United States Department of the Interior

BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
3040 BIDDLE ROAD
MEDFORD, OREGON 97504

DEER CREEK FIRE SECTION 7 SALVAGE (OR117-06-08)
DECISION RECORD / FINDING OF NO SIGNIFICANT IMPACT

August 2008

I. INTRODUCTION and BACKGROUND

The Deer Creek fire started on August 25, 2005 along Deer Creek Road just east of Selma, Oregon, burning a total of 1,548 acres, including six residences and an estimated 266 acres of BLM matrix land. Of the 266 BLM acres burned, approximately 185 acres experienced moderate to severe fire intensity

Immediately following containment and control of the fire, BLM specialists began the process of evaluating the damage as part of the emergency stabilization and rehabilitation plan (ESRP), which included some contour falling of snags, hydromulching, and tree planting. Some of that work began shortly after the smoke cleared, continuing through spring 2006.

BLM identified the potential for salvage harvest using existing roads, which could thus contribute to Medford District's forest products commitment. Project planning began in November 2005. On December 22, 2005, a scoping letter was sent to more than a hundred landowners and other interested individuals and organizations. The Deer Creek Fire Salvage Timber Sale Environmental Assessment (EA) became available for a 30-day public comment period on March 17, 2006.

This decision record (DR) addresses the portion of the project area and proposals of lands burned in T38S, R7W, Section 7 analyzed in the Deer Creek Fire Salvage Timber Sale Environmental Assessment (EA). The DR of April 2006 addressed proposed actions in T38S, R7W, Section 5 and T37S, R7W, Section 33 of the EA. The lands burned in T38S, R7W, Section 7 were encumbered by an existing timber sale contract (Deer Mom), and were excluded from the decision. This section is no longer encumbered.

There is a need for logs for instream large woody debris projects to restore channels and benefit fish habitat. The standing timber in this unit has likely deteriorated to the point of no longer having commercial value, especially given current lumber prices. The logs from standing dead trees, in excess of those needed for snags and coarse woody debris, would still be beneficial to fish habitat enhancement projects. This decision will meet the project's purpose and need of recovering some economic value from burned timber in the project area. As per the project design features (EA pp. 4-6), the project would continue to provide sufficient standing and down wood for habitat needs and protection of soil and water. The salvaged timber would be provided as part of BLM's in-kind contribution under an assistance agreement to the Illinois Valley Soils and Water Conservation District for use as LWD in their OxBow Ranch Habitat Enhancement Project.

The Deer Creek Fire Salvage timber sale was published in the Grants Pass Daily Courier on May 3, 2006. The Timber Sale for approximately 1.4 million board feet of salvaged timber took place in May

2006. There were two protests received and both were denied. No appeals were received and the salvage was completed in 2006.

Comments received on the EA that are pertinent to this decision are summarized below in Section IV. Public Involvement. We appreciate receiving public input regarding this project and have reviewed all comments closely. Based on public comments, recommendations from the planning team, and careful consideration of relevant laws, regulations, and planning documents in addition to the information in the EA, the following constitutes my decision on T38S, R7W, Section 7.

II. DECISION and RATIONALE

A. Alternative 1

Alternative 1, the No Action Alternative, is rejected because it does not meet the purpose and need of the project which is to "implement the Medford District Resource Management Plan (RMP) by salvage logging timber burned in the Deer Creek Fire" (EA p.1).

B. Alternative 2

Decision

It is my decision to implement Alternative 2 in the south part of T38S, R7W, Section 7. Section 7 consists of one unit, unit #003, 32 acres of cable salvage, which is split by a riparian reserve. My decision is to harvest approximately 40 dead trees from the area south of the Riparian Reserve, totaling approximately 10 acres. The remainder of the unit is deferred from harvest at this time. The trees will be cut, yarded, decked and hauled for use in riparian enhancement projects by the Illinois Valley Soils and Water Conservation District. This area is in the matrix land allocation. All project design features (EA pp. 4-6) would be followed. The trees will be supplied by BLM as an in-kind contribution for a habitat enhancement project on Deer Creek.

This decision is for salvage of an additional maximum of 40 trees in the south part of unit 7-3 (see map) to provide LWD for fish habitat. The original salvage harvest occurred on 81 acres. With this harvest, total acres harvested will be approximately 91 acres in the 1,548 acre Deer Creek fire area, which is within the 72,679 acre Deer Creek 5th field watershed. Therefore, federal land salvage harvest will occur on 6% of the fire area and 0.01% of the watershed. Only trees of significant size to contribute to Large Woody Debris (LWD) in the stream will be harvested. Trees harvested will generally be ≥16"dbh, although several trees may be ≥14"dbh. The largest trees will be retained for wildlife as per PDFs (EA pp. 5-6).

The action will include using a skidder to winch trees up through the Reserve Area. There are existing footprints of corridors that will be used to the extent practical. Approximately 40 trees will be salvaged.

Post harvest fuels and stocking surveys would be needed to identify fuel levels and harm to saplings. If needed, tops and limbs (slash) left on site, will be treated through pile and burn, or lop and scatter to reduce fuel hazard as outlined in the EA (pp. 3-4). Replanting may be needed if stocking is below standards.

As stated above, salvaged timber would be provided as part of BLM's in-kind contribution under an

assistance agreement to the Illinois Valley Soils and Water Conservation District for use as LWD in their OxBow Ranch Habitat Enhancement Project.

No road work will occur under this decision. The one temporary spur road identified in the EA will not be built because there are no trees in the desired size class, ≥16"dbh.

