

# Determination of NEPA Adequacy (DNA)

U.S. Department of the Interior  
Bureau of Land Management

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Office: **Glendale Resource Area**

Tracking Number: DOI-BLM-OR-M080-2011-005-DNA

Casefile/Project Number: DOI-BLM-OR-M000-2009-0004-EA

Proposed Action Title/Type: 2011 Middle Cow Creek Instream Restoration Project

Location/Legal Description: T32S-R4W-21 (Fizzelout Creek), T32S-R5W-35 (Quines Creek), T32S-R8W-27 (Riffle Creek), and T33S-R7W-11(Rattlesnake Creek).

Applicant (if any): NA

## **A. Description of the Proposed Action and any applicable mitigation measures**

This project would improve fish passage within these creeks by restoring a more natural channel gradient by adding instream structures (logs and boulders) in all creeks listed above. Logs from adjacent riparian area or off-site would be used for instream large wood.

Mitigation measures include all work to be accomplished during the In-Water Work period (July 1- September 15) and project design features incorporate, as appropriate.

## **B. Land Use Plan (LUP) Conformance**

Following the March 31, 2011 decision by the United States District Court for the District of Columbia in Douglas Timber Operators et al. v. Salazar, which vacated and remanded the administrative withdrawal of the Medford District's 2008 ROD and RMP, we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD and RMP. Based upon this review, the selected alternative contains some design features not mentioned specifically in the 2008 ROD and RMP. The 2008 ROD and RMP did not preclude use of these design features, and the use of these design features is clearly consistent with the goals and objectives in the 2008 ROD and RMP. Accordingly, this project is consistent with the Medford District's 1995 RMP and the 2008 ROD/RMP.

## **C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.**

Revised Environmental Assessment for Aquatic and Riparian Habitat Enhancement  
EA# DOI-BLM-OR-M000-2009-0004-EA (June 2009).

Middle Cow Creek Watershed Analysis (October 1999).

Water Quality Restoration Plan Umpqua River Basin South Umpqua Subbasin Middle Cow Creek Bureau of Land Management (BLM), Medford District Office (2004).

Pursuant with the Endangered Species Act, BLM consulted on all actions authorized by the decision with the US Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). All proposed projects would be consistent with actions identified by the NMFS (Fisheries BO 2008/03506) and the USFWS (Wildlife BO #13420-2007-F-0055, LOC #13420-2008-1-0045 and Plant LOC #13420-2008-1-0136) for Programmatic Consultation on Fish Habitat Restoration Activities in Oregon and Washington. The in-Water Work period from July 1- September 15 is expected to have no affect to northern spotted owl sites.

#### **D. NEPA Adequacy Criteria**

- 1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?**

The proposed project is very similar to the proposed action, Alternative 2, which lists stream enhancement projects and the removal of legacy structures. The 2011 Middle Cow Creek Instream Restoration Project effects are fully analyzed under the Aquatic and Riparian Habitat Enhancement EA.

- 2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?**

The range of alternatives analyzed in the Aquatic and Riparian Habitat Enhancement EA is appropriate because Glendale Resource Area has not received or aware of any new environmental concerns or interests since the Decision was signed in 2009.

- 3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?**

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. Following the Court's December 17, 2009 ruling, the Pechman exemptions are still in place. Previously, in 2006, the District Court (Judge Pechman) had invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations. The 2011 Middle Cow Creek Instream Restoration Project meets Exemption C of the Pechman Exemptions (October 11, 2006 Order), and therefore may still proceed even if the District Court sets aside or otherwise enjoins use of the 2007

Survey and Manage Record of Decision. Exemption C allows riparian and stream improvement projects where the stream riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions.

The analysis in the Aquatic and Riparian Habitat Enhancement EA is appropriate because Glendale Resource Area has not received or aware of any other new information and new circumstances since the Decision was signed in 2009.

**4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?**

The proposed project is very similar to the proposed action, Alternative 2, (Aquatic and Riparian habitat Enhancement EA, p.6), which lists stream enhancement projects and the removal of legacy structures. The 2011 Middle Cow Creek Instream Restoration project effects are fully analyzed under the Aquatic and Riparian Habitat Enhancement EA.

**5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?**

Public involvement and interagency review for the EA were adequate. The EA was available for public comment for 21 days beginning on April 15, 2009. BLM received one comment but determined (Decision Record, p. 6) that their specific concerns were not affected by this project.

**E. Persons/Agencies /BLM Staff Consulted**

<b>Name</b>	<b>Title</b>	<b>Resource/Agency Represented</b>
Mike Crawford	Fisheries Biologist	Fisheries
Marlin Pose	Wildlife Biologist	Wildlife
Merry Haydon	Archaeologist	Cultural
Rachel Showalter	Botanist	Botany/Weeds

Note: Refer to the EA for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

**Conclusion**

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM’s compliance with the requirements of the NEPA.

*Michael W. Crawford*

Michael W Crawford  
Project Lead

*6-13-11*

Date

*Martin Lew*

Martin Lew  
NEPA Coordinator

*6/13/11*

Date

*Katrina Symons*

Katrina Symons  
Glendale Field Manager

*6/13/11*

Date

**Note:** The signed *Conclusion* on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.