

**DECISION RECORD
and
FINDING OF NO SIGNIFICANT IMPACT (FONSI)
for
Meriwether Southern Oregon Land and Timber
Right-of-Way OR-048747 FD
EA # DOI-BLM-OR-M050-2009-0034**

INTRODUCTION

The Butte Falls Resource Area of the Medford District Bureau of Land Management (BLM) received an application requesting a right-of-way for the construction of 1,060 feet (0.2 miles) of road across BLM-administered land. The applicant requested this right-of-way to obtain legal ingress and egress to private land. The application is being processed in accordance with 43 CFR 2812 to amend Reciprocal Right-of-Way M-660 Agreement and authorize Meriwether to construct and use a 1,060 foot road located on BLM-administered lands in Township 35 South, Range 4 West, section 31 to access private property for the purpose of timber harvest.

This Decision Record documents my decision and rationale for the selection of Alternative 2 of the *Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD Environmental Assessment (EA)*. The EA documents the environmental analysis conducted to analyzed the site-specific effects on the human environment that may result from the implementation of this project. The EA was issued on August 12, 2009 for public review for a fifteen day period ending on August 27, 2009. One comment was received.

THE DECISION

It is my decision to authorize the proposed action as described under Alternative 2, of the *Meriwether Southern Oregon Land and Timber Right-of-Way OR-048747 FD EA*. The BLM would authorize Meriwether to construct, use and maintain 1,060 feet (0.2 miles) of natural surface road off of BLM road #35-4-32.0 in Township 35 South, Range 4 West, Section 31.

The following project design features will be required as a condition of constructing and using the new road on BLM administered land.

Project Design Features

These Project Design Features are a compilation of Best Management Practices identified in the Medford District ROD/RMP and resource protection measures identified by the Interdisciplinary Team. The Project Design Features would serve as a basis for resource protection in the implementation of the project.

Note: Two of the Project Design Features (PDF) listed in the EA have been reworded and one additional PDF was added to this decision. PDF three and four were reworded for clarity and PDF eight was added as it was left off the list in the EA. PDF three and four better describe the

design feature analyzed in the EA. PDF eight was inadvertently left off the Project Design Feature list. This Decision will include the following PDFs as described.

1. Limit construction to the dry season (generally May 15 to October 15).
2. Restrict all rock hauling, log hauling, and landing operations on natural surface or inadequately rocked roads whenever soil moisture conditions or rain events could result in road damage or the transport of sediment to nearby stream channels, generally October 15 to May 15.
3. Restrict use of the road, generally from May 15 to October 15, or when soil moisture exceeds 25 percent by blocking with a gate or barricade.
4. Endhaul excess excavated material during road construction where side slopes are greater than 55 percent. Place the excess material in approved locations where sediment-laden runoff can be confined, at least one site potential tree length from a stream.
5. Apply native plant seed and weed-free straw mulch to areas disturbed by road construction to minimize erosion and the introduction of noxious weeds.
6. Wash logging and construction equipment, including undercarriages, before initial move-in and prior to all subsequent move-ins into the Project Area to remove soil and plant parts and prevent the spread of invasive and noxious weeds. Washing shall be defined as removal of dirt, grease, plant parts, and material that may carry noxious weed seeds and parts onto BLM lands.
7. Stop work and notify the BLM within 12 hours if an archaeological site is discovered during the project.
8. Waterbars will be installed to disperse intercepted flow and runoff along the hillside, and to prevent rilling on the road surface. Waterbars will be constructed at an adequate depth to capture and divert all surface flow to an unobstructed outlet, without pooling.

RATIONALE FOR THE DECISION

My decision to authorize the proposed action is in compliance with the current *Medford District Record of Decision and Resource Management Plan (ROD/RMP)*, dated April 1995 and the *Northwest Forest Plan*, dated April 1994 (EA p. 7). The proposed action complies with all applicable standards and guidelines. This action takes into consideration cumulative impacts on nearby private and Federal lands. All required Threatened and Endangered (T&E), Special Status Species (SSS), and cultural surveys were completed and mitigation was applied, where appropriate.

