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

Nine Mile Creek
AQUATIC HABITAT RESTORATION PROJECT
EA No. OR116-08-05

DECISION RECORD
and
FINDING OF NO ADDITIONAL SIGNIFICANT IMPACT (FONASI)

INTRODUCTION

This Decision Record documents my decision and rationale for the selection of a course of action for the Nine Mile Creek Aquatic Habitat restoration Project. The Environmental Assessment (EA) for the Nine Mile Creek Aquatic Habitat documents the environmental analysis conducted to estimate the site-specific effects on the human environment that may result from the implementation of the project. The announcement of the Nine Mile Creek Aquatic Habitat EA was mailed out to interested parties on June 10, 2008; the EA was posted on the Medford District NEPA and Planning website on June 10, 2008; the EA public review period ended on June 30, 2008.

The proposed project planning area is located in the Nine Mile Creek drainage, within the Middle Applegate watershed on lands administered by the Ashland Resource Area, Medford District, BLM. The project objective is to create additional salmonid fish rearing habitat. The project area includes 8 restoration sites within Nine Mile Creek and upland wood source areas. This project was proposed for and received approval for funding under Title II of the *Secure Rural Schools and Community Self Determination Act of 2000.*

THE DECISION

It is my decision to authorize the implementation of the proposed action as described in the Nine Mile Creek Aquatic Habitat EA. This restoration project is in conformance with the Medford District Resource Management Plan/ Record of Decision (RMP/ROD) (p. 31). The RMP/ROD (p. 31) direction is to "design and implement fish and wildlife habitat restoration and enhancement activities in a manner that contributes to attainment of Aquatic Conservation Strategy and Riparian Reserve objectives."

My decision authorizes:

- The construction of eight wood restoration structures in Nine Mile Creek. Each structure would consist of two to five natural log wood pieces.

- The removal of snags identified in the Nine Mile Creek Project EA to complete this project. Wood sources are a combination of beetle killed roadside hazard trees, beetle killed riparian trees and beetle killed upland trees.

Project Design Features

Project Design Features **(**PDFs) are an integral part of the project design. PDFs include seasonal restrictions on many activities in order to minimize erosion and reduce disturbance to wildlife. PDFs also outline protective buffers for sensitive species, mandate the retention of snags, and delineate many measures for protecting Riparian Reserves throughout the project. Most PDFs reflect Best Management Practices and standard operating procedures.

The PDFs with an asterisk (*) are Best Management Practices (BMPs) to reduce nonpoint source pollution to the maximum extent practicable. BMPs are considered the primary mechanisms to achieve Oregon Water Quality standards. Implementation of PDFs in addition to establishment of Riparian Reserves would equal or exceed Oregon State Forest Practice Rules. BMP effectiveness monitoring would be conducted and where necessary, BMPs modified to ensure compliance with Oregon Water Quality Standards.

Objective: Protecting Fish, aquatics and water quality

- Clean all equipment before entering stream channel.
- Maintain fish passage at all times.
- All in-stream work would occur between July 1 and September 15 (both days inclusive) of any given year.
- Set up yarder outside the active stream channel.
- Require a hazardous material action plan and a containment and cleanup kit on-site.

Objective: Protecting Riparian Reserves

- All access routes for machinery entering Riparian Reserves would be designated and approved in advance by BLM personnel.
- Require equipment operator to have current state operating permit to operate power machinery. All state industrial fire regulations would be followed.

Objectives: Reducing or Eliminating Surface Soil Erosion and Soil Productivity Loss

- Seed all exposed soil areas with an approved native grass seed mix.
- Cover all exposed soil areas with an approved mulch material to a depth of 4 inches.
- Activities would not be allowed during heavy rain events and 48 hours afterwards

Objective: Conserving Habitat for Special Status Species

- Surveys for species identified under the Bureau Special Status Species program have been conducted for the proposed project area. Buffers will be employed to protect known sites.
- Leave a minimum of 4 snags per acre in snag/hazard tree removal areas.
- Minimize channel disturbance and avoid channel disturbance near sensitive plant sites.
- All project work will take place outside the critical breeding season for Spotted Owls (critical breeding season considered March 1 through June 30).
- Activities will not be allowed to disturb talus areas.
- All trees removed will have been inspected for raptor nests prior to removal.

