

DECISION RECORD
for
Swanson Group Inc. Right-Of-Way Road Construction EA
Environmental Assessment Number # OR-118-07-006

United States Department of the Interior
Bureau of Land Management
Medford District
Glendale Resource Area
Douglas County, Oregon

INTRODUCTION

An environmental assessment for the Swanson Group Inc. Right-of Way Road Construction Project (EA Number OR-118-07-006), including a Finding of No Significant Impact (FONSI), was made available for a 15-day public review period on July 5, 2007. No public comments were received. A copy of the EA, including FONSI, can be obtained from the Grants Pass Interagency Office, 2164 NE Spalding Ave, Grants Pass, Oregon 97526. Office hours are Monday through Friday, 7:45 AM to 4:30 PM, closed on holidays.

This decision conforms with the *Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan FSEIS, 1994 and ROD, 1994); the *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995); the *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004); the *Final Supplemental Environmental Impact Statement and Record of Decision and Standards and Guidelines for Amendment to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (FSEIS, 2000 and ROD, 2001); the *Final Supplement to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (FSEIS, 2007 and ROD, 2007); the *Medford District Integrated Weed Management Plan Environmental Assessment (1998)*; tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985); and update to State Director's Special Status Species List (IM OR-2007-072).

DECISION

Based on site-specific analysis, the supporting project record, management recommendations contained in the Middle Cow Creek Watershed Analysis (1999) and South Umpqua/Galesville Late Successional Reserve Assessment (2004), as well as the management direction contained in the Record of Decision and Standards and Guidelines of the Northwest Forest Plan (1994), Medford District Resource Management Plan and Record of Decision (1995) and *Evaluation of the Medford Resource Management Plan Relative to Four Northern Spotted Owl Reports* (2005), I have decided to implement a modification of Alternative 2 which is hereafter referred to as the "Selected Alternative".

Alternative 2 was analyzed in the Swanson Group Inc. Right-of-Way Road Construction Project EA, pp. 13-14, and changes to the alternative are described in the Modifications to Alternative 2, forming the Selected Alternative. These modifications are minor and do not change the scope of the action analyzed, nor do the modifications affect the adequacy of the analysis contained in the EA.

Modifications to Alternative 2, forming the Selected Alternative:

1/ On page 15, “2.5.3 Water Quality and Soil Productivity” the decision will implement the following, “Should the roads 32-5-23 and 32-5-23.01 be needed for hauling during wet conditions, the amendment to the reciprocal right-of-way agreement with Swanson Group Inc would require durable rock of sufficient depth present across the road surface to prevent road damage, offsite erosion, or stream sedimentation as determined by the Authorized Officer. Durable rock would be from a BLM approved source. Currently the road condition for these roads are adequately surfaced for dry season or extended season hauling only.”

2/ The decision will amend 1.82 miles of existing BLM controlled roads #32-5-23.0 and #32-5-23.01 into Swanson Group Inc’s reciprocal right-of-way agreement M-1396 to access their private land and harvest trees, rather than 1.25 miles of these two roads as stated in the EA (EA#OR118-07-006). This mileage modification will not change the scope of analysis presented in the EA as the change is limited to existing roads and would not be expanded beyond their existing footprint.

3/ On page 15, “2.5.3 Water Quality and Soil Productivity” the decision will implement the following, “Waste material removed due to spur road construction would be disposed of in a stable, non-floodplain site approved by the Authorized Officer.”

4/ On page 13, the EA states the clearing width would be 40 ft and the useable road width would be 16 ft. The plat from Swanson Group Inc. also requests a right-of-way width of 60 ft. This modification will not change the scope of the analysis presented in the EA as the clearing width would remain as 40 ft and botanical and archaeological surveys for this project were evaluated for at least 60 ft. The 60 ft ROW width will allow the flexibility in selecting the placement of the 40 ft clearing width within the ROW to meet engineering standards within the changing conditions of the landscape.

The Swanson Group Inc. Right-of-Way Road Construction Project will construct one 175 ft road spur on BLM land, of pit-run rock surface road in Township 32 South, Range 5 West, Section 23 off BLM road 32-5-23.01 for Swanson Group Inc to access their land in Section 14. The new road would be identified as road 32-5-23.06. The construction would occur in the South Umpqua/Galesville Late-Successional Reserve (LSR). No trees would be cut or removed for the road construction. Swanson Group Inc. will also haul on and maintain 1.82 miles of two existing BLM controlled roads (32-5-23.01 and 32-5-23.0) in T32-R5W Section 23 to access private property for the purpose of timber harvest under this decision. The above roads will be amended to Reciprocal Right-of-Way Agreement M-1396 (Amendment No. 8).

ALTERNATIVES CONSIDERED

The alternatives considered in detail included the No Action Alternative (Alternative 1) which serves as the baseline to compare effects, the Proposed Action (Alternative 2) which initiated the environmental analysis process, and Alternative 3. A description of each alternative is found on pages 13-14 of the EA.

During the planning process, the Glendale Resource Area evaluated alternate means for Swanson Group Inc to access their property that would avoid road construction through the Late Successional Reserve (LSR) land allocation. Two alternatives that did not require road construction in the LSR were explored. One of these two alternate means of access did not meet the purpose and need for the action as it was a safety risk and economically infeasible, and would require construction of a helicopter landing in the LSR that would exceed the acreage and ground disturbance of Alternative 2. Helicopter extraction was considered unsafe due to flight paths over adjacent residential homes and structures and found it to be economically infeasible as no authorization was granted from suitable adjacent private landowners for helicopter landing areas. Had authorization been given for flight paths over residential homes, the cost of the logging operation would increase by \$397,750 to harvest the private parcel. For these reasons, a helicopter extraction alternative was not developed for further analysis, (EA, Appendix 1 pp.44-46).

