

North Fork of East Fork Rock Creek In-stream Restoration 2011

Decision Document

(EA # OR-103-08-09)

Swiftwater Field Office, Roseburg District

Decision:

It is my decision to authorize the restoration project proposed by Oregon Department of Fish and Wildlife in the North Fork of East Fork Rock Creek. This project involves placement of in-stream large wood within the boundaries of the Swiftwater Field Office, consistent with restoration projects proposed and analyzed in the *Roseburg District Aquatic Restoration Environmental Assessment* (EA) #OR-103-08-09. The proposed project is funded by ODFW, and would be implemented by habitat restoration biologists from ODFW. The ODFW will be responsible for project design, contract preparation, contract award, and construction of the large wood project in the North Fork of East Fork Rock Creek. Design and work will be done consistent with the project design features (PDFs) outlined in the EA (pgs. 14-19).

Description of the Action:

North Fork of East Fork Rock Creek In-Stream Restoration: Up to 25 pieces of large wood, ranging in length from 10 to 25 feet, with diameters ranging from 8 to 12 inches at the small end, will be placed in the North Fork of East Fork Rock Creek (T. 25 S., R. 01 W., Section 18, Willamette Meridian). This wood is intended to float down to and wedge within larger log structures placed approximately a quarter-mile downstream, to help them seal and initiate a larger channel influence. This material will be placed directly into the stream channel where BLM road 25-1-18.0 crosses the stream. Wood will be placed using a self-loading log truck operating from the bridge crossing, thereby eliminating the need for heavy equipment and its associated ground disturbance within vegetated areas of the Riparian Management Area.

Survey and Manage Compliance

The *North Fork of East Fork Rock Creek In-Stream Restoration* project applies a 2006 Exemption from a stipulation entered by the court in litigation regarding Survey and Manage species and the 2004 Record of Decision related to Survey and Manage Mitigation Measure in Northwest Ecosystem Alliance v. Rey, No. 04-844-MJP (W.D. Wash., Oct. 10, 2006). Previously, in 2006, the District Court (Judge Pechman) invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations. Following the District Court's 2006 ruling, parties to the litigation entered into a stipulation exempting certain categories of activities from the Survey and Manage standards and guidelines, including both pre-disturbance surveys and known site management. Also known as the Pechman Exemptions, the Court's Order from October 11, 2006 directs:

"Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004), except that this order will not apply to:

- a. Thinning projects in stands younger than 80 years old;*
- b. Replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned;*
- c. Riparian and stream improvement projects where the 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;*
and

- d. *The portions of project involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging will remain subject to the survey and management requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph.*”

Per the 2011 Settlement Agreement, the 2006 Pechman Exemptions remain in force:

“The provisions stipulated to by the parties and ordered by the court in Northwest Ecosystem Alliance v. Rey, No. 04-844-MJP (W.D. Wash. Oct. 10, 2006), shall remain in force. None of the following terms or conditions in this Settlement Agreement modifies in any way the October 2006 provisions stipulated to by the parties and ordered by the court in Northwest Ecosystem Alliance v. Rey, No. 04-844-MJP (W.D. Wash. Oct. 10, 2006).”

The *North Fork of East Fork Rock Creek In-Stream Restoration* project meets Exemption C because this project only entails placement of large woody material in-stream for a riparian and stream improvement.

Rationale for the Decision:

The placement of large wood was analyzed under Alternative Two, the “Proposed Action”, of the *Roseburg District Aquatic Restoration EA* (pgs. 27-47). The placement of large wood meets the stated objectives of increasing stream complexity. Alternative One, the “No Action” alternative, will not meet the identified objectives, and the simplified habitat described in the EA (pg. 24) will remain. I considered the following potential resource impacts in making my decision.

Project design will be consistent with the PDFs described in the EA (pgs 14-19). As noted in the EA, these PDFs come from a variety of sources. Large wood placement projects incorporate requirements of the *Oregon Road/Stream Crossing Restoration Guide* (Oregon Department of Forestry 1999), the *Oregon Aquatic Habitat Restoration and Enhancement Guide* (The Oregon Plan, 1999), and the Aquatic Restoration Biological Opinions mentioned above. Installation of large woody material will incorporate Best Management Practices from the *Roseburg District Record of Decision/Resource Management Plan* (ROD/RMP, Appendix C, pgs. C-49 to C-50).

Conformance

The Roseburg District reviewed the design for this project and found it to be consistent with the Roseburg District’s 1995 RMP. 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 Roseburg District’s 2008 ROD/RMP, we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD/RMP.

The 2008 ROD/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/RMP. Accordingly, this project is consistent with the Roseburg District’s 1995 RMP and the 2008 ROD/RMP.

The implementation of this project will not have significant environmental effects beyond those already identified in the 2008 Final EIS/Proposed RMP. The *North Fork of East Fork Rock Creek In-Stream Restoration* project does not constitute a major federal action having significant effects on the human environment; therefore, an environmental impact statement will not be prepared.