Rationale

While the standing timber in this unit has likely deteriorated to the point of no longer having commercial value, the logs from standing dead trees, in excess of those needed for snags and coarse woody debris, would still be beneficial to fish habitat enhancement projects. This decision will meet the project's purpose and need of recovering some value from burned timber in the project area while providing a resource to our local restoration partners for an important riparian habitat restoration project. This decision will provide sufficient standing and down wood for habitat needs and protection of soil and water while also providing the Illinois Valley Soils and Water Conservation District with Large Woody Debris for their OxBow Ranch Habitat Enhancement Project. The salvaged timber would be provided as part of BLM's in-kind contribution under an assistance agreement.

C. BLM Strategic Plan

This project will promote a number of goals in BLM's Strategic Plan for FY2003 to FY2008:

Resource Protection-Goals 1& 3: Protect Cultural and Natural Heritage Resources; *Improve Health of Watersheds and Landscapes (Restore Fire Adapted Ecosystems)*. The project will protect cultural resources as outlined in the PDFs (EA p. 6). Fuel hazard reduction will reduce surface fuel loads and the risk of severe wildfire.

Resource Use-Goal 4: Manage or Influence Resources to Enhance Public Benefit, Promote Responsible Use, and Ensure Optimal Value. Implementation of Alternative 2 in Section 7 will contribute approximately 40 trees to the local Watershed Council for instream placement for fish habitat. Future fisheries resources will benefit. Tree planting, if necessary, will help the site to become reforested more quickly.

Serving Communities-Goal 1: Protect Lives, Resources, and Property. Fuel hazard reduction will reduce existing and activity fuels in the short and long term (EA p. 37) which will help protect public health, safety, and property.

III. CONSULTATION AND COORDINATION

Consultation with the US Fish and Wildlife Service was not necessary because following the Deer Creek Fire, the project area no longer contains Northern Spotted Owl suitable habitat.

The Confederated Tribes of the Siletz and the Grand Ronde as well as the Cow Creek Band of the Umpqua were notified of this project during scoping and the public comment period. Josephine County Commissioners and Josephine County Forestry were also contacted.

All timber felling and log yarding would occur outside of Riparian Reserves and sediment would not reach streams which are designated as coho critical habitat (CCH). Soils in the project area are characterized as well drained and stable (EA p. 11). All harvest units are more than 4,000' away from

CCH or any fish bearing streams. Log hauling would occur during dry conditions and on adequately rocked roads. Based on these factors, the project would result in no effect to coho salmon, CCH, or Essential Fish Habitat (EFH); therefore, informal or formal consultation with National Marine Fisheries Service is not necessary.

The project area does not contain any suitable spotted owl habitat (EA p. 18). The project area is not within a designated spotted owl critical habitat unit.

IV. PUBLIC INVOLVEMENT

Public scoping for this project began in December, 2005. Scoping comments were considered in the development of the EA and were summarized in the EA (p. 42). Following completion of the EA, a 30-day public comment period began on March 21, 2006. Six comment letters were received. One expressed a desire for the fire area to be restored naturally, without any logging or planting. Another expressed support for the proposal to not log riparian areas and to retain trees with a high expectation for survival. The other four letters had extensive comments. These comments and responses from the original Decision Record are repeated below if information in the original responses is relevant to this decision. Responses are supplemented with additional information as necessary. New responses are underlined.

Timber sales are not profitable and cost tax payers money.
Economic feasibility of fire-killed timber declines over time. If logged during the first or second year after the fire event, such as is planned for the Deer Creek salvage project, the sale will remain economical. The recent BLM salvage sale for the Wasson Fire sold for approximately $453/ thousand board feet (mbf) which is considered highly economical. The Deer Creek Fire salvage sold for $315 / mbf.

There will be adverse effects to soil, water, and habitats.
Soil and water effects were fully addressed in the EA (pp. 12-15).

Need to leave remaining trees standing.
Effects to habitat and species was analyzed and disclosed in the EA (pp. 17-33).

Current BLM forestry practices are the same as in the past and will continue to cause high fire hazard.
Project effects on fire hazard were thoroughly described in the EA (pp. 34-38). The project is not anticipated to increase fire hazard beyond the maximum 18 month window within which activity fuels would be treated (EA p. 37). Over time, the project is expected to result in reduced fuel hazard compared to no action (EA p. 37). Removal of a maximum of 40 trees over 10 acres under this decision is not expected to increase fire hazard.

This project will create tree plantations that will cause species extinction.
The Deer Creek Fire has already led to the alteration of seral conditions in the project area. Fire rehabilitation work included planting of seedlings in areas across the fire. Not all burned acres are proposed for harvest in this project. Following harvest, units will be planted as needed. Whether the area is salvage logged or not, successional development will lead to dense stands of young trees which may need additional treatment at some future date to reach management objectives.

BLM should consider the recent study Ecological Science Relevant to Management Policies for Fire-

prone Forests of the Western United States *(Noss et al. 2006).*
Key findings in this study that are relevant to the Deer Creek Fire Salvage project are:

- Post-fire landscapes can recover naturally
- Post-fire logging can hinder recovery when it
    - Destroys natural tree regeneration
    - Increases fine and medium fuels; removal of large fuels does not reduce reburn potential
    - Increases road related sediment that hinders aquatic recovery
    - Seeds non-native species which slows native plant recovery and does not reduce erosion

The Deer Creek Salvage EA addressed each of these issues and it is not anticipated that the project will hinder recovery of the project area. Noss et al. also clarify that management of post-fire landscapes should be specific to the objectives of the site. For example, "Where timber production…needs are the focus, planting and seeding some native trees… may be appropriate". The project design integrates these shifts by capturing timber value on matrix/upland areas and leaving the riparian to recover according to the objectives in this area. Many of the comments received on this publication and others (Donato, Odion, and Beschta) insist that the BLM adopt strict ecological recovery objectives on matrix lands, forgoing the timber production requirements of the Northwest Forest Plan and the Medford District RMP. This comment reflects similar comments received on many projects developed by the BLM which involve timber sales. The Medford District RMP established the land use allocation and management objectives for matrix lands and expressly permits salvage for mortality volume consistent with resource objectives. This project has been developed consistent with the resource objectives for the project area and watershed.