In preparing the EA, the BLM analyzed the impacts of the proposed action for the following issues: soils; hydrology; fisheries; botany and weeds. The BLM determined the impacts will be within those analyzed in the Environmental Impact Statement for the Proposed Medford District Resource Management Plan (PRMP/EIS) or were otherwise insignificant. Discussion of those impacts can be found in the EA available at the Medford District Office, 3040 Biddle Road, Medford, Oregon, or online at <http://www.blm.gov/or/districts/medford>.

Based on the analysis documented in the EA, the anticipated effects of the construction of 1,060 feet (0.2 miles) of natural surface road to access private property will be contained to the immediate vicinity of the project site through the implementation of required project design features. My decision to authorize Right-of-Way OR-048747 FD provides for reasonable access to private land with an acceptable level of environmental effects.

CONSULTATION AND COORDINATION

Section 7(a)(2) of the Endangered Species Act (ESA) states that each Federal agency shall, in consultation with the Secretary, insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat.

The BLM determined the project will have “No Effect” on the Northern Spotted Owl or designated critical habitat. The lands where the road is proposed to be built is classified as non-commercial woodland and is not northern spotted owl habitat. “No Effect” on vernal pool fairy shrimp, because the project is outside of the range.

The BLM determined that the project will not affect coho salmon or their habitats. No change in sediment deposition, water temperature, in-stream large wood or large wood recruitment, or peak flows as a result of this project. Therefore the proposed action would have “No Effect” to Southern Oregon/Northern California coho salmon or their critical habitat. There would be “No Effect” on Essential Fish Habitat (EFH) (Magnuson-Stevens Act) for coho salmon and Chinook salmon (*O. tshawytscha*).

The BLM determined the project will have “No Effect” on *Fritillaria gentneri* because surveys were completed and no T&E plants occur within the project area. In addition, on July 28, 2009 the US Fish and Wildlife Service published in the Federal Register a draft Critical Habitat Units (CHU) for Cook's desert parsley (*Lomatium cookii*) and large flowered wooly meadowfoam (*Limnathes floccosa* ssp. *grandiflora*). The Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD project would also be “No Effect” on *Lomatium cookii* or *Limnanthes floccosa* ssp. *grandiflora* because the project area is outside the ranges and does not contain critical habitat for these two Endangered species.

The Cow Creek Band of the Umpqua Tribe of Indians, the Confederated Tribes of the Siletz, and the Confederated Tribes of the Grand Ronde were notified of this project during the EA public review period.

Jackson County Commissioners, Oregon Department of Fish and Wildlife, Department of Environmental Quality, U.S. Environmental Protection Agency, and Oregon Department of Forestry were also notified during the EA public review period.

Public Involvement

A formal public comment period for the EA was held from August 12 to August 27, 2009. The public was notified through a newspaper notice in the *Medford Mail Tribune*. Letters and copies of the EA were sent to 31 individuals, organizations, and government entities. The BLM received one letter containing comments on the EA.

Response to Public Comment

The following are the BLM responses to the substantive comments received on the *Southern Oregon Land and Timber Right-Of-Way OR-048747 FD EA*:

Survey and Manage

Comment: *“It appears that this project relies on, and tiers to, the illegal Bush Administration 2007 ROD eliminating the survey and manage program. Please be advised that it is highly likely that projects that avoid implementation of the survey and manage program may be enjoined. The Northwest Forest Plan, the Medford District ROD, and the Lower Evans Creek WA, were all written with the assumption that the Forest Plan would be fully implemented. Please note, that for such a small project (1.2 acres) it is feasible and inexpensive to first conduct the pre-disturbance survey and manage program.”*

Response: The analysis meets the current BLM management direction for Survey and Manage Species (2007 ROD). The BLMs Special Status Species Program continues to provide for the conservation of these species.

Surveys for T&E and sensitive vascular and nonvascular plants were conducted by qualified botanists along the proposed road route on April 24 and June 24, 2009. The 20 sensitive fungi species that have been documented or are suspected of occurring in the Medford District are very rare. The likelihood of a population occurring in the project area is very small, because the habitat is a dry, mostly south-facing slope. This is not suitable habitat for fungi species, which grow in moister conifer forests with high canopy cover.

