

Decision Record
East Beaver Project
Environmental Assessment # DOI-BLM-OR-S060-2011-0006-EA

I. INTRODUCTION

The Bureau of Land Management (BLM) conducted an environmental analysis documented in the *East Beaver Project Environmental Assessment* (EA # DOI-BLM-OR-S060-2011-0006-EA) and the associated project file. The proposed project is to construct approximately 0.3 miles of new low standard road on Siuslaw National Forest land and decommission 3.5 miles of BLM-controlled road in the upper East Beaver Creek subwatershed. The EA was made available for public review in May 2011. The Finding of No Significant Impact (FONSI) was then signed on June 10, 2011.

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

The Siuslaw National Forest, Hebo Ranger District, is a designated Cooperating Agency on the East Beaver Project because of the proposed new access road on Forest Service lands. A section is provided at the end of this Decision Record for the Hebo Ranger District to approve the analysis (documented in the EA) of the impacts of the new access road on the environment, and to make the decision to allow the new access road construction. With that exception, this document is written for the BLM Field Manager's decision to construct the new road and decommission 3.5 miles of BLM-controlled road.

II. DECISION

I have decided to implement the East Beaver Project as described in Alternative 2, the Proposed Action (EA pp.8-10). This decision is based on site-specific analysis in the East Beaver Project Environmental Assessment (EA # DOI-BLM-OR-S060-2011-0006-EA), the supporting project record, management recommendations contained in the *Nestucca Watershed Analysis* (October 1994), 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 in 2011 and 2012.

Modifications:

There are no modifications to the East Beaver Project from the description in the EA.

Decision Summary:

Approximately 0.3 miles of new low standard road construction will occur on Siuslaw National Forest land. Approximately 3.5 miles of BLM-controlled roads will be decommissioned (remove culverts, pullback sidecast, waterbar surface) and blocked to vehicle access. The new road construction is expected to occur in 2011, and the road decommissioning is expected to occur in 2012.

All design features for road work described in the EA (EA pp. 9-10) are incorporated into the selected alternative.

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). 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 Salem District's 2008 Record of Decision and Resource Management Plan (2008 ROD/RMP), we evaluated this project for consistency with both the 1995 ROD/RMP and the 2008 ROD/RMP. Based upon this review, the selected alternative contains some design features not mentioned specifically in 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 Salem District's 1995 ROD/RMP and the 2008 ROD/RMP.

Survey and Manage Species Review:

The East Beaver 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 East Beaver Project has been reviewed in consideration of both the December 17, 2009 and October 11, 2006 order. Because the road decommissioning portion of the East Beaver Project entails replacing culverts on system roads that are in use and removing culverts on roads that are to be decommissioned, I have made the determination that this portion of the project meets Exemption B of the Pechman Exemptions (October 11, 2006 Order). The new access road construction portion of the project does not fall under a Pechman Exemption; therefore the area affected by the road was surveyed to protocol as required by the 2001 ROD (two surveys were conducted for mollusks). No survey and manage species were found. For the above reasons, I have determined that the East Beaver Project may still proceed to be implemented even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision since the Pechman exemptions would remain valid in such case and the required surveys would have been completed.

Northern Spotted Owl (NSO) Status Review:

The following information was considered in the analysis of the selected alternative: a/ *Scientific Evaluation of the Status of the Northern Spotted Owl* (Sustainable Ecosystems Institute, Courtney et al. 2004); b/*Status and Trends in Demography of Northern Spotted Owls, 1985-2003* (Anthony et al. 2004); c/ *Northern Spotted Owl Five Year Review: Summary and Evaluation* (USFWS, November 2004); and d/*Northwest Forest Plan – The First Ten Years (1994-2003): Status and trend of northern spotted owl populations and habitat, PNW Station Edit Draft* (Lint, Technical Coordinator, 2005). In summary, although the agencies anticipated a decline of NSO populations under land and resource management plans during the past decade, the reports identified greater than expected NSO population declines in Washington and northern portions of Oregon, and more stationary populations in southern Oregon and northern California.

The reports did not find a direct correlation between habitat conditions and changes in NSO populations, and they were inconclusive as to the cause of the declines. Lag effects from prior harvest of suitable habitat, competition with Barred Owls, and habitat loss due to wildfire were identified as current threats; West Nile Virus and Sudden Oak Death were identified as potential new threats. Complex interactions are likely among the various factors. This information has not been found to be in conflict with the NWFP or the RMP (*Evaluation of the Salem District Resource Management Plan Relative to Four Northern Spotted Owl Reports, September 6, 2005*).

