



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
2164 NE SPALDING AVE
GRANTS PASS, OREGON 97504

DECISION RECORD

Brass Joe and Waterbrook Road Construction and Right-of-Way (EA # OR117-08-05)

I. INTRODUCTION

Josephine County requested a right-of-way (ROW) to construct two road segments, totaling approximately 330 feet, across BLM lands to access County Forest Lands for planned timber sales, fuel hazard reduction, brush field conversion and pre-commercial thinning. Due to a lack of reasonable access across private property, Josephine County's application also included a request to haul approximately 1,150 thousand board feet (mbf) across the newly constructed roads and other BLM roads that access these lands. The two road segments would provide access to two future Josephine County timber sales, the Brass Joe and Waterbrook timber sales.

The BLM released the Brass Joe and Waterbrook Road Construction and Right-of-Way Environmental Assessment (EA # OR117-08-05) for public comment on December 10, 2009. Based on public input, recommendations from the planning team, consideration of the laws and regulations, and the National Environmental Policy Act (NEPA) analysis, the following constitutes my decision.

The Josephine County projects are in T 34 S, R 5 W, Sec. 34 (Waterbrook) and T 34 S, R 5 W, Sec. 24 (Brass Joe) and encompass 640 acres (110 acres of harvest) and 120 acres, respectively. Road construction on BLM lands would occur in T 35 S, R 5 W, Sec. 3 (Waterbrook) and T 34 S, R 5 W, Sec. 23 (Brass Joe). The project areas are approximately three miles apart and ten miles north of Grants Pass (EA pp. 6, 7; EA Appendix A, Map 1). The proposed road construction on BLM lands is in the Matrix land allocation.

II. DECISION

The decision is to implement the proposed action as described above and detailed in the December 2009 Environmental Assessment (EA). The decision is to amend Josephine County's reciprocal ROW permit to: a) use certain BLM roads for hauling of forest products and, b) construct approximately 330 feet (0.06 miles) of road across BLM lands (EA, Appendix A, maps 1 & 2) in two segments, which would also be included in the amended permit (Table DR-1).

All project design features (PDF) (EA pp. 9-11) will be incorporated into project activities, except for the following: No wet season haul will be allowed under this decision (See rationale and section IV, Public Involvement, below).

Table DR-1: BLM Haul Roads		
Road No.	Surface Type	Length (miles)
34-5-14.1	Natural	1.82
34-5-14	Natural	1.74
34-5-15	Natural	1.04
34-5-9	Natural	3.53
Waterbrook	New construction	0.04
Brass Joe 1	New Construction	0.02

Rationale

The No Action alternative is rejected because it will not be consistent with the RMP in making BLM lands available for right-of-ways. Importantly, no adverse project or cumulative effects were identified that would preclude selecting the action alternative.

This decision implements the Medford District Resource Management Plan (RMP) which directs that “BLM-administered lands [be made] available for needed rights-of-way” (RMP p. 82). Due to a lack of access across adjacent private property, Josephine County needed roads on BLM land to access their land. Josephine County originally requested construction of two roads for access to the Brass Joe project. However, part of the second road had been decommissioned under the Joe Louse Sediment Reduction Project (EA OR117-06-06), and will not be rebuilt under this project (EA p. 9; p. 30, Appendix B). The decision provides a balance of protecting resources, while providing for reasonable access to Josephine County lands.

No significant adverse environmental effects were identified. The road will not cross or enter into a riparian area; there would be no routing of sediment to streams (EA p. 15). While this action will add 0.15 acres of road surface in two nonadjacent 7th field watersheds, there are no expected effects to soils or water quality.

II. CONSULTATION AND COORDINATION

Pursuant to the Endangered Species Act (ESA), BLM completed consultation with the USFWS. On May 14, 2009 BLM received A Letter of Concurrence for actions affecting the Northern Spotted Owl (Tails #: 13420-2009-I-0093) from the USFWS.

There are no sensitive botanical species present, habitat for sensitive plants, or critical habitat designations within the project area.

In accordance with the ESA and the Magnuson-Stevens Fishery Conservation and Management Act (MSA), BLM evaluated the effects of the proposed federal actions on coho salmon and critical habitat. The assessment found that the project would not affect the species or habitat. Therefore, consultation is not necessary.

The project will not adversely impact any sites of cultural or historical significance (EA pp. 2-3). The State Historic Preservation Office (SHPO) was informed of the BLM’s finding in accordance with 36 CFR 800.5(b).

The Confederated Tribes of the Siletz and the Grande Ronde were notified of this project during scoping and the EA's public comment period. Josephine County Commissioners and the Josephine County Forestry Department were also contacted. No responses were received.

IV. PUBLIC INVOLVEMENT

The BLM initiated public notification and involvement for this proposal in December 2007 with letters delivered to 45 residents and interested groups. The BLM received one scoping response.

In December 2010, BLM released the EA for a 30-day comment period, sending notification letters to 45 individuals and groups, and posting a notice in the Grants Pass Daily Courier. During the public comment period one letter was received and additional conversations were held with Josephine County.