Appendix A (pg 33-39) of the EA provides a table describing the Wildlife Bureau Sensitive Species known or suspected to be present in the Butte Falls Resource Area. The table lists the special status species, range, presence or absence, and the effects. No known special status species will be affected because there is no habitat present and the proposed project will not remove habitat for the Special Status Species. Protocol surveys for mollusks previously on the Survey & Manage list were conducted near the project area in November 2007 and April 2008. No Bureau Sensitive (former Survey & Manage) mollusks were found. The method(s) used to assess and review the potential effects to these species followed the techniques described in the OR/WA Special Status Species Policy (IM OR-2003-054).

Fritillaria gentneri

Comment: *“The conservation of this species is one of our greatest concerns regarding this project. It is unclear to us why the EA does not disclose if this species is present in the proposed road construction location. Indeed the EA only mentions this species in passing. Why not disclose and analyze the actual conditions in the project area? As it is, the public, and the decision maker, cannot know if the project will impact the species, if USFWS consultation will occur, or even if the species is present in the proposed road location. This does not constitute the “hard look” that NEPA requires, and it does not allow for meaningful public comments or informed decision making.”*

Response: Surveys were conducted on the proposed road route on April 24 and June 24, 2009 and no sites were found, this was disclosed in the EA on page 26. The EA also stated on page 27 “Constructing the proposed road would be “no effect” to T&E plants and would not trend Sensitive plant species toward listing because surveys have been completed and no populations were detected.”

Noxious Weeds

Comment: *“We are concerned about the potential for the road construction project to spread the yellow star thistle population located on road 35-4-32.”*

As stated on page 27 of the EA “constructing the road would create a moderate risk of introducing and spreading noxious weeds into the project area. When vegetation is removed and soil is disturbed, conditions are optimal for noxious weeds to establish.”

Response: No noxious weed populations were discovered where the new road construction would occur. However, yellow star-thistle occurs along Road 35-4-32 in T35S-R4W-S32 on private lands, approximately ¼ mile away from the proposed road construction (EA p. 13). To minimize the potential for introducing invasive, nonnative species into the project area, the BLM will implement the following PDFs;

5. Apply native plant seed and weed-free straw mulch to areas disturbed by road construction to minimize erosion and the introduction of noxious weeds.
6. Wash logging and construction equipment, including undercarriages, before initial move-in and prior to all subsequent move-ins into the Project Area to remove soil and plant parts and prevent the spread of invasive and noxious weeds. Washing shall be defined as removal of dirt, grease, plant parts, and material that may carry noxious weed seeds and parts onto BLM lands.

The use of these preventative measures will reduce the risk of introducing or spreading noxious weeds in the project area. In addition, the BLM has an on-going noxious weed program that treats noxious weed sites when found.

Steep Slopes

Comment: *“Page 17 of the EA indicates that road construction is planned on 50-70% slopes. Page 17 of the EA further discloses that “the surface layer is typically a gravelly loam with high runoff and erosion potential due to steepness of slopes. Building new logging roads on slopes this steep greatly increases the foreseeable environmental impacts and makes consideration of a helicopter yarding alternative imperative.”*

Response: Approximately the first 500 feet of the proposed road grade is on sideslopes between 50 and 70 percent. The project is designed to reduce the impacts of the road construction. As stated on page 17 of the EA “There are no obvious headwalls (over-steepened concave slope positions) along the proposed road grade. There is no visual evidence (e.g., pistol butted or jack strawed trees, hummocky ground, past soil movement) of slope instability.” The underlying parent materials are stable with no indication of landslide or erosion on existing roads in the vicinity (pg. 17 EA). Project Design Features (PDFs) will reduce the impacts such as:

1. Limit construction to the dry season (generally May 15 to October 15).
2. Restrict all rock hauling, log hauling, and landing operations on natural surface or inadequately rocked roads whenever soil moisture conditions or rain events could result in road damage or the transport of sediment to nearby stream channels, generally October 15 to May 15.
3. Restrict use of the road, generally from May 15 to October 15, or when soil moisture exceeds 25 percent by blocking with a gate or barricade.
4. Endhaul excess excavated material during road construction where side slopes are greater than 55 percent. Place the excess material in approved locations where sediment-laden runoff can be confined, at least one site potential tree length from a stream.
5. Apply native plant seed and weed-free straw mulch to areas disturbed by road construction to minimize erosion and the introduction of noxious weeds.
8. Waterbars will be installed to disperse intercepted flow and runoff along the hillside, and to prevent rilling on the road surface. Waterbars will be constructed at an adequate depth to capture and divert all surface flow to an unobstructed outlet, without pooling.