Temporary road construction channelizes water, causes erosion and transports invasive weeds.
Road effects on soils and hydrology were identified and addressed in the EA (pp. 12-14).

Consider an alternative that does not include road construction.
The only road proposed for construction in the Deer Creek Salvage EA is a short temporary spur road in 38-7-7 which would be built to minimal standards and decommissioned in the same operating season. Project activities, including temporary road construction, on lands burned in T38S, R7W, Section 7 were analyzed in the Deer Creek Salvage EA but are excluded from this decision because activities in that section are encumbered by an existing timber sale contract. The proposed actions for that section may be implemented under a separate decision at a later date.

<u>Project activities, including the temporary road construction proposed in T38S, R7W, Section 7 were analyzed in the Deer Creek Salvage EA. This decision does not include temporary road construction in Section 7 because the trees that road would have accessed are not of the desired size class.</u>

Leave all green trees.
BLM agrees that retaining trees that are expected to survive more than five years is important to the recovery of the burned lands. Those trees will be an additional seed source for the new stand and will provide shade and habitat for a variety of species.

<u>This decision includes only taking trees that have already died except if needed for yarding corridors. Corridor location would avoid surviving green trees and leave snags to the extent possible.</u>

The EA should tier to the 1994 ACS because the 2004 ACS ROD has been found lacking by the courts.

The original EA and DR was consistent with the *ROD Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests Within the Range of the Northern Spotted Owl: Decision to Clarify Provisions Relating to the Aquatic Conservation Strategy* (2004).

As the EA (p. 1) and DR (p. 9) tiered to and were consistent with this 2004 ROD, the environmental assessment was evaluated for consistency with the Aquatic Conservation Strategy as detailed in the Northwest Forest Plan and the Medford District RMP and thus, to ensure that it is consistent with the ACS as originally developed under the NWFP. This ACS Consistency Review concluded that the EA and this DR is consistent with the ACS as originally developed under the NWFP (see attached ACS Consistency Review).

An alternative that did not include road or skid trail construction should have been considered.
No road or skid trail construction is proposed under this decision.

Retain 5-8 snags per acre (or all snags), as opposed to 4 snags per acre as proposed. 18 of the largest trees per acre should be retained and live trees >18" diameter should not be harvested
The 4 snags/acre criterion does not include snags retained in the riparian reserve and in the headwall above the riparian reserve, and does not include surviving green trees, so if the total numbers of reserved trees were averaged across the harvest area, the number would be in fact much higher than four per acre. Live and dead trees were tallied in Section 5 and the estimated number of leave trees (live and dead) ranges from 5.5 to 9.5 per acre depending on the unit with an overall average of 6.8 leave trees per acre. This also follows the White (2001) recommendations – if levels are low in one unit, more should be left in another unit. Snag levels in riparian areas far exceed 8 snags per acre. The retention of 4 snags/acre was determined based on the Southwest Oregon Late-successional Reserve Assessment, (1995) which stipulates 3.4 to 4.2 snags per acres, which is more than is recommended for matrix lands. The RMP says that on matrix lands, retain snags in units to support cavity nesting birds at 40% of potential population levels. The data from DecAid states that there is limited wildlife data for the Southwest Oregon Mixed Conifer-Hardwood Forests. These limited data indicate that to maintain density of the snag component in this vegetation condition at the 80% tolerance level for wildlife habitat, 8 snags/acre >20" diameter should be retained.

There is also a significant amount of existing coarse wood on the ground in harvest units now, some as a result of fire suppression activities (for example, felled hazard trees), and some natural breakage since the fire, as weakened stems broke. Leaving all of the burned timber standing for "natural restoration", as some commenters want, does not meet the EA Purpose and Need, and does not meet the objectives of the matrix land allocation. As the EA reiterates, matrix is the land allocation that produces the District allowable sale quantity (ASQ), and the matrix units that are included in this decision are high intensity lands which have been previously roaded and managed.

Research indicating that salvage logging does not contribute to forest recovery following fire was not addressed (Donato, Odion, Beschta, Noss, Trombulack).
BLM is well aware of some of the recent studies suggesting that salvage logging does not contribute to forest recovery, it destroys naturally occurring regeneration, and it significantly increases short term fire risk. Forest recovery of the Deer Creek Fire burned landscape is obviously important and currently underway (see the Deer Creek Fire Emergency Stabilization and Recovery Plan).

Salvage of some of the timber three years after the fire and after replanting is expected to negatively

affect some new seedlings. This is anticipated in the EA (p. 10) and acknowledged in the DR (p. 2), "Conifer seedlings will be interplanted post-harvest as needed to replace those that may have been damaged by yarding activities."

Hand piling and burning of slash in the fall/winter addresses the concern that salvage logging increases short term fire risk. Furthermore, a review of the EA's purpose and need shows that recovery of the burned landscape is not the primary objective for the project. Economic recovery of the some of the burned timber, consistent with the objectives of matrix lands, is the stated purpose of the project

The Odion et al. (2004) paper was not discussed in the EA because it analyzed temporal patterns of fire severity in open and closed canopy forests, not a recently burned area with significant areas of severely burned conditions. The EA disclosed stand development consequences of the no-action and the action alternatives adequately to address the effects of early successional forest on future fire behavior. While not mentioned specifically, the effects disclosed in the EA coincide with Odion's conclusions that early successional forests are more susceptible to fire in certain cases than late successional forest.