Comment: The one comment received felt that Josephine County's proposal was reasonable because of the conservative nature of the proposal, but requested that timber haul be restricted to the dry season.

Response: After discussions with Josephine County regarding the nature of the comment, Josephine County felt that they could accommodate this request. Therefore, in this decision (see page 1 above), timber haul will be restricted to the dry season; no haul will be allowed under wet conditions.

V. CONCLUSION

Plan Consistency

Based on the information in the Brass Joe and Waterbrook Road Construction and Right-of-Way EA, in the record, and from the letters and comments received from the public about the project, I conclude that this decision is consistent with the following decisions and plans:

1. *Final EIS/ROD for the Medford District Resource Management Plan (RMP) (1995)*
2. *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);*
3. *Final Supplemental Environmental Impact Statement and Record of Decision and Standards and Guidelines for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (FSEIS 2000 and ROD 2001) including any amendments or modifications in effect as of March 21, 2004;*
4. *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon (FSEIS 2004 and ROD 2004);*
5. *Medford District Integrated Weed Management Plan Environmental Assessment (1998) and tiered to the Northwest Area Noxious Weed Control Program (EIS 1985).*

This decision is also consistent with the Endangered Species Act; the Native American Religious Freedom Act; other cultural resource management laws and regulations; Executive Order 12898

regarding Environmental Justice; and Executive Order 13212 regarding potential adverse impacts to energy development, production, supply and/or distribution.

The Brass Joe and Waterbrook Project is consistent with the 2001 Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines, as incorporated into the Medford District Resource Management Plan.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey, et al.*, No. 08-1067 (W.D. Wash.) (Coughenour, J.) granting Plaintiffs' motion for partial summary judgment and finding a variety of NEPA violations in the BLM and USFS 2007 Record of Decision eliminating the Survey and Manage mitigation measure.

Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and did not enjoin the BLM from proceeding with projects.

The project may proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision. This is because the Brass Joe and Waterbrook Project meets the provisions of the last valid Record of Decision, specifically the 2001 Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (not including subsequent Annual Species Reviews). Details of the project surveys are described below:

Botany surveys were completed consistent with the 2001 Record of Decision. With the exception of the mollusk species, *Monadenia chaceana*, habitat for wildlife Survey and Manage species (red tree vole, great gray owl) does not occur within the project area. Potential habitat exists for the Survey and Manage mollusk, *Monadenia chaceana*. However, the pre-disturbance survey requirement for the Grants Pass Resource Area was removed in The Survey Protocol for the Survey and Manage Terrestrial Mollusk Species from the Northwest Forest Plan, Version 3.0, due to a range change for *Monadenia chaceana* (USDA and USDI 2003). Additionally, since the late 1990s, more than 17 landscape management project areas throughout the Grants Pass Resource Area have been surveyed for mollusks using the terrestrial mollusk survey protocol (USDA and USDI 1997 and USDA and USDI 2003). Surveys have revealed no detections of *Monadenia chaceana*. Surveys have also been completed for *Helminthoglypta hertleini* across the resource area; however, all detections were found in rocky areas associated with damp grassy areas, oak woodlands, and shrub lands, or in conifer forests closely associated with these habitat types. This habitat type does not occur in the project area; therefore, surveys are not required.

The EA analysis (pp. 16-17) determined there were no effects to aquatic habitat. Similarly the ACS Consistency Review (EA pp. 17-18) found that the project is in compliance with the Aquatic Conservation Strategy as originally developed under the Northwest Forest Plan.

This decision will not have any adverse impacts to energy development, production, supply and/or distribution (per Executive Order 13212).

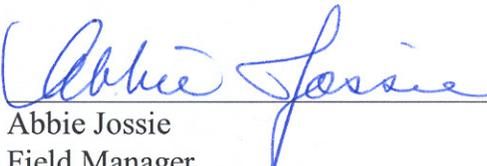
V. ADMINISTRATIVE REMEDIES

The decision described in this document is a forest management decision and is subject to protest by the public. In accordance with Forest Management Regulations at 43 CFR Subpart 5003 Administrative Remedies, protests of this decision may be filed with the authorized officer, Abbie Jossie, within 15 days of the publication date of the notice of decision advertisement in the Grants Pass Daily Courier.

43 CFR § 5003.3 subsection (b) states: "Protests shall be filed with the authorized officer and shall contain a written statement of reasons for protesting the decision." This precludes the acceptance of electronic mail (email) or facsimile (fax) protests. Only written and signed hard copies of protests that are delivered to the Medford District, Grants Pass Resource Area will be accepted. The protest must clearly and concisely state which portion or element of the decision is being protested and the reasons why the decision is believed to be in error.