Field reconnaissance by the BLM Soils Specialist of other roads in similar soil types and land forms in this area do not exhibit signs of instability from slumping or excessive erosion. Therefore, with the implementation of the project design features, it is expected that constructing this road would not increase erosion or landslide potential in the Right Fork of Fielder Creek watershed. Any potential dry ravel is expected to be minimal and contained within the immediate slope below and would not be measureable at the 7th field scale (EA p. 18).

Road Closure and Decommission

Comment: *“Should this project move forward and be implemented, our organizations request that the BLM close and decommission a similar, or greater, length of road (preferably within a riparian reserve) in the Lower Evans Creek Watershed.”*

Response: The BLM is willing to assess the road proposal of decommissioning in the Lower Evans Creek Watershed. This proposal would be part of the analysis the BLM is proposing to complete this year (2010). The BLM is evaluating the Evans Creek Watershed for vegetation treatments. At this time identification of roads no longer needed or roads needing improvement will be assessed and analyzed in the associated EA. It is the BLMs objective to analyze the roads to make improvements and upgrades as well as decommissioning roads no longer needed. If you have any recommendations for roads, the BLM is willing to consider these in the analysis process.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

I have determined the Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD project will not have any significant effects beyond those described in the broader analyses conducted and disclosed in the environmental impact statements for the Medford District Resource Management Plan and the Northwest Forest Plan, or the effects have been determined

to be insignificant. The environmental effects do not meet the definition of significance in context or intensity as defined in 40 CFR § 1508.27. Therefore, an environmental impact statement is not necessary and will not be prepared.

In making this finding, I considered the following criteria, suggested by the Council on Environmental Quality, for evaluating the intensity or severity of the impacts of the activities proposed in the Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD project.

1. The impacts that may be both beneficial and adverse.

Based on the analysis documented in the EA, no significant adverse or beneficial effects will result from implementing the Right-Of-Way OR-048747 FD project. All effects are of the type and within the magnitude of effects described in the *Medford District Proposed Resource Management Plan and Environmental Impact Statement*.

The Right-Of-Way OR-048747 FD project will protect **soils** by implementing the following Project Design Features (EA p. 12):

1. Limit construction to the dry season (generally May 15 to October 15).
2. Restrict all rock hauling, log hauling, and landing operations on natural surface or inadequately rocked roads whenever soil moisture conditions or rain events could result in road damage or the transport of sediment to nearby stream channels, generally October 15 to May 15.
3. Restrict use of the road, generally from May 15 to October 15, or when soil moisture exceeds 25 percent by blocking with a gate or barricade.
4. Endhaul excess excavated material during road construction where side slopes are greater than 55 percent. Place the excess material in approved locations where sediment-laden runoff can be confined, at least one site potential tree length away from a stream.
5. Apply native plant seed and weed-free straw mulch to areas disturbed by road construction to minimize erosion and the introduction of noxious weeds.
8. Waterbars will be installed to disperse intercepted flow and runoff along the hillside, and to prevent rilling on the road surface. Waterbars will be constructed at an adequate depth to capture and divert all surface flow to an unobstructed outlet, without pooling.

The Right-Of-Way OR-048747 FD project will not increase **stream sedimentation or stream temperature** for the following reasons (EA p. 20):

- proposed road will be built outside of riparian reserves,
- proposed road will be blocked and not used during the rainy season, and
- proposed road location is away from stream channels.

The Right-Of-Way OR-048747 FD project will not affect **fish** because (EA p. 25):

- proposed road location is on a ridge top outside of Riparian Reserves,
- proposed road has no connection to stream crossings, and
- proposed road will be blocked during the rainy season.

Because of these factors, the proposed road would have a “No Effect” to Southern Oregon/Northern California coho salmon and their designated critical habitat.