Moderately and severely burned soils should not have been combined during effects analysis.
The relative amount of acres burned by severity class (not combined) was fully disclosed in Table 5 (EA p. 8). However, the effects of moderate or severe burn on vegetation in the Deer Creek Salvage area were largely the same; duff was generally consumed, and most, if not all vegetation was severely damaged or killed outright. Based on these field observations, all units were assumed to experience severe fire behavior for the purposes of analysis and to address a worst case scenario. The differences of the effects on soils are not as obvious, and depend on variables such as fuel loading, fuel moisture and distribution, rate of combustion, peak temperatures, and duration. The effects of timber salvage on both moderately and severely burned soils were lumped together because they were treated in the proposed action and effects analysis as if all were severely burned, i.e., worst case analysis.

Tree plantations increase fire hazard.
The impact of natural regeneration compared to planted stands on fuel hazard was discussed in the EA in the form of tree spacing comparisons. Wider spacing is more fire resistant (p. 37). However, the overall conclusion, which includes consideration of current and future fuel loadings, is that the project will result in a long term reduction in fire hazard compared to no action (EA p. 37-38).

Cumulative impacts in conjunction with the South Deer and Deer Mom timber sales have not been adequately addressed for soils, fire behavior, snag retention, hydrology and wildlife.
Cumulative impacts on the 7th field or larger scale have been analyzed for soils and hydrology (EA pp. 14-15); fire and fuels (EA pp. 37-38); snag retention and wildlife (EA pp. 32-33). The Deer Mom project was incorporated in soil and water cumulative effects analysis (EA p. 19) which found no cumulative effects at the 6th field watershed scale. Therefore, there would be no cumulative effects with projects occurring outside the 6th field watershed, including the South Deer Project. The South Deer project, likewise, found no cumulative effects and would not add cumulatively to projects occurring elsewhere in the Deer Creek 5th field watershed scale.

Spotted owl suitable foraging and dispersal habitat will be removed.
The EA details that because canopy closure in all units is less than 40%, these units do not meet the definition of foraging and dispersal habitat. Whether owls would use the area or not does not make it suitable foraging and dispersal habitat as per US Fish and Wildlife Service definitions. As stated in the EA, "While spotted owls may forage in burned stands, this does not mean that the habitat meets the

definition of suitable habitat for nesting, roosting, foraging or dispersal." (EA p. 20)

Logging, yarding on impacted soils and road construction are likely to adversely affect fish.
The EA (p. 14) addresses potential impacts to fish. This determination was that there would be no effect.

The project may significantly increase the spread of noxious weeds.
Weeds are expected to increase in the project area due to the fire. Project design features (EA p. 5) will reduce the spread of weeds resulting from on-going and project related mechanisms of spread. Therefore, the project is not expected to result in noticeable increases in weed spread compared to existing levels (EA pp. 16-17).

Hydrologic recovery of 20-25 years contradicts another EA estimate of 30 years. The reference to clearcut logging as an indicator of hydrologic recovery is not correct.
Thirty years has been used as an estimate of hydrologic recovery. A slightly quicker recovery rate was used in light of the reforestation effort under the Deer Creek ESRP, which planted 2 year old seedlings 8-10" apart. However, a wider range of 20-30 years may be more inclusive of all recovery conditions. Regardless, using a 30 year recovery estimate compared to a 20-25 year estimate would not change the EA's overall anticipated effects.

Additionally, the issue includes a disagreement that clear-cutting and burning have similar effects on vegetation as wildfire. The EA specifically references hydrologic recovery in the comparison. Many study plots of logging and hydrologic recovery includes clear-cutting followed by machine piling and burning or broad cast burning. In these cases all vegetation is removed through either logging or burning. In both scenarios transpiration rates following disturbance are essentially zero. This condition of little to no live vegetation and little duff is very similar to the conditions found in the Deer Creek Fire area. Please note that the Franklin study referenced in the comment letter discusses recovery of forests structures and components and does not address hydrologic recovery of burned landscapes.

Impact analyses for woodpeckers, mollusks, salamanders, red tree voles, fishers, dead wood dependent species and songbird foraging are inadequate.
This point addresses snag levels and lack of surveys. Surveys would be done in suitable habitat if it existed in the proposed salvage units. The comment fails to acknowledge the statement in the EA that "Adequate prey habitat such as snag levels would be retained (***approximately half of the burn area on BLM lands would not be salvaged***) [emphasis added] (EA p. 20).

VRM 3 requirements will not be met.
VRM 3 requirements are expected to be met, as discussed in detail in the EA (pp. 38-39). This comment did not illustrate how the BLM's conclusions were in error.

Salvage logging will increase fire hazard.
<u>Removal of a maximum of 40 trees over 10 acres under this decision is not expected to increase fire hazard.</u>

Large trees calm fire behavior.
Large ***dead*** trees, such as those found in the project area, would not be expected to calm fire behavior. Trees expected to survive more than 5 years would not be harvested.

Unit 37-7-3 should not be logged because green trees will be harvested for cable corridors, owl habitat will be fragmented and red tree voles impacted.
The only suitable habitat that was in section 5 burned at high severity (EA Map 1). Currently, habitat in section 7 does not meet suitable habitat definitions for either owls or red tree voles.

Red tree vole and some plant surveys need to be conducted before logging.
The habitat is not suitable for red tree voles (EA p. 26-27) and surveys are not required (Survey Protocol for the Red Tree Vole, *Arborimus longicaudus*, Version 2.1, USDA, USDI 2002).