Soils

Since the large wood will be placed from an existing bridge, no soil disturbance is anticipated. There may be some minor disturbance to the streambed substrate as wood is placed in the stream channel.

Aquatics

The project will not result in undue environmental degradation, and is consistent with Riparian Management Area (RMA) objectives (2008 ROD/RMP, pg. 35-36 and EA pg. 61-65). It will aid in maintenance and restoration of aquatic habitat. It is consistent the management objective "Provide for riparian and aquatic conditions that supply stream channels with shade, sediment filtering, leaf litter and large wood, and streambank stability." (2008 ROD/RMP, p. 35).

The potential effects to Oregon Coast coho salmon and other fish species are associated with direct fish disturbance, and potential sediment mobilized during placement of the woody material in the stream channel, which may cause minor disturbance to streambed substrate. These potential sediment effects also affect critical habitat and Essential Fish Habitat for Oregon Coast coho salmon. With application of the requirements of the project design features described above and identified and adopted in the National Marine Fisheries Service Aquatic Restoration Biological Opinion, dated June 27, 2008, effects of the project will be localized and short term. In addition, temporarily elevated turbidity levels may cause short-term stress to fish, but will not cause long term stress that may decrease survival rates (EA pg. 33-34). These limited effects will "not have an adverse effect" on critical habitat or Essential Fish Habitat (EA pg. 52). Placement of large wood will add stream complexity and cover for juvenile and adult coho salmon, steelhead trout, cutthroat trout, and Pacific lamprey to degraded stream habitat downstream.

Botany

The project area is within the range of Kincaid's lupine (*Lupinus sulphureus var. kincaidii*; a Federally-threatened species), however, habitat for the species is not present at this site. There are no potential impacts to special status species because the disturbance will occur in the stream channel outside of habitat for most of the species.

Noxious Weeds are present in the project vicinity. Surface disturbance with this project will be confined to the stream channel and would not increase the risk of spreading noxious weeds.

Wildlife

Threatened and Endangered Species

Northern Spotted Owl

The project will occur outside of the critical breeding period (March 1st thru July 15th), therefore there will be no disruption concerns for the northern spotted owl.

No suitable or dispersal spotted owl habitat will be removed or modified.

Northern Spotted Owl Critical Habitat

The project would not occur within Critical Habitat (2008) designated for the spotted owl.

Marbled Murrelet and Marbled Murrelet Critical Habitat

The project area falls outside the distribution range of the marbled murrelet.

Special Status Species

Migratory Songbirds

No habitat would be removed or modified and the project will occur outside of the critical breeding/nesting/rearing season of April 1 through August 1. Therefore, no impacts to migratory songbirds are anticipated.

Yellow-legged Frog

The project area is within yellow-legged frog habitat, and there are historic surveys documenting the presence of frogs within the general area. The project will occur outside the key breeding/rearing period of March 1 to June 30 thus reducing direct effects to yellow-legged frog egg masses and juveniles. An overall increase in quality and availability of habitat is expected to occur following completion of the project. The project is expected to increase the complexity of the stream by reducing stream velocities and developing a system of cobbles, riffles and pools as well as shallow backwaters. The shallow backwaters will create refugia for tadpoles and increase streamside sedge and other plant development for egg mass attachment and adult shelter.

Cultural

The North Fork of East Fork Rock Creek In-stream Restoration project is exempt from normal survey requirements under the 1997 National Programmatic Agreement and the 1998 Oregon Protocol, Appendix A (Survey Techniques for Densely Vegetated Areas of Western Oregon). The BLM has completed its NHPA Section 106 responsibilities with survey of the project area (CRS No. SW1107), which resulted in negative finding of cultural resources. The project will not affect any known sacred, religious, ceremonial or culturally significant Indian sites or National Register properties.

Public Involvement & Response to Comment:

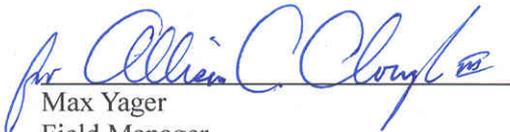
No issues were identified by any local or tribal governments, State agencies, or other Federal agencies.

The EA and Draft Finding of No Significant Impact (FONSI) were made available for public review from August 4, 2009, through September 4, 2009. No comments were received. The signed FONSI was published March 30, 2010.

Administrative Remedies:

As noted above, no comments were received on the EA during the 30-day public comment provided between August 4, 2009, through September 4, 2009. Consequently, no parties have established standing to appeal through participation under the National Environmental Policy Act. It is my decision to give full force and effect to the action described in this document and proceed with its implementation.

For further information, contact Max Yager, Field Manager, Swiftwater Field Office, Roseburg District, Bureau of Land Management, 777 NW Garden Valley Blvd; Roseburg, OR. 97471, (541) 440-4930.


Max Yager

Field Manager
Swiftwater Field Office

21 Sept 2011
Date

Figure 1: Map of the North Fork of East Fork Rock Creek In-stream Restoration project.

North Fork of East Fork Rock Creek Wood Placement 2011 (T.25S., R.01W., Section 18)

