

**Decision Record**  
**Rocky Point Bald Eagle Habitat Enhancement Project**  
**Environmental Assessment # DOI-BLM-OR-S060-2010-0006-EA**

## **I. INTRODUCTION**

The Bureau of Land Management (BLM) conducted an environmental analysis documented in *Rocky Point Bald Eagle Habitat Enhancement Project Environmental Assessment* (EA # DOI-BLM-OR-S060-2010-0006-EA) and the associated project file. The proposed project will treat approximately 365 trees over approximately 92 acres. There are two types of treatment, topping of about 25 large mature Douglas-fir trees high in the crown to facilitate platform development for potential eagle nest trees, and releasing from competition medium sized Douglas fir trees by felling and girdling adjacent smaller trees which will be left on site to augment coarse woody debris. The EA was made available for public review in April 2011. The FONSI was then signed on May 16, 2011.

The decision documented in this Decision Record (DR) is based on the analysis documented in the EA.

## **II. DECISION**

I have decided to implement the Rocky Point Bald Eagle Habitat Enhancement Project as described in Alternative 2, the Proposed Action (EA pp.11-13). This decision is based on site-specific analysis in the Rocky Point Bald Eagle Habitat Enhancement Project Environmental Assessment (EA # DOI-BLM-OR-S060-2010-0006-EA), the supporting project record, management recommendations contained in the *Scappoose Creek Watershed Analysis*, (December 1996), as well as the management direction contained in the *Salem District Record of Decision/Resource Management Plan* (ROD/RMP) (May 1995), which are incorporated by reference in the EA. Hereafter, Alternative 2 is referred to as the “selected alternative”.

The project is expected to be implemented through commercial contract.

### **Modifications:**

None.

### **Decision Summary:**

The proposal would treat approximately 365 conifers and hardwoods scattered throughout the project area with two specific types of treatments. Treatments would include topping dominant conifers within the live crown, and releasing dominant conifers by either removing the bark and cambium at the base of adjacent trees (basal girdling) or felling adjacent trees. Specifically, the treatments are:

- Topping within the live crown - BLM personnel would select approximately 25 dominant overstory conifers from four areas totaling approximately 24 acres that have a birth date of 1890. Selected trees would have the top of the tree completely severed with a chainsaw at a point approximately 30 feet from the top of the tree. The purpose of this treatment would be to create a deformation at this point and have alternate branches take over as the leader, thus creating additional horizontal structure within the tree. Horizontal structure of this type could produce platforms capable of supporting potential eagle nests and large limbs that could act as roost sites.
- Individual tree release – Contractors would select approximately 85 dominant overstory conifers with a birth date of 1930 and release them from competition through a combination of snag creation (basal-girdling or topping below the live crown) and felling of four trees around each selected release tree (340 treated trees in total over approximately 68 acres). The purpose of this treatment would be to accelerate growth rates and crown development of the selected dominant trees and hasten the establishment of bald eagle nesting and roosting sites within the project area over time.

### III. COMPLIANCE WITH DIRECTION

The Salem District initiated planning and design for this project to conform and be consistent with the Salem District’s 1995 Record of Decision and Resource Management Plan (1995 ROD/RMP).

#### Survey and Manage Species Review:

The Rocky Point Bald Eagle Habitat Enhancement Project is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Salem District Resource Management Plan.

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”).

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 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. Nevertheless, the Rocky Point Bald Eagle Habitat Enhancement Project has been reviewed in consideration of both the December 17, 2009 and October 11, 2006 orders. The ID team determined that the Rocky Point Project is not a ground-disturbing activity, and would have no effect on any potentially present Survey and Manage species with the exception of two lichen species, *Hypogymnia duplicata* and *Platismatia lacunosa*. *H. duplicata* is uncommonly found on the boles of older conifers while *P. lacunosa* is uncommonly found on red alder in moist riparian forests. Botanical surveys for these two species were completed in May 2010 with no detections. Therefore, the Rocky Point Bald Eagle Habitat Enhancement Project is in compliance with the Survey and Manage mitigation measure and it may be implemented even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision.

#### **IV. ALTERNATIVES CONSIDERED**

##### **Alternatives Considered but Not Analyzed in Detail:**

None.

##### **Alternatives Considered in Detail:**

The EA analyzed the effects of the proposed action and the no action alternatives. Complete descriptions of the "action" and "no action" alternatives are contained in the EA, pages 11-13.

#### **V. DECISION RATIONALE**

Considering public comment, the content of the EA and supporting project record and the management direction contained in the ROD/RMP, I have decided to implement the selected alternative as described above. The following is my rationale for this decision.

1. The selected alternative:
  - Meets the purpose and need of the project (EA section 2.1).
  - Complies with the *Salem District Record of Decision and Resource Management Plan*, May 1995 (RMP) and related documents which direct and provide the legal framework for

- management of BLM lands within the Salem District (EA pp. 8-9).
- Is fully compliant 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* (January 2001).
  - Will not have significant impact on the affected elements of the environment beyond those already anticipated and addressed in the RMP EIS.
  - Has been adequately analyzed.
2. The No Action alternative was not selected because it does not meet the Purpose and Need directly, or delays the achievement of the Purpose and Need (EA section 2.1).

## **VI. PUBLIC INVOLVEMENT/CONSULTATION/COORDINATION**

### **Scoping:**

External scoping (seeking input from people outside of the BLM) was conducted by means of a scoping letter for the Rocky Point Bald Eagle Habitat Enhancement Project sent out to 11 municipal government agencies, nearby landowners, and interested parties on the Tillamook Resource Area mailing list on October 13, 2010. In addition, a description of the proposal was included in the Salem Bureau of Land Management Project Update for Fall 2010, which was mailed to more than 1000 individuals and organizations.

