

# Finding of No Significant Impacts (FONSI)

## Roseburg District Aquatic Restoration

Roseburg District  
Bureau of Land Management  
Environmental Assessment  
#OR-103-08-09

Date Prepared: March 22, 2010

The Bureau of Land Management (BLM), Roseburg District Office proposes a suite of actions targeted at restoring aquatic habitat throughout the Roseburg District (EA, pp. 9-21). The Aquatic Restoration EA (# OR-103-08-09) is programmatic in nature, and analyzes the effects of watershed restoration activities within the Roseburg District, based upon years of professional experience and review of available literature. Included in the proposed action are certain activities that would take place on privately owned lands (including, but not limited to livestock crossings and exclusions) and on federally administered lands (including, but not limited to riparian restoration, culvert replacement, etc). These actions were analyzed in the Aquatic Restoration EA and could be proposed to encompass federally administered lands, privately owned lands, or a combination of lands, but funded by the Bureau of Land Management. The programmatic analysis limits the amount of site-specific detail within the analysis, instead relying on project design features to reduce or avoid impacts to different resources. Potential projects would adhere to those laws and regulations that apply to those specific lands.

The analysis provides assumptions regarding the annual maximum of each type of restoration project that could be completed each year at both district-wide scale and for any single 5<sup>th</sup> field watershed (pp. 9-12). Additionally, the proposed actions would be scattered throughout the Roseburg District.

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. Previously, in 2006, the District Court (Judge Pechman) had invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations. Following the District Court's 2006 ruling, parties to the litigation had entered into a stipulation exempting certain categories of activities from the Survey and Manage standard (hereinafter "Pechman exemptions").

In evaluating the need for pre-disturbance surveys and/or management of known Survey and Manage species sites, 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* (2001 ROD) states that this Record of Decision "applies to administrative units of the USDA Forest Service and USDI Bureau of Land Management (BLM) . . . within the range of the northern spotted owl" (2001 ROD, pg. 1). Therefore, since privately owned lands are not included in this stipulation, it can be concluded that privately owned lands are not subject to pre-disturbance surveys. Potential projects (i.e. livestock crossings, riparian fencing, culvert replacements, etc.) that occur on privately owned lands may proceed.

Similarly, potential projects that are consistent with the 2001 ROD, as incorporated into the Roseburg District Resource Management Plan and that occur on federal lands, 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 Roseburg District Aquatic Restoration projects meet 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 (ASRs)).

Failing to comply with the 2001 Survey and Manage Record of Decision and Plan Amendment without subsequent ASRs, potential Roseburg District Aquatic Restoration projects that are consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Roseburg District Resource Management Plan, may proceed if they meet the Pechman exemptions.

Judge Pechman'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 Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (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."

Following the Court's December 17, 2009 ruling, the Pechman exemptions are still in place. 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 proposed action is designed to improve stream complexity, stream connectivity, and riparian vegetation as shown in Table 1, below:

**Table 1. Potential Restoration Actions**

<b>Actions to Address Aquatic &amp; Riparian Components / Degraded Components</b>	<b>Resulting Resource Limitations</b> (This list only includes the factors that most commonly limit water quality and aquatic habitat)	<b>Potential Restoration Actions</b>	<b>Pechman Exemption Met</b>
Stream Complexity	Lack of over-wintering habitat for salmonids & other aquatic organisms Lack of summer pool habitat for salmonids & other aquatic organisms Lack of spawning gravels for salmonids Elevated summer water temperature Over-widened channels	Instream structure placement Channel stabilization using barbs, plantings, and other techniques Riparian vegetation improvement Restoration of sinuosity	C
Stream Connectivity	Barriers to migration for fish and other aquatic organisms Barriers to flow of gravels and large wood	Stream crossing replacement Diversion dam removal Stream crossing removal	B C C
Riparian Vegetation	Elevated summer water temperatures Loss of channel stability leading to down-cutting and elevated sedimentation Lack of future source of large wood for the stream channel Lack of food supply for aquatic organisms	Eradication of invasive plants in riparian areas Planting native trees and shrubs Installation of livestock crossings Aggradations of stream bed to raise water table	C

**Test for Significant Impacts.**

1. Has significant impacts that may be both beneficial and adverse (40 CFR §1508.27(b) (1))?  
 Yes                       No

**Remarks:** The proposed action will have a short-term adverse impact to aquatic resources, but have a long-term beneficial impact to these resources, by addressing degraded components of healthy aquatic and riparian systems (Aquatic Restoration EA, p. 5). Effects to other resources will be localized and mitigated through use of the appropriate project design features (EA, pgs. 15-21). Furthermore, the proposed actions will occur on a small scale at locations scattered throughout the District; therefore, impacts to the affected human environment will not be significant (EA, pgs. 7, 29, 41).

2. Has significant adverse impacts on public health or safety (40 CFR §1508.27(b) (2))?  
 Yes                       No

**Remarks:** The BLM must comply with the Clean Water Act of 1972. Operational activities have the potential to increase suspended sediment in the short term, but after the first seasonal rains, erosion rates would stabilize and sediment delivery would be indistinguishable from background levels, resulting in no measureable change to water quality. These groups of aquatic restoration activities would not measurably impact water quality (Aquatic Restoration EA, pgs 31-32).

3. Adversely effects such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains or ecologically significant or critical areas including those listed on the Department's National Register of Natural Landmarks (40 CFR §1508.27(b) (3))?

Yes  No

**Remarks:** As stated in Chapters One and Two of the EA, each project location will be inventoried for unique geographic features (such as those described above). If the presence of unique geographic features is found, they will be documented on a project by project basis. Operations would be suspended until the site has been evaluated to determine the appropriate mitigation action. Mitigation might include avoidance or systematic excavation of a portion of the site (EA, pg. 16, 61).