IV. ALTERNATIVES CONSIDERED

Alternatives Considered but Not Analyzed in Detail:

Temporary Access into Project Area and Stabilize BLM Roads

The IDT considered an alternative that would provide access to the project area by constructing some form of temporary access (such as temporary bridges or fords) across the washed-out County road

segment in section 15 and stabilized all the BLM-controlled roads above that location in the watershed. This alternative was not analyzed in detail because the Oregon Department of Forestry (ODF) intends to have permanent access into the project area if BLM has not already done so, which would require ODF to build a new road into the area and then remove a large portion of the waterbars and likely replace several culverts removed by BLM in order to access ODF lands. This would negate any benefits from the temporary access road and road stabilization approach, and so this alternative was dropped from further consideration in the EA.

Alternatives Considered in Detail:

The EA analyzed the effects of the proposed action and another action alternative that would repair or improve the BLM-controlled roads in the project area, and the no action alternatives. Complete descriptions of the alternatives are contained in the EA, pages 8-11.

V. DECISION RATIONALE

Considering public comment, the content of the EA and supporting project record, the management recommendations contained in the Nestucca Watershed Analysis, 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 1.2).
 - 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 p. 5).
 - 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).
 - Considers new information on the northern spotted owl (DR p.3).
 - Will not have significant impact on the affected elements of the environment beyond those already anticipated and addressed in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS).
 - 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 1.2).

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 East Beaver Project sent out to 18 municipal government agencies, nearby

landowners, and interested parties on the Tillamook Resource Area mailing list on March 4, 2011. In addition, a description of the proposal was included in the Salem District Project Updates for Fall 2010 and Winter 2011, which were mailed to more than 1000 individuals and organizations.

A total of six comment communications were received as a result of this scoping. Five of the six communications were simple statements of support and require no response. A letter from the Rocky Mountain Elk Foundation (Project Record Document 12) had some suggestions that are summarized and responded to by BLM in *EA Section 1.4.1*.

Comment Period and Comments:

Based on the original response, the EA was mailed to 8 agencies, individuals and organizations on May 31, 2011. It was also posted on the Salem District internet page. No comments were received during the 15-day comment period for the EA.

Consultation/Coordination:

Wildlife Consultation

Due to the low probability of minor disturbance to spotted owls and marbled murrelets from the road decommissioning work, this portion of the project would conform to and thus be included in the “Informal Programmatic Consultation for Activities With Potential to Disturb Spotted Owls (*Strix occidentalis caurina*) and Marbled Murrelets (*Brachyramphus marmoratus*) Within the North Coast Planning Province for FY 2010-2013 (13420-2009-I-0152)”, for which a “Letter of Concurrence” has been received. The new road construction on USFS land would conform with and thus be included in the BLM portion of the “Biological Assessment of Habitat Modification Projects Proposed During Fiscal Years 2011 and 2012 in the North Coast Planning Province, Oregon, That Are Not Likely to Adversely Affect (NLAA) Northern Spotted Owls or Marbled Murrelets and their Critical Habitats (134320-2010-I-0105)”, for which a “Letter of Concurrence” has been received.

Fisheries Consultation

Consultation on the road decommissioning portion of this project (USFWS and NMFS) will be completed by including it in the completed Aquatic Restoration Biological Opinion (ARBO) *USDI – US Fish and Wildlife Service. June 14, 2007. Biological Opinion and Letter of Concurrence USDA Forest Service, USDI Bureau of Land Management and the Coquille Indian Tribe for Programmatic Aquatic Habitat Restoration Activities in Oregon and Washington That Affect ESA-listed Fish, Wildlife and Plant Species and their Critical Habitats. US Fish and Wildlife Service, Portland OR. 258 pages.* The new road construction on USFS land will have “No Effect” on ESA-listed fish, critical habitat, and Essential Fish Habitat and would not require further consultation.

Coordination with Other Agencies

There have been ongoing discussions with The Hebo Ranger District, Siuslaw National Forest, regarding the proposed new road construction on USFS lands. The Hebo District was designated as a Cooperative Agency in development of the EA. There have also been discussions with Oregon Department of Forestry and Tillamook County Public Works about present and future access needs into the project area.

