the small scale of change in stand conditions (EA, 3-20).
 - This project is not expected to adversely affect long-term population viability of any *wildlife* species, including any federally listed or bureau sensitive species, known to occur in the area. Additionally, this project combined with other actions in the area would not contribute to the need to federally list any species, because of the small scope of the proposed action compared to the available habitat adjacent to the project area (EA p. 3-17). See criteria #9 for more discussion of wildlife species listed or proposed to be listed as Federally Endangered or Threatened Species, and their designated critical habitat.
- The proposal maintains watershed, sediment, water runoff processes, and aquatic and riparian function.
- *Soil erosion* would be minimal due to the gentle topography of the project area, and the road would be constructed during the dry season (EA p. 3-22).
 - Since this proposal includes construction and access only during the dry season (June 1 - Oct.15), an increase in *sediment production* would likely not occur. Depending on the types of treatments employed in the decommissioning, there may be a minor increase in sediment production in the short term, however long term reductions from current levels are expected as impacts are reduced (EA p. 3-24).
 - The proposed new road construction would not cross, parallel, or interface with any streams or other water bodies and hence would not be hydrologically connected with any aquatic habitats. The proposed new road route would be located on relatively flat ground, so the erosive potential associated with the new road would be low as well. For these reasons, construction of the new road segment would not contribute *sediment* to any aquatic habitats (EA pp. 3-27, 3-28).
 - The small reduction in canopy cover would not increase potential for *peak flows* (EA p. 3-25).
 - The new construction would not occur in the vicinity of any Riparian Reserves, nor require the removal of riparian vegetation. As such, this project component would have no mechanism to affect *water temperatures* (EA p. 3-28).
 - Neither the use of the existing portion of the right-of-way nor construction and use of the proposed new segment would have any causal mechanisms to degrade *aquatic habitat*,

while decommissioning of the riparian road segment would yield a long-term beneficial reduction in annual sediment inputs, and would also allow for the recovery of approximately 1,000 feet of channel within the riparian reserve.

- Short-term detrimental impacts to *water quality* as a result of decommissioning activities would be negligible; dry season decommissioning of the road bed, coupled with mulching and/or seeding of disturbed ground, would minimize the potential for transport of sediment to Hoxie Creek and Howard Prairie Reservoir. In the long-term, decommissioning this road would eliminate a chronic *sediment* source to fish bearing habitat, in addition to maintaining road densities at their current level within the Jenny Creek Key Watershed (see criteria #10 for more discussion of road densities in key watersheds). Over time, riparian vegetation would re-establish itself along the channel adjacent to disturbed areas, allowing for recovery of this stream reach. For these reasons, the decommissioning project component would yield a positive effect to fish and aquatic habitat (EA p. 3-28).
- The proposed right-of-way, located within the Hyatt-Howard Special Recreation Management Area, receives high concentrations of *recreational activities* associated with Howard Prairie Reservoir. No overall adverse effects on the desirability of the area are anticipated in the long-term.
 - Short-term intermittent impacts due to the proposed road construction, road decommissioning, and road maintenance activities are expected to occur; however, long-term recreational impacts will be minimal due to the areas already high road density and distance from Howard Prairie Reservoir (EA p. 3-33).
 - The portion of the right-of-way that crosses the Lily Glen Trail already receives motor vehicle use. A gate that is to be installed as part of the stipulations for granting the proposed right-of-way will eliminate or discourage motor vehicle traffic on road 38-4E-32.3. This will improve safety, reduce resource damage, and improve the quality of experience for the recreationists who use the Lily Glen Trail (EA p. 3-33).
 - The short-term presence of the hand piles before burning will be seen by a casual observer in the area of the proposed road construction but will not attract the attention of a casual observer due to the small number of expected piles and screening from surrounding vegetation. Following burning, evidence of the prior presence of the piles or effects of the pile burning (i.e. charred soil, unburned coarse woody debris) will not attract the attention of the casual observer (EA p. 3-35).
- There are no known infestations of *noxious weeds* in the immediate project area. The project design features requiring washed equipment and use of native seed to re-vegetate disturbed areas should preclude the introduction of noxious weeds or non-native species (EA p. 3-21).