4. Has highly controversial effects on the quality of the human environment (40 CFR §1508.27(b) (4))?

Yes  No

**Remarks:** The BLM conducts aquatic restoration projects on a regular basis. Effects are expected to be consistent with those documented in the FEIS and literature cited in the EA. Years of professional experience, review of available literature, and consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, the BLM has carried out aquatic restoration projects. The effects are known and experience has shown that the small scale of disturbance and the methods and PDFs used do not measurably increase or extend adverse effects in the stream channel (pgs. 4, 33, 34, 42).

5. Has highly uncertain or involves unique or unknown risks to the human environment (40 CFR §1508.27(b) (5))?

Yes  No

**Remarks:** The risks to the human environment from the project were analyzed in the Roseburg District Aquatic Restoration EA and found not to be highly uncertain or unique. The risks to the human environment are known and experience has shown that the small scale of disturbance and the methods and PDFs used are not unique and do not measurably impact it.

6. Establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration (40 CFR §1508.27(b) (6))?

Yes  No

**Remarks:** The proposed restoration actions are consistent with the management direction provided in the Roseburg District 1995 Record of Decision and Resource Management Plan (ROD/RMP, pgs. 20, 21). The potential projects are a well-established actions and do not establish a precedent for future actions, nor represent any decision in principle about future considerations, as any new proposals would be subject to same site-specific evaluation, analysis, and authorization.

7. Is related to other actions with individually insignificant but cumulatively significant impacts (40 CFR §1508.27(b) (7))?  
 ( ) Yes (✓) No

**Remarks:** The impacts to watershed health (pp. 26-30), water quality (pp. 30-32), fisheries (p. 32-34) and wildlife (pp. 34-47) were analyzed in the *Roseburg District Aquatic Restoration EA*. After review of the document, the analysis therein, and the mitigating PDFs, these impacts are found not to be significant due to the limited footprint each individual project is expected to leave on the landscape and the diffuse nature of the projects scattered throughout the District.

8. Has adverse effects on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources (40 CFR §1508.27(b) (8))?  
 ( ) Yes (✓) No

**Remarks:** As stated in Chapters One and Two of the EA, the BLM will conduct pre-project inventories and implement necessary mitigation measures to ensure compliance with Section 106 of the National Historic Preservation Act under the guidance of the 1997 National Programmatic Agreement and the 1998 Oregon Protocol. Compliance with Section 106 and/or the presence of other unique geographic features will be documented on a project by project basis and discussed as needed in project-specific decisions. Operations would be suspended until the site has been evaluated to determine the appropriate mitigation action. Mitigation might include avoidance or systematic excavation of a portion of the site (EA, pg. 16, 61).

9. May adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (40 CFR §1508.27(b) (9))?

Botanical Species	( ) Yes	(✓) No
Fish Species	( ) Yes	(✓) No
Wildlife Species	( ) Yes	(✓) No

**Remarks:** As described in Chapters One and Two of the EA, each project-specific location will be evaluated for the presence of federally listed species, their suitable habitat and their Critical Habitat. Project design features (pp. 15-19) will be employed as appropriate to minimize or avoid impacts to federally listed species.

If Kincaid's lupine is found at a project-specific location, use of PDF #54 (p. 19) will modify the project to avoid impacts to the species; therefore, the proposed actions will have no effect on listed botanical species

Programmatic consultation with the U.S. Fish & Wildlife Service for aquatic and riparian habitat restoration was completed in 2007. This consultation covers all projects of the proposed actions within this EA, except the potential for "pulling over large trees" to create structure in stream channels. Further, it provides extensive project design features to be used in aquatic restoration projects. A Biological Opinion was received on June 14, 2007 (TAILS# 13420-2007-F-0055) that determined the suite of proposed actions,

implemented with project design features, *may affect, but is not likely to adversely affect* the northern spotted owl, marbled murrelet or their Critical Habitats.

Programmatic consultation was also completed with the National Marine Fisheries Service in 2007. NMFS consultation covers all potential activities analyzed in the EA (NMFS Number 2008/03506). Further, it provides extensive project design features to be used in aquatic restoration projects. A final supplemental Letter of Concurrence was received on June 27, 2008 (NMFS Nos. #2008/03506) that concurred with the BLMs conclusion that the suite of proposed actions *may affect, but is not likely to adversely affect* Oregon Coast coho salmon.

Should the BLM propose pulling over large trees, consultation with USFWS will be needed and the results of that consultation will be disclosed in the project and FONSI regarding significance at the time of those specific-decisions.

10. Threatens to violate Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR §1508.27(b) (10))?

( ) Yes                      (✓) No

**Remarks:** The proposed action was designed in conformance with the management direction from the ROD/RMP which is in compliance with applicable laws. Conformance to the land use plan ensures compliance with all applicable Federal, State and local laws.

Based on the analysis of potential impacts contained in the environmental assessment, I have determined that most of the Roseburg District Aquatic Restoration activities will not have a significant impact on the human environment within the meaning of Section 102(2) (c) of the National Environmental Policy Act of 1969, and that an environmental impact statement is not required. I withhold a Finding on the “pulling” or harvest of large diameter trees (greater than 20 inches dbh), as this particular action has not been consulted upon with the U.S. Fish and Wildlife Service. I have determined that the proposed action, with the single exception as stated will be in conformance with the *Record of Decision and Resource Management Plan* (ROD/RMP) for the Roseburg District, approved by the Oregon/Washington State Director on June 2, 1995.

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Jay Carlson  
Roseburg District Manager

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Date