Cumulative effects of sediment in Potter Gulch were not analyzed.
The EA (p.15) addresses cumulative effects in Potter Gulch (referenced as the single channel south of section 5). Specifically, 5 acres of project activities drain into that channel where much private logging has occurred. There are no ground-based harvest acres, no riparian entry, and no headwall entry. Given the very small scale and project design features, there would be no cumulative effects.

Impacts to wildlife species that benefit from snag forests were not analyzed.
Impacts to snags and wildlife were addressed in the EA (pp. 21- 25, 27-28, 30, 36)

In addition to hard snag retention requirements, all soft snags need to be retained.
Soft snags are old snags. Given that the Deer Creek fire was so recent, the occurrence of soft snags is expected to be very low in the project area. Furthermore, soft snags would not likely be marked for harvest because of their low economic value.

<u>Soft snags would not likely be marked because of their compromised integrity and little ability to provide structure to the stream channel.</u>

The number and size of trees that will be removed should be identified.
Site conditions remaining after the project is completed (that is, snags and live trees retained, soil conditions, etc.) compared to no action, are the elements considered when analyzing physical and biological effects. <u>The number and size of trees removed in this decision is described above.</u>

Additional unstable areas and stream channels need to be protected.
All riparian and headwall areas have been identified and buffered according to EA design features.

OHVs will use skid trails after logging. The area needs to be closed to vehicles after treatment.
The project area is designated as "open" to OHVs in the Medford District RMP. In open areas, all types of vehicle use are permitted at all times. OHV use in the project area would be monitored for impacts and resource damage. If it appears that damage is occurring, measures such as signing, emergency closures, and patrols by law enforcement would be implemented. Enforcement of the 43 CFR 8340 regulations regarding OHVs is a tool available to the BLM at all times.

VI. CONCLUSION AND FINDING OF NO SIGNIFICANT IMPACT (FONSI)

A. Plan Consistency

Based on the information in the Deer Creek Fire Salvage Timber Sale EA, in the record, and from the

letters and comments received from the public about the project, I conclude that the decisions in this Decision Record are consistent with the *Medford District RMP* (1995); *Evaluation of the Medford RMP Relative to the Four Northern Spotted Owl Reports* (August 24, 2005)*; ROD for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* and its Attachment A *Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* (1994)*;* and the *ROD and Resource Plan Amendment for Management of Port-Orford-Cedar in Southwest Oregon, Coos Bay, Medford, and Roseburg Districts* (2003). 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 original EA and DR was consistent with the *ROD Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests Within the Range of the Northern Spotted Owl: Decision to Clarify Provisions Relating to the Aquatic Conservation Strategy* (2004).

As the EA (p. 1) and DR (p. 9) tiered to and were consistent with this 2004 ROD, the environmental assessment was evaluated for consistency with the Aquatic Conservation Strategy as detailed in the Northwest Forest Plan and the Medford District RMP and thus, to ensure that it is consistent with the ACS as originally developed under the NWFP. This ACS Consistency Review concluded that the EA and this DR is consistent with the ACS as originally developed under the NWFP (see attached ACS Consistency Review).

The DR also tiered to the *Final SEIS to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (2004). However, the EA did not tier to this EIS and was consistent with the Northwest Forest Plan, and Survey and Manage Guidelines (see documents above).

B. Finding of No Significant Impact

On the basis of the information contained in the environmental assessment and a consideration of the comments received from the public regarding the Deer Creek Fire Salvage Timber Sale, it is my determination that the decision stated above will not result in significant impacts to the quality of the human environment. Anticipated impacts are within the range of impacts addressed by the Medford District Resource Management Plan, the Northwest Forest Plan, their EIS documents and their respective Records of Decision. Thus, the Deer Creek Fire Salvage Timber Sale does not constitute a major federal action having a significant effect on the human environment, and an environmental impact statement (EIS) (or supplement to the existing EISs) is not necessary and will not be prepared.

This conclusion is based on my consideration of the CEQ's criteria for significance (40 CFR §1508.27), both with regard to the context and to the intensity of the impacts described in the EA and based on my understanding of the project. As noted above, the analysis of effects has been completed within the context of the Medford District RMP and it is consistent with that plan and the scope of effects anticipated from that plan. The analysis of effects has also occurred in the context of multiple spatial and temporal scales as appropriate for different types of impacts.

I have considered the intensity of the impacts anticipated from this Deer Creek Fire Salvage Timber

Sale decision relative to each of the ten areas suggested by the CEQ. With regard to each:

1) Impacts can be both beneficial and adverse and a significant effect may exist regardless of the perceived balance of effects. The assessment has considered both beneficial and adverse impacts. None of the individual or cumulative effects have been identified as being significant. There will be a slight, short term increase in fire hazard but a long term reduction in fire hazard.

2) The degree of the impact 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. In fact, public safety should be improved over the long term with reduced fuel hazard.

3) Unique characteristics of the geographic area. None have been identified.

4) The degree to which the effects on the quality of the human environment are likely to be highly controversial effects. The effects of the Deer Creek Fire Salvage Timber Sale are similar to those of many other projects implemented within the scope of the NWFP and the RMP. There is a range of findings and opinions about the potential effects of such land management activities as evidenced by public comments received regarding this project. It underscores a level of uncertainty that exists in assessing the changes that may occur as a result of all such projects. Any uncertainty in actual effects is acknowledged by the EISs to which the Deer Creek Fire Salvage Timber Sale EA is tiered.

As a factor for determining within the meaning of 40 C.F.R. § 1508.27(b)(4) whether or not to prepare a detailed environmental impact statement, "controversy" is not equated with "the existence of opposition to a use." *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). "The term 'highly controversial' refers to instances in which 'a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use.'" *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998).