2. *Not result in significant impacts on public health or safety.*

No aspects of the Hoxie Road Right-of-Way Project have been identified as having the potential to significantly and adversely impact public health or safety. All operations on BLM-administered lands are required to meet Occupational Safety and Health Association regulations for worker and public safety (EA p. 3-38).

Prescribed burning operations will follow all requirements of the Oregon Smoke Management Plan and the Department of Environmental Quality Air Quality and Visibility Protection Program, ensuring that smoke related impact to public health and safety are mitigated (EA p. 3-38).

3. *Have no significant, adverse effects on unique characteristics of the geographic area.*

Hoxie Creek Area of Critical Environmental Concern:

The proposed road construction and road decommissioning is located on BLM-administered lands designated as the Hoxie Creek Area of Critical Environmental Concern (ACEC) under the 1995 Medford District RMP.

The Hoxie Creek ACEC was nominated in 1992 due to its remaining old-growth, natural systems, wildlife and botanical values. The proposed action will have minimal negative impacts to the ACEC and it will continue to function as it did when it was nominated in 1992 (EA p. 3-13).

- The proposed new road construction in the Hoxie Creek ACEC would modify approximately one (1) acre of habitat. This one acre represents 0.40 percent of the 255 acres in the ACEC and 0.26 percent of late-successional habitat within ½ mile of the ACEC. This narrow linear gap in the stand, although not a naturally occurring event, would not represent a barrier to any Bureau Species of concern because of the natural surface and the limited vehicle use. See criteria #9 for more discussion of wildlife species listed or proposed to be listed as Federally Endangered or Threatened Species, and their designated critical habitat.
- From a botanical standpoint, the impact on old-growth characteristics in this stand would be minimal because of the small scale of change in stand conditions (EA p. 3-20).
- This project is not expected to adversely affect long-term population viability of any *wildlife* species, including any federally listed or bureau sensitive species, known to occur in the area. Additionally, this project combined with other actions in the area would not contribute to the need to federally list any species, because of the small scope of the proposed action compared to the available habitat adjacent to the project area (EA p. 3-17). See criteria #9 for more discussion of wildlife species listed or proposed to be listed as Federally Endangered or Threatened Species, and their designated critical habitat.

4. *Not have highly controversial environmental effects.*

“Highly controversial”, in the context of 40 CFR §1508.27(b) (4), refers to substantial disagreement within the scientific community about the environmental effects of a proposed action. It does not refer to expressions of opposition or expressions of preference among alternatives or differences of opinion concerning how public lands should be managed.

The Hoxie Road Right-of-Way project is similar in nature to many other rights-of-way projects that have been implemented within the scope of the Medford District Resource Management Plan across the Medford District. The anticipated effects of authorizing rights-of-way, new road construction, and road decommissioning documented in the EA, are well known and no highly controversial effects have been identified.

5. *Not have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.*

The analysis does not show that this action will involve any unique or unknown risks outside of those addressed and anticipated in the Hoxie Road Right-of-Way EA, the Medford District Resource Management Plan EIS, and the Northwest Forest Plan EIS. The process for estimating the anticipated effects are well known and this project is limited in scope and intensity.

6. *Not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

The decision to implement the Hoxie Road Right-of-Way Project will not set any precedents for future actions with significant effects. The 1995 Medford District Resource Management Plan (which incorporated the Northwest Forest Plan) provide program direction for rights-of-way across public lands (USDI 1995a: 82). It is therefore consistent with the types of projects envisioned in the BLM Resource Management Plan and the Northwest Forest Plan.

7. *Not result in significant cumulative environmental effects.*

Cumulative environmental effects are “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions” (See definition of “cumulative impact” in 40 CFR § 1508.7).

Analysis was performed at multiple scales, and included the consideration of past actions, as reflected in current conditions, current actions, and foreseeable future actions on both private and federal lands (EA, Chapter 3, Affected Environment & Environmental Consequences). No significant cumulative impacts were identified.