Objective: Protection from the spread of noxious weeds

- A "no disturbance" buffer will protect the one site of *Cypripedium montanum.*
- Noxious weed sites shall be flagged and avoided by all equipment and ground-disturbing activities.
- Equipment shall be cleaned prior to moving offsite.

Objective: Protection of Cultural Resources

The area has been surveyed for cultural resources. There is one historic ditch structure which will be protected from disturbance. If any other cultural sites are found during project implementation, activities around the site would halt until a BLM archaeologist reviewed the site and determined appropriate protection measures.

RATIONALE FOR THE DECISION

My decision to implement the Nine Mile Creek Aquatic Habitat Project reflects the need to improve salmonid habitat within Nine Mile Creek drainage. Adding large wood to Nine Mile Creek would increase juvenile salmonid survival rates by increasing pools and cover for rearing areas in streams. Wood additions would also increase the spawning success of adult salmonids by encouraging the formation of slow water holding areas and by trapping spawning gravel.

The decision to allow the proposed action does not result in any undue or unnecessary environmental degradation and is in conformance with the BLM land use plans for the project area. The proposed aquatic habitat restoration is consistent with the management objectives for public lands identified in the *Record of Decision.*

The anticipated cumulative effects related to sedimentation, as documented in the EA, are within those effects disclosed in the Medford District Proposed Resource Management Plan/Environmental Impact Statement (PRMP/EIS). Therefore, I have determined my decision to authorize the Nine Mile Creek Aquatic Restoration Project is within an acceptable level of environmental effects.

PLAN COMPLIANCE

The above project has been reviewed and found to be in conformance with and tiered to the 1995 *Medford* The proposed project is designed to conform with and is tiered to the *Medford District Record of Decision and Resource Management Plan* (RMP) and by the *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (USDI, USDA 2001). 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).

FINDING OF NO ADDITIONAL SIGNIFICANT IMPACT (FONASI)

I have considered both context and intensity of the impacts anticipated from the Nine Mile Creek Aquatic Habitat project relative to each of the ten significance criteria suggested by the CEQ. I have determined that my decision to implement the proposed action as described in this Decision will not have any additional significant adverse effects beyond those effects described in broader analyses which includes the *1994 Medford District Proposed Resource Management Plan/Environmental Impact Statement, 1994 Final SEIS On Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl and the 2001 Final Supplemental Environmental Impact*

Statement For Amendment to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines.

This project is covered under the April 28, 2007 Biological Opinion issued by the National Marine Fisheries Service (NMFS) for Ongoing Programmatic Activities within Riparian Reserves. The project is within the scope of the category of "**Large Wood, Boulder, and Gravel Placement and Tree Removal for Large Wood Projects**." This Biological Opinion satisfies Section 7 requirements of the Endangered Species Act

The proposed action and alternatives are in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), 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, and the Archaeological Resources Protection Act of 1979.

The estimated effects of the Proposed Action are described below relative to each of the ten significance criteria suggested by the CEQ with regard to the significance criteria.

1) The effects of this project on soil, vegetation, water quality, hydrologic function (water flow), and fish and wildlife habitats are within those effects described in the Medford District PRMP/EIS and/or have been determined to be insignificant.

