

Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA)

**U.S. Department of the Interior
Bureau of Land Management (BLM)
Salem District, Oregon
Tillamook Field Office**

East Beaver Creek Fish Habitat Restoration

DOI-BLM-OR-S060-2015-0007-DNA

- A. **Location of Proposed Action:** T2S-R8W-Sec 29, 31 and 32. Willamette Meridian, Tillamook County Oregon. See Figure 1

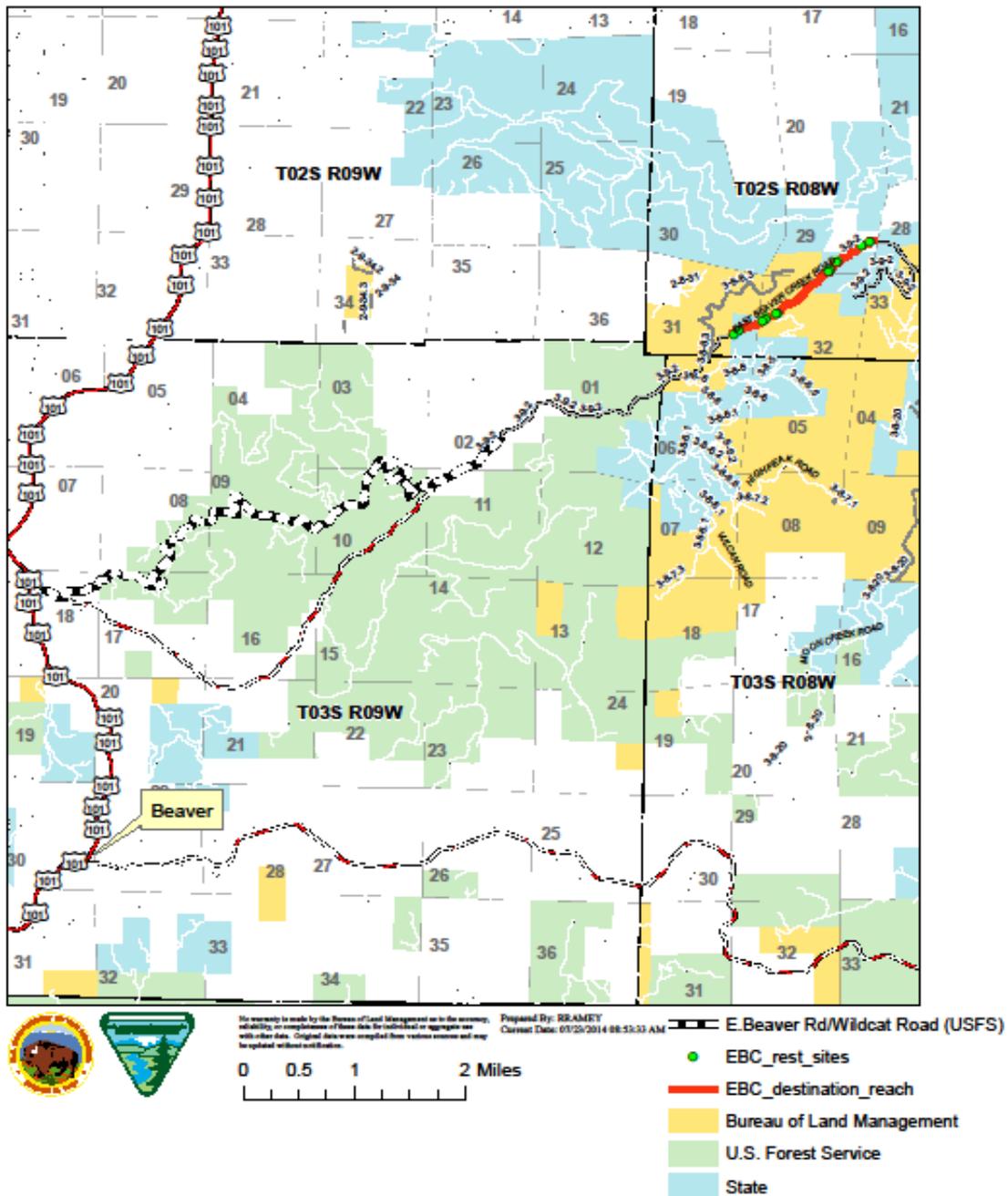
Description of Proposed Action:

The East Beaver Creek Fish Habitat Restoration Project proposes to place 57 trees and 220 boulders into the East Beaver Creek sub-basin of the Nestucca River Watershed. The project will use an excavator and/or other heavy equipment to place the habitat material in approximately 2 miles of East Beaver Creek. The project is located approximately 9 miles Northeast of Beaver Oregon, on Lands managed by BLM, Oregon Department of Forestry and Stimson Timber Co. Project actions may occur between July 6th and September 15th 2015.