43 CFR § 5003.3 subsection (c) states: "Protests received more than 15 days after the publication of the notice of decision or the notice of sale are not timely filed and shall not be considered." Upon timely filing of a protest, the authorized officer shall reconsider the project decision to be implemented in light of the statement of reasons for the protest and other pertinent information available to her. The authorized officer shall, at the conclusion of the review, serve the protest decision in writing to the protesting party(ies). Upon denial of a protest, the authorized officer may proceed with the implementation of the decision as permitted by regulations at 5003.3(f).

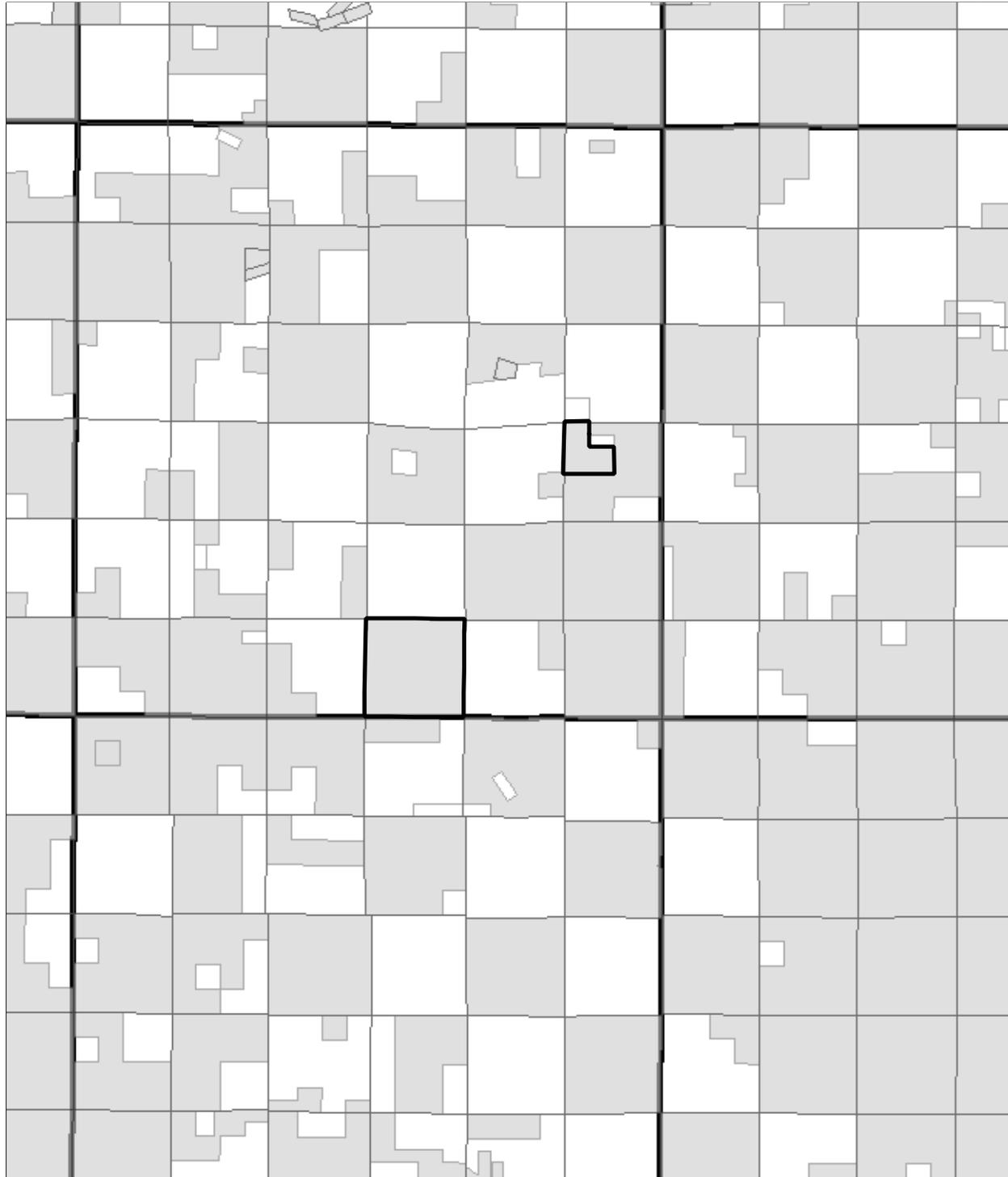
If no protest is received by the close of business within 15 days after publication of the decision notice, this decision will become final. If a timely protest is received, the project decision will be reconsidered in light of the statement of reasons for the protest and other pertinent information available, and decision will be issued.


Abbie Jossie
Field Manager
Grants Pass Resource Area
Medford District, Bureau of Land Management

2-25-2010
Date

Brass Joe and Waterbrook Road Construction

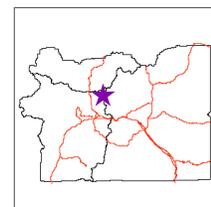
Vicinity Map
Ex. A
12/18/2007



0 0.5 1 2 Miles

Legend

-  BLM
-  Non BLM
-  Road



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources and may be updated without notification.

Universal Transverse Mercator Zone 10 N
North American Datum of 1983

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