Soils, water quality and hydrologic function

This project will require trees be placed with attached root wads to simulate natural blow down of trees in the creek. The removal and relocation of whole trees (including root wad) would disturb the soil immediately adjacent to the root wad (approx. 10' radius) and the narrow yarding trail to the road. Erosion rates in these areas would increase by about 25 percent over the existing condition due to soil disturbance and slope. Most of the eroded particles would move only a short distance (ten feet or less) and settle out in the existing organic material (twigs, leaves, moss, etc.). The exception would be where the yarding trail is near or intersects waterways or drainage facilities and, in this situation, the eroded particles would most likely become suspended in solution enter the waterways. To mitigate this effect, the project would grass seed and mulch all disturbed areas. The amount of soil particles entering the waterways would be very low as a result of the proposed mulching and grass seeding of the disturbed areas. Cumulative hydrologic effects at the 7th field level would be negligible.

This project would have little if any impact on stream temperatures, with only slight potential for some slight reductions in stream shade from the removal of riparian snags along Nine Mile Creek. In the long term, stream temperature should improve as a result of additional shade from restoration structures and increased subsurface flow from the expected accumulation of spawning gravel.

Wildlife

The combination of factors including protection measures, project design criteria, species status, number of occurrences of species in the project area versus number of occurrences and distribution of species as a whole, and the anticipated effects of the proposed action will not trend these species towards listing under the Endangered Species Act. Several components of spotted owl habitat, like prey cover and downed woody debris, could be affected by yarding out trees. Either activity may affect, but is not likely to adversely affect, spotted owls.

The removal of trees and snags from these sites would decrease the amount of coarse woody material that would be available for wildlife habitat in the immediate vicinity. Surveys conducted at each location found adequate amounts of downed wood that would meet or exceed the minimum requirements for wildlife habitat even after the removal of the trees. All coarse woody material requirements would continue to be met after snags are removed.

Vegetation, Special Status Plants and Noxious weeds

The proposed action would have the following general effects on vegetation:

- Where logs will be dragged and placed into the creek, small patches of moss will be crushed and dislodged from their substrate in the short term. However, the pools and dissipated energy resulting from the proposed action could have a beneficial effect on these bryophytes by providing additional habitat in the long term

- Although never found during previous surveys, there is a very slight chance that special status fungi could occur in the project area. However, since the scale of disturbance is so minimal in a spatial and temporal context, there will be no effect on special status fungi.

Since no *Fritillaria gentneri* occurs in the project area, there will be no affect to this species from implementing the proposed action.

Yellow star-thistle (*Centaurea solstitialis*) is known to occur in the project area. Weed infestation should not expand by implementing the project design features: avoiding ground disturbance at the infestation sites; performing the work near the infestation sites after all other work has been done; washing equipment prior to leaving the work site.

Fish/Aquatic Habitat

This improvement project would have some short-term, negative effects, but both immediate and long-term positive effects on fish and fish habitat. Short-term negative effects to fish include reduced feeding opportunities from localized increases in turbidity and temporary displacement of fish from habitats where wood placement occurs. Experience observing similar restoration projects in creeks with similar gradient and turbidity patterns as Nine Mile Creek indicates that the effects of both increased turbidity and fish displacement would be expected to only last several hours. This duration would be biologically insignificant because the disturbance only lasts a short time. Positive indirect effects to SONC coho salmon (and other fishes and aquatic organisms) would result from an increase in habitat quality. Increased spawning and rearing habitat would benefit the population of coho in Nine Mile Creek in the short term and long term. The project is expected to increase individual fish survival rate and productivity in the Nine Mile Creek drainage basin.

2. The implementation of this project will not have significant adverse effects on public health or safety.

No aspects of the 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.

3. The implementation of this project will have no significant, adverse effects on unique geographic characteristics or features, or on special designation areas such as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; sole or principle drinking water aquifers; or prime farmlands.

The project area does not involve parks, refuge lands, wilderness areas, wild or scenic rivers, principal drinking water aquifers, or prime farmlands. 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.

The area has been surveyed for cultural resources. There exists an historic ditch in the vicinity of the project. The ditch will be protected. If any previously undiscovered cultural sites are found during project

implementation, activities around the site would halt until a BLM archaeologist reviewed the site and determined appropriate protection measures.