REASONS FOR THE DECISION

The Selected Alternative addresses the purpose and need of implementing the Medford RMP through providing right-of-way access to non-federal land through Late Successional Reserve land use allocation (RMP ROD pp. 35) and to plan road systems that meet resource objectives and minimize detrimental impacts on water and soil resources (RMP ROD pp. 157).

The effects of the Swanson Group Inc. road construction and log haul were adequately analyzed in the EA and the action is in compliance with applicable land use plans. The construction of 175 feet of permanent ridge top road would not adversely effect threatened, endangered, special status, or survey and manage fish, wildlife, or botany species (EA, pp.16-31 & 47-58).

The road spur has been designed and located to have the least impact on late-successional habitat, specifically no suitable northern spotted owl habitat would be removed as no trees will be cut.

The construction and use of the 175 feet of ridge top road has no stream crossings or headwalls and would result in no measurable sediment reaching the closest fish bearing stream over 820 ft downstream of the project area (EA pp.26).

Road densities would remain at 5.1mi/mi² within the Cow Creek-Quines Creek HUC 6 with the 0.03 road miles (175 ft) of road proposed for construction and is not expected to contribute to an increase in flows or runoff (EA, pp.26-27).

Although the Selected Alternative would result in compaction and soil productivity loss on 0.06 acres (0.0003%) of the Cow Creek-Quines Creek HUC 6 sub-watershed (EA pp. 26), it is well within impacts anticipated in the Medford District RMP EIS.

Alternative 1 (No Action) was not selected because it would not meet the purpose and need of the project (described in Chapter 1 of the EA) to consider as valid uses access to non-federal lands through late-successional reserves and existing rights-of-way agreements (RMP ROD pp.35).

Alternative 3 was not selected because this alternative was more impactive to water and soil and would not meet the purpose and need of the project (described in Chapter 1 of the EA) to plan road systems that meet resource objectives and minimize detrimental impacts on water and soil resources,” (RMP ROD pp.157). Under Alternative 3 the logging systems used on Swanson Group Inc’s private harvest “would likely change from skyline cable yarding and tractor yarding, to mostly tractor yarding, and possibly downhill cable yarding. This would require road reconstruction, new road construction, landing reconstruction, and new landing construction on Swanson land, along with road maintenance on BLM road 32-5-23”...[This] anticipated amount of road and landing construction/reconstruction, and more extensive ground-based logging methods on private land would likely have greater effects on soil disturbance, productivity loss, compaction, sedimentation, and erosion and potentially on water yield and temperature than the combined federal and private activities under the Proposed Action (Alternative 2)...Log haul down the 32-5-23 road, the maintenance and use of roads that cross streams within and adjacent to the harvest unit, the skid roads and landings on private land next to Wildcat Creek, and some harvest areas (where they extend into riparian reserves) would likely result in additional measurable increases in sediment due to the close proximity and hydrologic connectivity with both creeks.” (EA, pp.30-31).

FINDING OF NO SIGNIFIANT IMPACT

No public comment letters were received during the 15-day review period for the EA and FONSI. It is my determination that the Selected Alternative will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition for significance in context or intensity as defined in 40 CFR § 1508.27. Therefore an environmental impact statement will not be prepared.

EFFECTIVE DATE OF DECISION

This is a land 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 publication of the legal notice of decision) 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.” (See 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 publication of this decision in the *Grants Pass Daily Courier*. Only signed hard copies of a notice of appeal that are delivered to the Glendale Field Manager, 2164 NE Spalding Avenue, Grants Pass, OR 97526, will be accepted. Faxed or emailed appeals will not be considered.

In addition to the applicant, anyone who has participated in the National Environmental Policy Act process for this project by providing public comments on the environmental assessment will qualify as party to the case. (See 43 CFR § 4.410(b)). However, in order to qualify as an appellant, a “party to the case,” you also have the burden of showing possession of a “legally cognizable interest” that has a substantial likelihood of injury from the decision. (See 43 CFR § 4.410(d)). Furthermore, you may raise on appeal only those issues you raised in comments on the environmental assessment or that have arisen after the opportunity for comments closed. (See 43 CFR § 4.410(c)).

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, Swanson Group, Inc and the Association of O&C Counties 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.

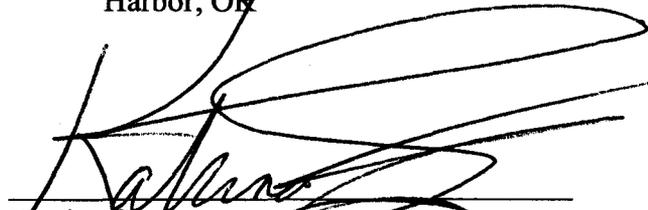
The Board will review any petition for a stay and may grant or deny the stay. If the Board takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect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

CONTACT PERSON

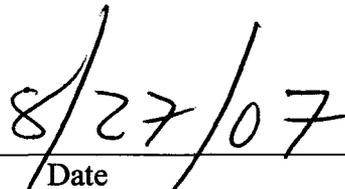
For additional information concerning this decision or the BLM administrative review process contact Michelle Calvert, 2164 NE Spalding Ave., Grants Pass, OR 97526, telephone 541-471-6505.

Additional addresses to serve documents include:

- Katrina Symons, Field Manager
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2164 NE Spalding Ave
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Medford District, Bureau of Land Management



Date