5) The degree to which the possible effects on the human environment are likely to be highly uncertain or involve unique or unknown risks. The analysis does not show that this action would involve any unique or unknown risks.

6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. The action and the decision will not set any precedents for future actions with significant effects. It is one of many similar projects designed to implement the RMP and NWFP.

7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. No significant cumulative impacts have been identified. The project is consistent with the actions and impacts anticipated in the RMP – EIS.

8) The degree to which the action may adversely affect National Historic Register listed or eligible to be listed sites or may cause loss or destruction of significant scientific, cultural or historical resources. The project area does not include any listed National Historic Register sites or sites known to be eligible and cultural resource surveys conducted post-fire did not reveal any cultural sites.

9) The degree to which the action may adversely affect ESA listed species or critical habitat.

with the actions and impacts anticipated in the RMP – EIS.

8) The degree to which the action may adversely affect National Historic Register listed or eligible to be listed sites or may cause loss or destruction of significant scientific, cultural or historical resources. The project area does not include any listed National Historic Register sites or sites known to be eligible and cultural resource surveys conducted post-fire did not reveal any cultural sites.

9) The degree to which the action may adversely affect ESA listed species or critical habitat. All timber felling and log yarding would occur outside of Riparian Reserves and sediment would not reach streams which are designated as coho critical habitat (CCH). Soils in the project area are characterized as well drained and stable (EA p. 11). All harvest units are more than 4,000' away from CCH or any fish bearing streams. Log hauling would occur during dry conditions and on adequately rocked roads. Based on these factors, the project would result in no effect to coho salmon, CCH, or Essential Fish Habitat (EFH); therefore, informal or formal consultation with National Marine Fisheries Service is not necessary.

The project area does not contain any suitable spotted owl habitat (EA p. 18). The project area is not within a designated spotted owl critical habitat unit.

10) Whether the action threatens a violation of environmental protection law or requirements. There is no indication that this decision will result in actions that will threaten such a violation.

VII. ADMINISTRATIVE REMEDIES

This decision is a forest management decision. Administrative remedies are available to those who believe that they will be adversely affected by this Decision. Administrative recourse is available in accordance with BLM regulations and must follow the procedures and requirements described in 43 CFR § 5003 - Administrative Remedies.

In accordance with the BLM Forest Management Regulation 43 CFR § 5003.2 (a&c), the effective date of this decision, as it pertains to actions which are <u>not</u> part of an advertised timber sale, will be the date of publication of the Notice of Decision in the Grants Pass Daily Courier. Publication of this notice establishes the date initiating the protest period provided for in accordance with 43 CFR § 5003.3. While similar notices may be published in other newspapers, the Grants Pass Daily Courier publication date will prevail as the effective date of this decision.

Any contest of this decision should state specifically which portion or element of the decision is being protested and cite the applicable CFR regulations.

Daniel G. Hughes — 8/12/08

for Abbie Jossie — Date

Field Manager, Grants Pass Resource Area

Medford District, Bureau of Land Management

Deer Creek Fire Salvage Aquatic Conservation Strategy Consistency

The Environmental Assessment (EA) for the Deer Creek Fire Salvage (USDI 2006) stated (p. 1) that the Project was consistent with the *Record of Decision Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests Within the Range of the Northern Spotted Owl: Decision to Clarify Provisions Relating to the Aquatic Conse*
rvation Strategy (March 2004). It also tiered to and is consistent with, among other documents, the Northwest Forest Plan and the Medford District Resource Management Plan:

1. *Final EIS/ROD for the Medford District Resource Management Plan* (RMP) (1995)
2. *ROD for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl and its attachment A, Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (NWFP)* (1994).

As the Deer Creek Fire Salvage Environmental Assessment tiered to and was consistent with the 2004 ACS ROD, the EA was evaluated for consistency with the Aquatic Conservation Strategy as detailed in the Northwest Forest Plan and the Medford District RMP to ensure that it is consistent with the ACS as originally developed under the NWFP.

The BLM is aware of litigation, Pacific Coast Federation of Fishermen's Associations et al. v. National Marine Fisheries Service et al. (W.D. Wash.), related to the 2004 supplemental environmental impact statement for the Aquatic Conservation Strategy (ACS). The Magistrate Judge issued Findings and Recommendations to the court on March 29, 2006. On March 30, 2007, the District Court, Western District of Washington, ruled adverse to the US Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration (NOAA-Fisheries), and USFS and BLM in Pacific Coast Fed. of Fishermen's Assn. et al v. Natl. Marine Fisheries Service, et al and American Forest Resource Council, Civ. No. 04- 1299RSM (W.D. Wash)((PCFFA IV). Based on violations of the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA), the Court set aside: the USFWS Biological Opinion (March 18, 2004), the NOAA-Fisheries Biological Opinion for the ACS Amendment (March 19, 2004), the ACS Amendment Final Supplemental Environmental Impact Statement (FSEIS) (October 2003), and the ACS Amendment adopted by the 2004 ROD *Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests Within the Range of the Northern Spotted Owl: Decision to Clarify Provisions Relating to the Aquatic Conservation Strategy*.

The Deer Creek Fire Salvage EA tiers to this document as the clarification of how to address the ACS. The 2004 ROD was only a clarification, and did not alter any of the on-the-ground components of the standards and guidelines designed for achieving ACS objectives. Nothing was changed or added to the Deer Creek Fire Salvage project as a result of tiering to the 2004 ROD. Therefore, even though the court ruled as stated above, this should have little practical effect at the project level.