There are no sites within the project impact areas 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.

4. This project does not involve highly controversial environmental effects (40 CFR 1508.1).

No significant or unique level of controversy concerning the effects of this project has been identified. The EA was published for public review, one comment was received; it was generally supportive of the project goals.

5. The implementation of this project will not have any highly uncertain or potentially significant environmental effects or unique or unknown environmental risks.

The process for estimating the anticipated effects are well known and this project is limited in scope and intensity. The estimated environmental effects identified for this project have been determined to be within the effects described in the Medford District Proposed Resource Management Plan Environmental Impact Statement or otherwise determined to be insignificant as the project is designed to avoid or minimize the potential for adverse environmental effects.

6. My decision to implement this action will not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

Projects of this nature are routinely being implemented on federal lands across the Medford District and within the vicinity of the project area. Therefore, this decision will not establish precedent for future projects.

7. Potential for significant cumulative environmental effects.

The potential for significant cumulative environmental effects was addressed during the analysis of the proposed action and included an analysis of past, present, and reasonably foreseeable activities.

8. This project will 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 project will have no effect on cultural resources; one site was found and can be protected during the implementation of the project. If any other cultural sites are found during project implementation, activities around the site would halt until a BLM archaeologist reviewed the site and determined appropriate protection measures. There are no sites in the vicinity of the project area 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.

9. The implementation of this project will have no adverse effects on species listed or proposed to be listed as Federally Endangered or Threatened Species, or have adverse effects on designated critical habitat for these species.

The combination of circumstances including protection measures, species status, number of occurrences of species in the project area versus number of occurrences and distribution of species as a whole, and the anticipated effects of the proposed action will not trend these species towards listing under the Endangered Species Act.

Implementing this project will not affect listed or proposed threatened/endangered wildlife species of designated critical habitat for listed species on BLM administered land.

10. Potential for implementation of this project to result in Violation of Federal, State, Local, or Tribal law, regulation or policy imposed for the protection of the environment, where non-Federal requirements are consistent with Federal requirements.

The Proposed Action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA), Safe Drinking Water Act (SDWA) of 1974 (as amended in 1986 and 1996), the Clean Water Act, and the Archaeological Resources Protection Act of 1979 (ARPA).

Project design features are included to reduce the potential for this project to contribute to the introduction, existence, or spread of: Federally listed noxious weeds (Federal Noxious Weed Control Act); or invasive non-native species; Executive Order 13112 (Invasive Species).

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 will occur. *Executive Order 12898 (Environmental Justice).*

This project will 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). This project will have no effect on Indian Trust Resources as none exist in the project area.

This project will not have a direct or indirect adverse impact on energy development, production, supply, and/or distribution; Executive Order 13212 (Actions to Expedite Energy-Related Projects).

This project complies with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act (water resource development projects only).

ADMINISTRATIVE REMEDIES

Any party to a case who believes they may be adversely affected by a decision of an officer of the Bureau of Land Management has the right to appeal to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of the Interior, Board of Land Appeals (Board), in accordance with the regulations contained in 43 CFR part 4. If an appeal is taken, a notice of appeal must be filed in this office within thirty (30) days of the Notice of Decision for transmittal to the Board. If your notice of appeal does not include a statement of reasons, such statement must be filed with the Board within 30 days after the notice of appeal was filed. A copy of your notice of appeal and any statement of reasons, written arguments, or briefs, must also be served upon the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 500 N.E. Multnomah Street, Suite607, Portland, Oregon 97232. In taking an appeal, there must be strict compliance with the regulations.

According to 43 CFR Part 4, you have the right to petition the Office of Hearings and Appeals to stay the implementation of the decision; however, 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 appellants 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.

Should you choose to file, your stay request must accompany your notice of appeal. A notice of appeal with petition for stay must be served upon the Board, Regional Solicitor, and adverse party at the same time such documents are served on the deciding official at this office.

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

7/2/08
Date