



# United States Department of the Interior

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

## DECISION RECORD

### China Garden Right-of-Way and Road Construction Project (EA # OR117-08-04)

#### I. INTRODUCTION

Indian Hill, LLC has applied to amend their O & C Logging Road Right-of-Way (Permit Number M-1166) agreement with the Bureau of Land Management (BLM). The application included building 430 of road across BLM lands in T40S, R7W, Section 13 NE ¼ NE ¼. The amendment will also add BLM road 40-7-13.02 into their Right-of-Way (ROW) agreement.

The BLM released the China Garden Right-of-Way and Road Construction Environmental Assessment (EA# OR-117-08-04) in April 2008. 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.

#### II. DECISION

The decision is to implement the proposed action as described above and detailed in the April 2008 EA. The project will permit Indian Hill, LLC to use existing BLM Road 40-7-13.02 and allows them to build a road totaling approximately 430' (EA pp. 3-4). The decision incorporates all the project design features listed in the EA (pp. 4-5).

#### Rationale

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, Indian Hill needed a road on BLM land to access their land. While an old existing road along Sucker Creek and an unnamed tributary, running through both BLM and private lands could be used, it was in poor shape needing renovation; segments are also located in riparian areas adjacent to streams with a high potential to deliver sediment.

No 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. While this action will add 0.08 miles of road, recent government actions reduced road mileage by 7 miles and "storm proofed" 14 miles of unstable road in the key watershed. These actions meet the intent and objective of road management in key watersheds by reducing both road miles and potential sedimentation to streams. The assessment also found, due to the small scope of the project and location, no cumulative effects will result from implementation.

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 effects were identified that would preclude selecting the action alternative.

### **III. 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 comment. In April 2008 BLM released the EA for a 30-day comment period, sending notification letters to 45 individuals and groups. During the public comment period one letter was received. The comments included:

Comment: BLM's obligation to authorize permit

Response: The RMP does direct the agency to make lands available for right-of-ways. However, if there are significant effects or unacceptable risks the decision maker has the authority to deny the request. Both the EA and Finding of no Significant Effects (FONSI) support that there are no significant effects or unacceptable risks.

Comment: Analysis of potential future Indian Hill actions

Response: Both the EA and the comment letter received disclosed that access is currently available to Indian Hill Land; therefore, this authorization does not enable access, it provides a more environmentally preferred route. Further, there was no specific proposal for Indian Hill's land to analyze. The EA, consistent with the Medford District Resource Management Plan, assumed that private lands would be harvested on a 60-year rotation.

Comment: No net increase in road densities in Key watersheds.

Response: As addressed in the EA, 14 miles of road have been improved and 7 miles decommissioned, resulting in a net decrease in road density and road related sediment in the Upper Sucker Creek key watershed. The proposed action is consistent with the NWFP and Medford RMP, as expressed in a net reduction of road mileage.

Comment: Cumulative Impacts

Response: The EA addressed future foreseeable actions in the watershed and analyzed their cumulative effect. The analysis found that due to the very small scale and intensity of the proposed road, past and future road decommissioning, maintaining a net decrease in roads, and no forest clearing near the road, the 400+ feet of road would not generate cumulative effects when considered with past and foreseeable actions.

Comment: Fire hazard

Response: As analyzed in the EA, the road construction would not add to fire hazard as no new fuels would be generated. Rather the road would aid in fire fighting by improving access.

Comment: Future harvest and fuel hazards.

Response: This project does not propose future harvest. The EA analysis found that the road would not increase fire hazard and with planned fuel hazard reduction in the area of the road that fuel hazards would decrease over current. Therefore, there are no cumulative effects to fire hazard as a result of implementing the proposed action.

Comment: Public access and use following construction.

Response: The EA addressed this issue, determining that since no additional access would be provided that there will not be a change in current use or access. The road leading to the proposed road location is currently blocked and will remain blocked following implementation.

Comment: Avoid impacts of road construction.

Response: Hydrology, botany and wildlife sections addressed the consequences of road construction. In all cases, the effects were minor and discountable given the small scale and integration of project design features to reduce/prevent potential effects of road construction. Further given the recent past and foreseeable reduction in roads the analyses found no cumulative effects.

Comment: Port-orford-cedar (POC) disease

Response: The EA addressed the POC disease issue. The EA analysis found the potential spread of POC disease was low because there were no POC in the area. However, the disease has been detected in the watershed. Therefore, even though a low risk, the project incorporated project design features recommended in the POC environmental impact statement to further reduce potential.

Comment: Aquatic Conservation Strategy (ACS)

Response: The EA analysis as well as the ACS consistency review found the actions consistent with the ACS objectives. A comment noted the lack of clarity regarding potential impacts to

wetlands. To verify site conditions a botanist, soil scientist and biologist visited the site and confirmed that the road would not cross or interfere with a wetland. Erosion would be minimized and disturbed soils would not affect off-site conditions.

Comment: Survey and Manage

Response: As discussed and analyzed in the EA, BLM surveys for bureau sensitive species when habitat is present within the area of disturbance. Since the project area does not provide habitat for sensitive species, surveys were not conducted.

## V. CONCLUSION

### Plan Consistency

Based on the information in the China Garden 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 EA analysis (p. 16) determined there were no effects to aquatic habitat. Similarly the ACS Consistency Review (ACS consistency review April 2008) 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.

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

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Date