The proposed action is an “instream structure and gravel placement– excavator-type placement” (2.3.1.1) project, which was described and analyzed in the *Salem District Aquatic and Riparian Habitat Restoration Environmental Assessment* (2012; DOI-BLM-OR-S0000-2012-0001-EA; the Restoration EA). “Place large wood and/or boulders in stream channels and adjacent floodplains to increase channel stability, rearing habitat, pool formation, spawning gravel deposition, channel complexity, hiding cover, low velocity areas, and floodplain function. Large wood (LW) and boulder projects would be designed to allow fish passage through or over structures at all stream flows.” (EA pg. 14)

FIGURE 1: Instream Large Wood Location

East Beaver Creek Instream Restoration 2015



B. Conformance with the Land Use Plan (LUP) and Legislative Authority, Consistency with Related Subordinate Implementation Plans

LUP Name: *Salem District Record of Decision and Resource Management Plan*, dated May, 1995 (ROD/RMP) and *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, dated September 1994 (FEIS)

This action is also in conformance with the following documents:

- *Record of Decision and Standard and Guidelines for Amendments to the Survey and Manage, Protection Buffer and other Mitigation Measures Standards and Guidelines*. (USDA and USDI, January 2001) (S&M ROD)
- *Revised Recovery Plan for the Northern Spotted Owl* (*Strix occidentalis caurina*). (U.S. Fish and Wildlife Service. 2011) (Spotted Owl Recovery Plan)
- *The Omnibus Consolidated Appropriations Act of 1997, Wyden Amendment - Public Law 104-208, Section 124 as amended by Public Law 105-277, Section 136 (16 U.S.C. 1011(a))*, which provides authority for the Secretary of Interior to enter into cooperative agreements with other federal agencies, tribal, state, and local governments, private and nonprofit entities, and landowners for the protection, restoration, and enhancement of fish and wildlife habitat and other resources on public or private land.

The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUP decisions:

The 1995 RMP declares that “the most important components of a watershed restoration program are control and prevention of road related runoff and sediment, restoration of the condition of riparian vegetation, and *restoration of instream habitat complexity*” (emphasis added, p. 7). Management Actions/Directions addressing watershed restoration include using instream structures to restore stream channel complexity. Maintain and restore the species composition and structural diversity of plant communities in riparian zones and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of coarse woody debris sufficient to sustain physical complexity and stability (1995 RMP, p. 5-6).

Survey and Manage Species Review

The East Beaver Creek, Fish Habitat Restoration 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. 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.

Plaintiffs and Defendants entered into settlement negotiations that resulted in the 2011 Survey and Manage Settlement Agreement, adopted by the District Court on July 6, 2011. The Ninth Circuit Court of Appeals issued an opinion on April 25, 2013, that reversed the District Court for the Western District of Washington's (the District Court) approval of the 2011 Survey and Manage Settlement Agreement. The April 25, 2013, ruling in favor of the Defendant-Intervener remanded the case back to the District Court.

On February 18, 2014, the District Court vacated the 2007 RODs. Vacatur of the 2007 RODs resulted in returning the BLM to the status quo in existence prior to the 2007 RODs. 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 District Court's February 18, 2014 ruling, the Pechman exemptions remained in place. The proposed action has been reviewed in consideration of Judge Pechman's October 11, 2006, order. Because the proposed action is a riparian and stream improvement project where the riparian work is placement of large wood and boulders in streams, this project meets Exemption C of the Pechman Exemptions (October 11, 2006, Order).

C. Identify the applicable NEPA document(s) and other related documents that cover the proposed action.

Applicable NEPA Documents:

Salem District Aquatic and Riparian Habitat Restoration Environmental Assessment and Finding of No Significant Impact, Environmental Assessment Number OR-S0000-2012-0001-EA, March 2012.

Salem District Proposed Resource Management Plan/Final Environmental Impact Statement, September 1994.

Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl, February 1994.

Decision Memo: East Beaver Creek LWD Project (CE). Hebo Ranger District, Siuslaw National Forest Tillamook County, Oregon Township 3 South, Range 10 West, Sections 22,23, 27, 33,34 July 2014.

Other Related Documents:

Endangered Species Act (ESA) Consultation:

Fish:

Reinitiating of the Endangered Species Act Section 7 Formal Programmatic Conference and Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Aquatic Restoration Activities in the States of Oregon and Washington (ARBO II) [NMFS reference No. NWP-2013-9664]

Wildlife:

U.S. Fish and Wildlife. 2013. Programmatic Biological Opinion for Aquatic Habitat Restoration Activities in the States of Oregon, Washington and portions of California, Idaho and Nevada. (ARBOII) (FWS reference 01EOFW00-2013-F-0090). Oregon Fish and Wildlife Office, Portland, OR

D. NEPA Adequacy Criteria

1. Is the current proposed action substantially the same action (or is a part of that action) as previously analyzed?]

Yes. The analysis in the Restoration EA assumed that instream projects, such as the proposed action, would occur in less than approximately 10 stream miles over the Salem District BLM per year. The proposed action would occur in about 2 stream miles and would not contribute to an extent of work or impact beyond that analyzed in the Restoration EA. Of the 10 stream miles anticipated annually, the Salem District has 3.5 stream miles planned in 2015.

The proposed action, therefore, relies on the Restoration EA, and the associated Decision Record (March 22, 2012), for impact analysis as required under the National Environmental Policy Act (NEPA), authorizing implementation of this action.

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

Yes. The Environmental Assessment analyzed and disclosed the predicted environmental effects of two alternatives to the Salem District Aquatic and Riparian Habitat Restoration; Alternative 1 (No Action) and Alternative 2 (Proposed Action) which was an appropriate range given the purpose and need for the project.

Alternative 1 – was the “No Action” Alternative which describes the baseline against which the effects of the proposed action can be compared, i.e. the existing conditions in the project area and the continuing trends in those conditions if there is no implementation of any habitat enhancement projects.

Alternative 2 – Under this alternative, a range of watershed restoration actions would be undertaken, grouped into the categories described (in stream habitat, roads and culverts, and riparian treatments). All proposed projects would be consistent with actions identified by National Marine Fisheries Services (NMFS) (Fisheries BO No. 2013-9664), the United States Fish and Wildlife Service (USFWS) (Wildlife BO# 01EOFW00-2013-F-0090) for Programmatic Consultation on Fish Habitat Restoration Activities in Oregon and Washington, or, when appropriate, the NMFS Biological Opinion for Programmatic Activities of USDA Forest Service, USDI Bureau of Land Management, and Coquille Indian Tribe in Western Oregon.

Both Alternatives are described in detail in EA OR-S0000-2012-0001 sections 2.2 and 2.3. The selected alternative is Alternative 2. No new environmental concerns, interests, resource values, or circumstances have been revealed since the EA was published in March, 2012 that would indicate a need for additional alternatives. The instream habitat project identified in this DNA is consistent with the scope and effects found in this programmatic alternative.

3. Is the existing analysis adequate and are the conclusions adequate in light of any new information or circumstances (including, for example, riparian proper functioning condition reports; inventory and monitoring data; most recent Fish and Wildlife Service lists of threatened, endangered, proposed, and candidate species; most recent BLM lists of sensitive species)? Can you reasonably conclude that all new information and all new circumstances are insignificant with regard to analysis of the proposed action?

Yes. Several changes have occurred and new information has accrued since the EA was published in March, 2012, but none has affected the adequacy of the analysis. Notable changes are:

- On November 21, 2012, in compliance with an order from a U.S. District Court, the USFWS finalized the 2012 designation of Critical Habitat for the spotted owl. The final rule was published in the Federal Register on December 3, 2012 and became effective on January 3, 2013. This project would occur primarily on spotted owl critical habitat (BLM and ODF managed lands) and would add elements of critical habitat therefore would have a beneficial effect on the function of spotted owl critical habitat. Trees (57) donated to this project from the USFS came from roadsides located within spotted owl critical habitat.
- Changes in resource related plans, policies or programs, include the recent change in survey and manage discussed above on pages 3-4.
- USFWS has determined the North Coast Distinct Population Segment (DSP) of red tree voles to be warranted but currently precluded from listing under the Endangered Species Act by higher priority actions (USDI-USFWS 2011). As such the North Oregon Coast DPS of the red tree vole was added to the USFWS list of candidate species meaning the USFWS may propose to list this population under the Endangered Species Act at a later date. This population segment includes red tree voles located in the vicinity of the East Beaver Creek Fish Habitat Restoration Project area. The North Coast population of red tree voles is managed as Bureau Sensitive under the

BLM's Manual 6840 Special Status Species Policy as well as Survey and Manage Species (SEIS Special Attention Species) as identified within the 2001 S&M ROD.