The Aquatic Conservation Strategy (ACS) was developed and identified nine objectives to maintain and restore the ecological health of watersheds and aquatic ecosystems contained within them on public lands. The strategy is designed to protect salmon and steelhead habitat on federal lands managed by the BLM within the range of the Pacific Ocean anadromy. The components of the

ACS are riparian reserves, key watersheds, watershed analysis, and watershed restoration (RMP p. 22). The project is not within a key watershed. The Deer Creek Fire Salvage has the potential to affect salmon and steelhead habitat; therefore the design and implementation of the project has been planned to assure consistency with the ACS. Refer to the Deer Creek Fire Salvage Environmental Assessment (EA) (USDI 2006) for a description of the proposed actions and resources potentially affected.

A. Introduction

The project area lies in the Middle Deer 6th field sub-watershed in the Deer Creek 5th field watershed. The major fish bearing streams that could be affected by the proposed actions are Crooks Creek and Deer Creek. There are no fish in the project area. Harvest activities are more than 0.75 miles away from Coho critical habitat or any fish bearing streams (EA p. 14).

B. ACS Components

Riparian Reserves

Riparian reserve widths conform to the interim widths prescribed in the Northwest Forest Plan (NWFP) (p. B-13; C-30). Riparian areas would be buffered with 350' no-harvest zones (175' each side) (EA p. 5).

The riparian reserves within the project area (planted with conifers under the Deer Creek Fire Emergency Stabilization & Recovery Plan (ESRP)) would be excluded from salvage harvest, providing some shade, nutrients, and woody biomass in order to meet the ecological needs of that land allocation (EA p. 11).

Key Watersheds

The project is not located in a Key Watershed (RMP p. 23).

Watershed Analysis

The actions proposed in the Deer Creek Fire Salvage EA occur within the Middle Deer 6th field sub-watershed in the Deer Creek 5th field watershed. The watershed was analyzed in the Deer Creek Watershed Analysis (WA) (November 1997).

Recommendations highlighted in the Deer Creek WA for riparian reserves addressed in this project include:

> Riparian areas would consist of a dense canopy (>80%) of mature conifers and deciduous trees that provide good shading of the stream channel, annual leaf litter and large wood recruitment. (WA p. 103)
>
> The stream system of this watershed should be protected from activities that would reduce the quality and quantity of aquatic habitat. (WA p. 103)

Watershed Restoration

Proposed actions under the Deer Creek Fire EA meet the ACS components. Riparian Reserve planting was conducted under the Emergency Stabilization and Rehabilitation Plan, which coupled

with no harvest buffers in Riparian Reserves and headwalls would meet: **restoration of the condition of riparian vegetation; and restoration of in-stream complexity** components. Project design features and seasonal restrictions would meet the component to **control and prevent road related runoff and sediment production** (EA pp 4-6).

C. ACS Objectives

The ACS was used as a guide to develop and refine actions in the Riparian Reserves and in the watershed as a whole. The ability of actions to meet and promote the ACS objectives below is used to evaluate consistency of the project.

1. Maintain and restore the distribution, diversity, and complexity of watershed and landscape-scale features to ensure protection of the aquatic systems to which species, populations and communities are uniquely adapted.

The project would maintain and restore components of the watershed. No cumulative effects were identified in the analysis of impacts to soil and water. Therefore, no cumulative effects to fish and aquatic habitats would be expected to result from the proposed action in this alternative at the project area, 6th or 5th field watershed scales. (EA p. 15)

2. Maintain and restore spatial and temporal connectivity within and between watersheds. Lateral, longitudinal, and drainage network connections include floodplains, wetlands, upslope areas, headwater tributaries, and intact refugia. These network connections must provide chemically and physically unobstructed routes to areas critical for fulfilling life history requirements of aquatic and riparian-dependent species.

The project would not affect watershed connections. The short distance of roads used, small amount of soil compaction from tractor use, no new road construction and project design features would maintain connectivity within the watershed. These actions would not be likely to degrade habitat or to negatively affect salmonids' life history requirements such as migration, spawning, egg incubation, rearing and feeding (EA pp. 12-15).

3. Maintain and restore the physical integrity of the aquatic system, including shorelines, banks, and bottom configurations.

Given the small scale of soil compaction and restorative nature of the project design features, the project would have negligible effects to soil and water routing (EA p. 13). No salvage harvest, roads, or cable corridors are proposed in riparian areas. The project would not discernibly increase sediment or create routing mechanisms for delivering sediment to stream channels. Salvage logging would not reduce canopy interception or evapotranspiration and therefore increases in water yield or runoff are not expected from project activities (EA pp. 13-14). Full no-treatment buffers would be applied to channels and headwall areas. All down and standing wood in riparian areas and channels would be retained, thus maintaining the physical integrity and providing for continued function of the aquatic system.

4. Maintain and restore water quality necessary to support healthy riparian, aquatic, and wetland ecosystems. Water quality must remain within the range that maintains the biological, physical, and chemical integrity of the system and benefits survival, growth, reproduction, and migration of individuals composing aquatic and riparian communities.

Water quality will be maintained as would the biological, physical, and chemical integrity of the system. There are no mechanisms affecting sediment, water temperature or large woody debris and project activities would have no effect on fish habitat (EA p. 13-14). Salmonid life stages (spawning, incubation, rearing) which depend on these channel conditions would not be affected (EA p. 14).

5. Maintain and restore the sediment regime under which aquatic ecosystems evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.

There would be no routing mechanisms to allow sediment to reach streams from temporary road construction. Project related erosion would be so small as to be indiscernible form existing erosion resulting from the wildfire. Therefore, the project would not discernibly increase sediment or create routing mechanisms for delivering sediment to stream channels (EA p. 13-14). Project activities are not expected to result in a change in flows or water yield, nor would site soil disturbance lead to downstream channel degradation at the project or watershed scale, therefore maintaining the current sediment regime (EA p. 15). Full riparian protection buffers of 175' and no headwall entry greatly reduce or eliminate sediment routing to channels (EA p. 15).