The Right-Of-Way OR-048747 FD project will have no known effects on **Threatened and Endangered and Special Status botanical species** because (EA p.26-27):

- no populations of T&E or sensitive vascular or nonvascular plant species occur in the proposed road location;
- landscape level strategic surveys, suitable habitat in late-successional reserves, and protection of known sites throughout the Northwest Forest Plan area is expected to prevent Sensitive fungi from trending toward listing as a result of the proposed salvage activities;
- suitable habitat is not present in the project area for most sensitive fungi species; and
- scale and magnitude of the proposed road (1.2 acres) is small enough that sensitive fungi would not trend toward listing.

The Right-of-Way OR-048747 FD project will minimize or avoid the potential for new introductions, or the spread of existing, **noxious weed populations** because (EA p. 28)

- known noxious weed populations will be treated as a result of on-going activities,
- vehicles and equipment will be pressure washed before entering BLM lands,
- areas disturbed during project implementation will be seeded or planted with native plant materials, and
- disturbed areas will be mulched with weed-free straw or hay.

The Right-of-Way OR-048747 FD project will have no known effects on **Threatened and Endangered and Special Status wildlife species** because (EA p.10) the proposed project area:

- is outside the range of vernal pool fairy shrimp,
- is not northern spotted owl habitat, and
- does not have the potential to develop into late-successional forest or supporting old-growth dependent species.

2. The degree to which the selected alternative will affect public health or safety.

The construction of the road will not significantly or adversely impact health or safety because:

- road construction will meet Occupational Safety and Health Association regulations for worker and public safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wild and scenic rivers, or ecologically critical areas.

The Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD project did not identify any affects to parks, refuge lands, wilderness areas, wild or scenic rivers, principal drinking water aquifers, or prime farmlands as none exist in the project area. Nor does the project

area involve any ecologically significant areas such as significant caves, Areas of Critical Environmental Concern, National Monuments, Wilderness Study Areas, Research Natural Areas, or areas listed on the National Register of Natural Landmarks as none exist in the project area (EA p. 13-15).

The project will have no effect on cultural resources; a cultural resource survey was completed and no resources were found (EA p. 13).

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. 13).

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The effects of the Right-of-Way OR-048747 FD project are similar in nature to those of other right-of-way request, including road construction projects that have been implemented within the scope of the Medford District Resource Management Plan. The anticipated effects of constructing 0.2 miles of road on BLM-administered lands, documented in the EA, are well supported with referenced literature throughout the EA. The effects of the selected alternative are described in Chapter 3 of the *Meriwether Southern Oregon Land and Timber Right-of-Way OR-048747 FD EA* (EA p. 16-28).

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The analysis did not indicate this action will involve any unique or unknown risks outside of those addressed and anticipated in the EIS for the Medford District Resource Management Plan and the Northwest Forest Plan EIS. The anticipated effects of implementing the Meriwether Southern Oregon Land and Timber Right-of-Way OR-048747 FD project are well supported with referenced literature throughout the EA and are similar in nature to the effects estimated and observed for other Right-of-Way road construction implemented on lands in the Medford District BLM.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about future considerations.

The decision to implement Alternative 2 of the *Meriwether Southern Oregon Land and Timber Right-of-Way OR-048747 FD EA* will not set any precedents for future actions with significant effects. The Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD project will implement actions approved for Right-of-Way under the 1995 Medford District Resource Management Plan (which incorporated the Northwest Forest Plan) and analyzed under the *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. It is therefore consistent with the types of projects envisioned in the BLM Resource Management Plan and Northwest Forest Plan. Authorization of Rights-of-Way is consistent with the direction of the Medford District Resource Management Plan (RMP p. 82). Any rights-of-

way projects will have its own set of conditions and will be subject to a new environmental analysis.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

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” (40 CFR § 1508.7). Analysis was conducted for this project and no significant cumulative impacts were identified outside of those addressed and anticipated in the *Final Medford District Proposed Resource Management Plan and Environmental Impact Statement* (1995) and the *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*. Analysis was performed at multiple scales and included current conditions, current actions, and foreseeable future actions on both private and Federal lands (EA p. 16-28).

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss of destruction of significant scientific, cultural or historical resources.

The project archaeologist surveyed the Project Area for cultural and historic resources. The action will not affect objects listed on the National Register of Historic Places, nor will it cause destruction of significant scientific, cultural or historical resources because none were identified.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

No T&E plants occur within the project area. Issuing the permit to authorize construction of the proposed road would be “No Affect” to T&E plant species because no T&E plants would be impacted.