4. Do the methodology and analytical approach used in the existing NEPA document(s) continue to be appropriate for the current proposed action?

Yes, the methodology and analytical approach used for the analysis contained in the Salem District Aquatic and Riparian Habitat Restoration EA continue to be appropriate in respect to the current proposed action. (1) There are no new standards or goals for managing resources (2) There are no changes in resource conditions since the Salem District Aquatic and Riparian Habitat Restoration EA was published in 2012.

The Salem District Aquatic and Riparian Habitat Restoration EA analyzed the potential of direct effects to amphibians and invertebrates, these effects are anticipated to be isolated and not affect any species population persistence. The Survey and Manage, surveys were not necessary for this project, see Survey and Manage Species Review section above.

5. Are the direct and indirect impacts of the current proposed action substantially unchanged from those identified in the existing NEPA document(s)? Does the existing NEPA document sufficiently analyze site-specific impacts related to the current proposed action?

Yes. The Salem District Aquatic and Riparian Habitat Restoration EA adequately addressed the impacts (direct, indirect, and cumulative) of the proposed action on the relevant elements of the environment. Project design features set forth on pp. 18-26 and Project design criteria are described in sections pp. 66-67 and pp. 69-71 of the EA. The EA described impacts to Endangered Species Act (ESA) listed wildlife species and habitat, water quality and quantity, invasive and non-native plant species, soil resources, Bureau Sensitive and Special Attention plant and animal species and habitats. Impacts from implementing in-stream large wood projects would fall within those analyzed in the EA, and were anticipated in the EA.

The 57 trees selected for placement within the stream restoration project area were selected from lands managed by Siuslaw National Forest west of Beaver Oregon. A wildlife biologist participated in the selection of these trees in order to avoid selecting trees with potential structures that may contain red tree vole nests.

6. Can you conclude without additional analysis or information that the cumulative impacts that would result from implementation of the current proposed action are substantially unchanged from those analyzed in the existing NEPA document(s)?

Yes. The cumulative effects considered in the Salem District Aquatic and Riparian Habitat Restoration EA with the design features incorporated from ESA Consultations with the services and the nature of the project, there should be no change in anticipated cumulative effects with this restoration project.

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

Yes. There have been opportunities for public involvement and interagency review associated

with the Restoration EA. External scoping (seeking input from people outside of the BLM) was conducted by means of a scoping letter. Forty-one copies of this letter went out to federal, state and municipal government agencies, tribal authorities and interested parties on May 13, 2011. As a result of this scoping effort one letter providing supportive comments was received. The EA and FONSI were made public for review from March 6, 2012 to March 20, 2012 (refer to Decision Record section 6.0). No comments were received.

E. Mitigation Measures: List any applicable mitigation measures that were identified, analyzed, and approved in relevant LUPs and existing NEPA document(s). List the specific mitigation measures or identify an attachment that includes those specific mitigation measures. Document that these applicable mitigation measures must be incorporated and implemented.

No mitigation measures were identified or incorporated into the Salem District Aquatic and Riparian Habitat Restoration EA. Project design features set forth on pp. 18-26 and Project design criteria are described in sections pp. 66-67 and pp. 69-71 of the EA of the EA include Best Management Practices and specialists design features to adequately minimize potential negative impacts associated with the project.

F. Interdisciplinary Analysis: Identify those team members that conducted or participated in the preparation of this worksheet

<u>Name</u>	<u>Resource(s) Represented</u>
Matthew Walker	Fisheries/Hydrology
Steve Bahe	Wildlife/Survey and Manage
Fred Greatorex	Archeology

REVIEWED BY



Environmental Coordinator



Date

CONCLUSION

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



Karen M. Schank
Tillamook Resource Area Field Manager



Date