Also refer to criteria number one above for determination of presence of significant adverse or beneficial effects that could contribute to significant cumulative effects. None were identified.

8. *Have no significant effects on scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places.*

In accordance with the protocol for managing cultural resources on lands administered by the Bureau of Land Management (BLM) and the National Historic Preservation Act of 1966 (specifically section 106), a literature review and archaeological reconnaissance was conducted for the Hoxie Road Right-of-Way Project Area. Cultural resource surveys were conducted across the entire project area. Despite the probability of discovering those resources, none were encountered during the course of the survey. The State Historic Preservation Office (SHPO) concurred with BLM’s conclusion that there would be no effect to significant archaeological resources as a result of the proposed action (EA pp. 3-36, 3-37).

This project would not result in restricting access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites. No sites have been identified in the project area [Executive Order 13007 (Indian Sacred Sites)] (EA p. 3-36).

This project would have no effect on Indian Trust Resources as none exist in the project area. This project was determined to have no adverse effects on properties listed or eligible for listing on the National Register of Historic Places. This includes Native American religious or cultural sites, archaeological sites, or historic properties. The proposed project would have no adverse effects on known cultural resources (EA p. 3-36).

9. *Have no significant adverse effects on species listed or proposed to be listed as Federally Endangered or Threatened Species, or their designated critical habitat.*

Northern spotted owls would likely be adversely affected by the Hoxie Road Right-of-Way Project. The new road construction section of the proposed right-of-way would occur within the provincial home range (1.2 mile radius) of the spotted owl site but not in the nest core area. The road construction would remove approximately one (1) acre of northern spotted owl nesting, roosting and foraging (NRF) habitat along a linear corridor approximately 1,445 ft. long and 20 feet wide. The removal of this one acre represents 0.035 percent of the 2,900 acres in the associated provincial home range and 0.12 percent of the 825 acres of NRF habitat in the home range (EA p. 3-13).

Pursuant to the Endangered Species Act (ESA), formal consultation was completed with the US Fish and Wildlife Service. The Service concluded in its Biological Opinion (BO) on October 8, 2009 (#13420-2009-F-0147) that the District's proposed action is *not likely to jeopardize* the continued existence of the spotted owl (BO p. 44).

The Pacific fisher (*Martes pennanti*) was petitioned for listing as endangered or threatened under the Endangered Species Act on December 12, 2000. In 2003, the USFWS released their notice of 90-day petition finding and initiation of status review (68 Federal Register, No. 132, 41169-41174) and in 2004 published their Notice of 12-month petition finding, concluding that listing fishers as threatened was warranted, but was precluded by higher priority listing actions (Federal Register Vol. 69, No. 68, April 8, 2004, 18769-18792). The species remains a USFWS candidate species (USDI, USFWS 2004, 71 Fed. Reg. 53777, Sept. 12, 2006).

Two fisher were detected as a result of surveys conducted in 2006 and 2007. The nearest location to the project area was over three (3) miles to the north. Of the 6,200 forested acres (average female home range) surrounding the proposed action there are approximately 2,228 acres of late-successional forest (NRF habitat) that could provide potential high quality habitat for fisher. With their large home ranges, they will be able to avoid the area during construction of the new road and during seasonal use of the road. No large trees or snags that support potential resting platforms and denning cavities will be removed during the construction of the new road. The construction will not take place during the natal denning season. Seasonal use of the right-of-way by the applicant would take place during a less critical time of the year when the fisher kits have become mobile and can avoid disturbance within the female's home range. For these reasons, implementation of the proposed action will have negligible effects to the persistence of the species (EA p. 3-14).

There will be no effects on Special Status plant species or survey and manage botanical species and this proposed action will not trend any of these species towards listing under the ESA as the project area is not within the range of any federally-listed plants and no sites exist in the project area (EA p. 3-19).