The Project Area does not contain Southern Oregon/Northern California (SO/NC) coho salmon or coho critical habitat. The proposed road would have “No Affect” on SO/NC coho salmon or coho critical habitat because the nearest populations of fish occur approximately 0.8 miles downstream from the proposed project in Fielder Creek. Fielder Creek is known to support steelhead and cutthroat trout, and is designated as Coho Critical Habitat (CCH) and Essential Fish Habitat (EFH). The proposed road construction is located outside of any Riparian Reserves, without any connection to streams. The road would be blocked and waterbarred during rainy months, therefore, there would be no mechanism for sediment to travel from the road to area streams. Because of these factors the road construction would not affect cutthroat trout or coho salmon populations, CCH, or EFH.

Within the Butte Falls Resource Area, there are two wildlife species on the USFWS T&E list: northern spotted owl and vernal pool fairy shrimp. The project area is outside the range of the vernal pool fairy shrimp. The proposed Right-of-Way is within the range of the northern spotted owl. The nearest known spotted owl is over 1.5 mile from the proposed Right-of-Way.

The lands where the proposed road is to be built is classified as non-commercial woodland and is not spotted owl habitat. The area does not have the potential of developing into late-successional forest or supporting old-growth dependant species, such as spotted owl. The proposed Right-of-Way would have no effect on northern spotted owl because it would not occur within spotted owl habitat.

10. Whether the action threatens a violation of Federal, State, or Local law or requirements imposed for the protection of the environment.

The selected alternative does not violate any known Federal, state, or local environmental protection laws. The Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD project is designed to comply with the Medford District Resource Management Plan and the Northwest Forest Plan (EA p. 7).

This decision will not result in significant wetland or floodplain-related impacts (per Executive Orders 11990 or 11998).

Required project design features are an integral part of the Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD project ensuring project activities conform to the Management Actions/Direction of the Medford District Resource Management Plan as well as applicable laws including the, National Environmental Policy Act (NEPA) of 1969, the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act of 1990, and the Archaeological Resources Protection Act of 1979. A listing of the required project design features, and the objectives to be accomplished through the application of project design features, is included in *Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD EA* (p. 12).

Finding

I have determined the Meriwether Southern Oregon Land and Timber Right-Of-Way OR-048747 FD 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 the context and the intensity of the impacts described in the EA, and on my understanding of the project, review of the project analysis, and review of public comments. As previously noted, the analysis of effects has been completed within the context of the Medford District's Resource Management Plan and the Northwest Forest Plan. This conclusion is consistent with those plans and the anticipated effects are within the scope, type, and magnitude of effects anticipated and analyzed in those plans. The analysis of project effects has also occurred in the context of multiple spatial and temporal scales as appropriate for different types of impacts and the effects were determined to be insignificant.



Jon K. Raby
Field Manager, Butte Falls Resource Area
Medford District, Bureau of Land Management

9/28/09

Date

ADMINISTRATIVE REMEDIES:

Administrative review of right-of-way decisions requiring National Environmental Policy Act (NEPA) assessment will be available under 43 CFR Part 4 to those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a “party to the case” (43 CFR § 4.410 (a) – (c)). Other than the applicant/proponent for the right-of-way action, in order to be considered a “party to the case” the person claiming to be adversely affected by the decision must show that they have notified the BLM that they have a “legally cognizable interest” and the decision on appeal has caused or is substantially likely to cause injury to that interest (43 CFR § 4.410(d)).

EFFECTIVE DATE OF DECISION

This is a lands decision on a right-of-way action in accordance with BLM regulations at 43 CFR Subpart 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after the date of service) where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR 4.21(b).

RIGHT OF APPEAL

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case” (43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after the date of service. Only signed hard copies of a notice of appeal that are delivered to

Bureau of Land Management
Medford Interagency Office
3040 Biddle Rd
Medford, OR 97504

will be accepted. Faxed or e-mailed appeals will not be considered.

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor and Meriwether Southern Oregon Land & Timber LLC at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations (43 CFR § 4.413(a)). At the end of your notice of appeal you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

The IBLA will review any petition for a stay and may grant or deny the stay. If the IBLA takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until IBLA makes a final ruling on the case.