A total of two comment letters were received as a result of this scoping. A summary of the comments and BLM responses are in EA Appendix 1.

### **Comment Period and Comments:**

Based on the original response, a notification of availability of the EA, or the EA itself, was mailed to two agencies, individuals and organizations on April 1, 2011. A legal notice was placed in the *South County Spotlight* newspaper soliciting public input on the action on April 6, 2011. A total of two comments were received during the 30 day comment period for the EA. Responses to these comments can be found in Appendix A of this DR.

### **Consultation/Coordination:**

The Rocky Point Bald Eagle Habitat Enhancement Project will not result in any impacts to ESA listed fish or wildlife species therefore Section 7 consultation and/or coordination with the U. S. Fish and Wildlife Service or National Marine Fisheries Service is not necessary.

## VII. CONCLUSION

### Review of Finding of No Significant Impact

I have determined that change to the Finding of No Significant Impact covering the Rocky Point Bald Eagle Habitat Enhancement Project is not necessary because I've considered and concur with information in the EA and FONSI and this Decision Record. No new information was provided that lead me to believe the analysis, data or conclusions are in error or that the selected action needs to be altered. The selected action would not have effects beyond those already anticipated and addressed in the RMP EIS.

Supplemental or additional information to the analysis in the RMP EIS in the form of a new environmental impact statement is not needed for the reasons described in the Finding of No Significant Impact (FONSI, pages 1-4).

### Administrative Review Opportunities

The decision described in this document is a forest management decision and is subject to protest by the public. In accordance with Forest Management Regulations at 43 CFR 5003, protests of this decision may be made within 15 days of the publication of a notice of decision in a newspaper of general circulation. This notice of decision will be published in the *South County Spotlight* newspaper on or before **May 25, 2011**. To protest this decision a person must submit a written protest to Tillamook Field Manager, 4610 Third Street, Tillamook, Oregon 97141 by the close of business (4:30 p.m.) on **June 8, 2011**. The protest must clearly and concisely state the reasons why the decision is believed to be in error.

As interpreted by BLM, the regulations do not authorize the acceptance of protests in any form other than a signed, written hard copy that is delivered to the physical address of the BLM Tillamook Resource Area Office. If no protest is received by the close of business (4:30 pm) on **June 8, 2011**, this decision will become final. If a timely protest is received, the project decision will be reconsidered in light of the statement of reasons for the protest and other pertinent information available, and the Tillamook Resource Area will issue a protest decision.

Approved by: /s/ Stephen M. Small  
Stephen M. Small  
Tillamook Resource Area Field Manager

May 16, 2011  
Date

## APPENDIX A:

### **Response to Public Comments Received On The Rocky Point Bald Eagle Habitat Enhancement Project Environmental Assessment and FONSI (EA # DOI-BLM-OR-S060-2010-0006-EA)**

On April 1, 2011, a notice stating that the Rocky Point Bald Eagle Habitat Enhancement Project EA and FONSI was available for public comment was sent to 2 individuals, organizations and agencies (Project Record Document 10). Additionally, legal notice was placed in the *South County Spotlight* newspaper of Scappoose, Oregon soliciting public input on the action on April 6, 2011. As a result of this scoping effort, two e-mails providing comments were received - Project Record Document 12 from Doug Heiken at Oregon Wild and Project Record Document 13 from Janelle St. Pierre of the Scappoose Bay Watershed Council.

The following are comments received and BLM's responses to those comments.

#### **Project Record Document 12 – Doug Heiken – Oregon Wild**

Doug Heiken, Oregon Wild  
PO Box 11648, Eugene OR 97440  
[dh@oregonwild.org](mailto:dh@oregonwild.org), 541.344.0675

**Comment 1** – “This looks like a good project, though it is tilted toward a single-interest in bald eagles at a very local scale instead of our preferred approach to restoration based on ecological structures, functions, and processes operating across the landscape.”

**BLM Response** – Thank you for your support. The Rocky Point Project area is being managed as part of a BLM Bald Eagle Management Area where eagles are given special emphasis. That being said, the project was designed to have general ecological benefits by releasing trees from competition and creating coarse woody debris which will benefit other wildlife species as well as eagles. This project is being funded by Title II county payment funds from Multnomah County, a county that receives very little county payment funding and where the BLM has very little land, thus the limited scale of the project.

**Comment 2** – “We think that the large conifers have already overtopped the nearby hardwoods, and the conifers will just keep growing and dominating the adjacent hardwoods. We would prefer that release be focused on removing competing conifers instead of hardwoods.”

**BLM Response** – While it may not be readily obvious from the project design features, the release areas are generally dominated by conifers but do have a substantial hardwood component that is competing for site resources other than light. We expect that the implementation of this project will find many more conifers felled than hardwoods but we feel that in some cases felling hardwoods (which are

primarily big leaf maple) will also enhance the selected conifer tree growth. Additionally, creating hardwood coarse wood will greatly benefit some species of terrestrial mollusks that favor hardwoods.

**Project Record Document 13 – Janelle St. Pierre – Scappoose Bay Watershed Council**

Janelle St. Pierre, Coordinator  
Scappoose Bay Watershed Council  
503-397-7904

**Comment 1** – “Thank you for the opportunity to review the EA and FONSI. The Watershed Council is supportive of this project. We would be interested in receiving a report on future results of the project when one is prepared.”

**BLM Response** – Thank you for your support. We don’t expect to see definitive results for some time so this project may not be monitored for five or ten years but as we do our programmatic monitoring we will keep your request in mind.