There are no federally designated threatened or endangered fish species in the Jenny Creek Watershed. As such, there is no designated critical habitat. The implementation of the Hoxie Road Right-of-Way Project would have no effect on any listed fish species (EA p. 3-28).

10. *Not Violate a Federal, State, Local, or Tribal law, regulation or policy imposed for the protection of the environment.*

The BLM initiated planning and design for this project to conform and be consistent with the Medford District's 1995 Record of Decision (ROD) and Resource Management Plan (RMP). On March 31, 2011, the United States District Court for the District of Columbia vacated and remanded the Secretary of the

Interior's decision to withdraw the 2008 RODs/RMPs (Douglas Timber Operators et al. v. Salazar) effectively returning the districts to the 2008 RMPs. As such, this project was reviewed for consistency with the goals and objectives in both the 1995 RMP and 2008 RMP. On May 16, 2012, U.S. District Court (*Pacific Rivers Council et al v. Shepard*) vacated the 2008 Records of Decision/Resource Management Plans for western Oregon BLM districts and reinstated the BLM's 1995 RODs/RMPs. As of May 16, 2012, the Medford District has reverted back to its 1995 ROD/RMP as the official land use plan record. 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).

With implementation of required Project Design Features (PDFs), the proposed action, as mitigated, would not threaten a violation of any federal, state, or local environmental protection laws.

The proposed action is located in the Jenny Creek Watershed, a tier 1 "key" watershed designated under the Aquatic Conservation Strategy (ACS) of the Northwest Forest Plan (USDA and USDI 1994). Additional management direction requirements are mandated in key watersheds by both the Forest Plan and the Medford District RMP, which states to "reduce existing system and non-system road mileage...If funding is insufficient to implement reductions, there will be no net increase in the amount of roads in key watersheds." (USDI 1995a: 23) The proposed action will not increase *road density* within the analysis area (EA p. 3-25). Road decommissioning, proposed as mitigation, would contribute towards improving watershed conditions consistent with Medford District BLM Resource Management Plan and the Aquatic Conservation Strategy Objectives over the long-term.

This project was reviewed for the potential for disproportionately high or adverse effects on minority or low income populations. No adverse impacts to minority or low income populations would occur. *Executive Order 12898 (Environmental Justice)* (EA p. 3-39).

FINDING

I have determined the Hoxie Road Right-of-Way Project does not constitute a major Federal action having a significant effect on the human environment; an environmental impact statement is not necessary and will not be prepared. This conclusion is based on my consideration of the Council on Environmental Quality's criteria for significance (40 CFR § 1508.27), with regard to context and intensity of the impacts described in the EA, my understanding of the project, review of project analysis, and review of public comments. The analysis of effects documented in the EA has been completed within the context of multiple spatial and temporal scales and within the context of the Medford District Resource Management Plan and the Northwest Forest Plan. The anticipated effects are within the scope, type, and magnitude of effects anticipated and analyzed in those plans.



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Medford District, Bureau of Land Management

6-12-12

Date

REFERENCES

- USDA Forest Service and USDI Bureau of Land Management. 1994a. Record of Decision for Amendments to Forest Service and Bureau of Land Management planning documents within the Range of the Northern Spotted Owl and standards and guidelines for management of habitat for late successional and old-growth forest related species within the range of the Northern Spotted Owl. Portland, OR.
- USDA, Forest Service and USDI, Bureau of Land Management. 1994b. Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl. Portland, Oregon.
- USDA, Forest Service and USDI, Bureau of Land Management. 2001. Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer and other Mitigation Measures Standards and Guidelines. Government Printing Office. Portland, OR.
- USDI, Bureau of Land Management, Medford District. 1994. Medford District Proposed Resource Management Plan/Environmental Impact Statement. Medford, OR.
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- USDI, Fish and Wildlife Service. 2010. Biological Opinion on the Summer 2010 Timber Harvest Activities Proposed by the Medford District of the Bureau of Land Management that are Likely to Adversely Affect the Northern Spotted Owl. FWS Reference Number 13420-2010-F-0107. On file Medford District BLM, Medford, OR.