6. Maintain and restore in-stream flows sufficient to create and sustain riparian, aquatic, and wetland habitats and to retain patterns of sediment, nutrient, and wood routing. The timing, magnitude, duration, and spatial distribution of peak, high, and low flows must be protected.

Salvage logging would not reduce canopy interception or evapotransipiration and therefore increases in water yield or runoff are not expected from project activities (EA p. 13). The project would not create soil or water routing mechanisms to the channel system and peak flows would not increase from project activities (EA p. 14).

7. Maintain and restore the timing, variability, and duration of floodplain inundation and water table elevation in meadows and wetlands.

As there are no anticipated changes to water flow, water yield, channel structure or conditions. Site soil disturbance would not lead to downstream channel degradation at the project or watershed scale (EA p. 15).

8. Maintain and restore the species composition and structural diversity of plant communities in riparian areas and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of coarse woody debris sufficient to sustain physical complexity and stability.

The loss of soil organic matter from the fire has reduced the moisture-holding capacity and depleted much of the soil nutrients and microbial populations (EA p. 12). Project design features would maintain all down large wood and some logging debris on site to provide soil nutrient sources as well as sustain physical complexity and slope stability. Some of the smaller woody debris would also be retained to provide soil cover, roughness, and future nutrients (EA p. 13). This would minimize surface and bank erosion, and maintenance of all coarse wood in riparian reserves would maintain appropriate erosion and sedimentation rates. In turn, this would sustain the physical integrity and complexity of stream channels, and provide nutrient sources to aid in restoring species composition and structural plant diversity. The project would not enter riparian areas, draws or headwall areas. All existing wood debris and standing vegetation in riparian areas would remain. Maintaining riparian vegetation provides for current and future wood delivery to streams, maintains stream shade and traps sediment (EA p. 14).

9. Maintain and restore habitat to support well-distributed populations of native plant, invertebrate and vertebrate riparian-dependent species.

In reserve areas, the balance is significantly weighted towards the retention of biological components of natural forest ecosystems. Full riparian protection buffers of 175' and no headwall entry greatly reduce or eliminate sediment routing to channels (EA p. 15) as well as maintain the physical integrity of the riparian ecosystem. The riparian reserves within the project area (planted with conifers under ESRP) would be excluded from salvage harvest, providing some shade, nutrients, and woody biomass in order to meet the ecological needs of that land allocation (EA p. 11). The project is unlikely to affect vegetation recovery or the development of habitat. Retention of snags and coarse wood would provide nutrients and conditions for vegetation recovery (EA p. 21).

D. Site Specific Effects

Roads

The short temporary road would be constructed near a ridge, away from drainage features and would create 0.3 acres of compaction. Following use, the road would be decompacted and water barred to prevent erosion and water routing. Therefore, there would be no routing mechanisms to allow sediment to reach streams. There are no road-stream crossings in the project area (EA p. 13).

Harvest

Salvage logging would not reduce canopy interception or evapotranspiration because trees determined to have survivability past 5 years would not be removed. Therefore increases in water yield or runoff are not expected from project activities (EA p. 13).

The project would not enter riparian areas, draws or headwall areas. All existing wood debris and standing vegetation in riparian areas would remain. Maintaining riparian vegetation provides for current and future wood delivery to streams, maintains stream shade and traps sediment (EA p. 14).

No salvage harvest or cable corridors are proposed in the riparian areas. Erosion would be so small as to be indiscernible from existing erosion resulting from the wildfire. Therefore, harvest would

not discernibly increase sediment or create routing mechanisms for delivering sediment to stream channels (EA p. 14).

Because harvest units are far from fish habitat and no activity would occur in riparian reserves, there are no mechanisms affecting sediment, water temperature, or large wood debris in either Crooks Creek or Deer Creek. Because of these factors, timber felling and log yarding activities would have no effect to Coho salmon or fish habitat (EA p. 14).

E. Cumulative Effects

The fisheries analysis (EA p. 15) concluded that there would be no cumulative effects due to project activities when considering past and foreseeable projects. No cumulative effects were identified in the analysis of impacts to soil and water (EA p. 14-15). Therefore, no cumulative effects to fish and aquatic habitats would be expected to result from the proposed action in this project area or 6th field watershed scales (EA p. 14-15). No harvest on federal lands in the watershed has occurred since completion of the EA. "Private industrial landowners are expected to continue with a similar harvest rotation as has occurred in the watershed since the 1940s" (EA p. 7). This expectation has not changed.

Due to the distance of the project to coho salmon (*Oncorhynchus kisutch*) and Coho Critical Habitat (CCH), and the associated project design features; the Deer Creek Fire Salvage project would have no effect on coho or CCH, nor would it have any adverse effects on Essential Fish Habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Therefore, informal or formal consultation with National Marine Fisheries Service is not necessary.

Based on the review of project effects at both the site and watershed scale and comparison of effects with each of the nine ACS objectives, we find that the Deer Creek Fire Salvage Project is consistent with the Aquatic Conservation Strategy (RMP EIS p. 2-5).

8/12/08

Sharon Frazey — Date
Fishery Biologist

8/12/08

Anthony Kerwin — Date
Planning and Environmental Coordinator

After reviewing the expected project effects and ACS consistency findings from the specialists, I find that this project is consistent with the Aquatic Conservation Strategy.

8/12/08

Abbie Jossie — Date
Grants Pass Field Manager