

Little North Santiam River and Elkhorn Creek Habitat Restoration

Decision Record

Environmental Assessment Number: DOI-BLM-OR-S040-2011-0006-EA

June 2011

United States Department of the Interior
Bureau of Land Management
Oregon State Office, Salem District
Marion County, Oregon

T. 9S, R. 3E, Sections 1 and 10

Responsible Agency: USDI - Bureau of Land Management

Responsible Official: Cindy Enstrom, Field Manager
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As the Nation's principal conservation agency, the Department of Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering economic use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interest of all people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

BLM/OR/WA/AE-11/055+1792

1.0 Introduction

The Bureau of Land Management (BLM) completed the environmental analysis for the Little North Santiam River and Elkhorn Creek Habitat Restoration project, which is documented in the *Little North Santiam River and Elkhorn Creek Habitat Restoration Environmental Assessment and Finding of No Significant Impact (EA)* and the associated project file. This EA is incorporated here by reference in this Decision Record (DR). The proposed action is to place large wood (trees and logs) in the Elkhorn side channel of the Little North Santiam River, and in main channel floodplain and side channel habitats of lower Elkhorn Creek. The action seeks to improve floodplain and side channel connectivity, and provide high quality rearing habitat for Endangered Species Act listed Chinook salmon and steelhead trout. The project is located on BLM lands in T. 9S, R. 3E, Sections 1 and 10, W.M. in Marion County, Oregon.

I signed a Finding of No Significant Impact on June 2, 2011 and made the EA available for public review from June 8, 2011 to June 23, 2011 (*DR section 6.0*). I received one comment letter during the public review period. The letter was in support of the project.

2.0 Decision

I have decided to implement the proposed action as described in the EA (*EA section 2.0*, pp. 5-9). This decision is based on site-specific analyses in the EA described above, the supporting project record, public comment, as well as the management direction contained in the *Salem District Resource Management Plan* (May 1995), which are incorporated here by reference and in the EA. This Decision is summarized in this section of the DR and is hereafter referred to as the “selected action”. The following is a summary of the selected action:

- About 50 trees will be placed by use of a cable-yarder or an excavator in lower Elkhorn Creek and the Elkhorn side channel of the Little North Santiam River. Trees will range from 15 to 36 inches in diameter at breast height and from 30 to 100 feet in length, and will be placed at up to 12 sites on a 0.5 mile long section of Elkhorn Creek and at about 10 sites on a 0.5 mile long section of the Elkhorn side channel. Large wood (LW) will be placed in configurations of 1–5 pieces per site. Small conifer trees (8 to 14 feet tall) will be incorporated into the log jams to increase habitat complexity and hiding cover for juvenile fish.
- Trees used the project will be obtained from BLM lands, both from Riparian Reserves (RR) in the Elkhorn Creek and the Little North Santiam River project areas (Map 1), and from trees that blew down along Elkhorn Creek and BLM roads 9-3E-11.2 and 9-3E-11.3 in T. 9S, R.3E, Sections 1 and 11. Up to 30 live trees in a diameter range of 18-36 inches will be taken from RR on BLM land within 50-400 feet of Elkhorn Creek and the Elkhorn side channel of the Little North Santiam River (about 10 trees at Elkhorn Creek, and about 20 from Elkhorn side channel. About 15 to 20 blown-down trees will be used at the Elkhorn Creek project site. The small conifer trees will be obtained from a tree thinning project on private land.
- Trees will be placed in main and side channel habitats of increase aquatic habitat complexity and stabilize floodplains of lower Elkhorn Creek and the Elkhorn side channel of the Little North Santiam River. The trees are expected to create woody debris jams and wood complexes, create scour pools in side channels for juvenile fish, and provide woody debris cover for juvenile and adult fish.

- Riparian tree seedlings will also be planted on floodplains to facilitate development of riparian forests to shade channels and provide future sources of large wood.

Project Design Features

The following is a summary of the design features that reduce the risk of effects to the affected elements of the environment described in *EA Section 3.0*.

- Equipment will be cleaned to prevent spread of noxious weeds, free of fluid leaks, and in good operating condition prior to unloading at the project site.
- Contractor will be required to have a Spill Containment Kit and a Spill Prevention, Control, and Countermeasure Plan in case equipment leaks fuel or oil.
- The excavator or yarder will move and place large wood (LW) in channels only when soils are at high strength and soil moisture levels are low during July through October; turning and rocking of the excavator will be limited as much as practical to avoid displacing and gouging the mineral soil.
- Blown-down trees adjacent to roads 9-3E-11.2 and 9-3E-11.3 will be yarded to the road primarily during the months of July-October, but possibly beginning as early as May or extending into November provided soil moisture levels are low.
- In the tree removal area, excavator travel will be limited to a single pass and treads kept on top of organic material and slash as much as practical to avoid disturbing the mineral soil.
- At least one end of a log will be suspended whenever possible when moving logs to project sites to minimize soil disturbance.
- Live trees will be removed from RR on the north side of Elkhorn Creek and the Elkhorn side channel (outside of the primary shade zone).
- LW will be placed during the instream work period (July 15 through August 31).
- Breakage of trees and branches in the riparian zone will be minimized as much as practical.
- Implementation of the LW portion of the project will occur outside of the northern spotted owl critical nesting season (March 1 to July 15). Tree selection will be conducted in a manner that will not create openings in the stand or downgrade the suitability of the stand as habitat for the Northern spotted owl.
- If any cultural resources are encountered during project implementation all activities will cease until the archaeologist can be present to assess the significance of the findings.

3.0 Alternatives Considered

1. Proposed Action: The proposed action is described above in **Section 2.0 Decision**.
2. No Action: No habitat restoration would be implemented. Existing large wood loading and the existing low habitat complexity in Elkhorn Creek and the Elkhorn side channel would remain at current levels. No improvement in instream habitat quality of side channels for Chinook salmon and steelhead trout would be likely to occur. A small proportion of the 0.5 mile reach of Elkhorn Creek located downstream of BLM road 9-3E-11.3 would continue to have unstable floodplain surfaces, and lower levels of stream shade.

4.0 Decision Rationale

I used the Decision Criteria and Project Objectives listed in the EA (*section 1.3*, p.3) in selecting the alternative that best meets the purpose and need described in the EA (*section 1.2*, pp. 1-3). This section compares the alternatives with regard to the Decision Criteria and Project Objectives (*EA section 1.3*, pp. 3).

- Meet the purpose and need of the project (*EA Section 1.2*);
 - *The No Action Alternative*: This alternative would not meet the purpose and need of increasing aquatic habitat complexity of Elkhorn Creek and the Little North Santiam River to improve fish habitat for salmon and steelhead because no restoration actions would be implemented under this alternative.
 - *The Proposed Action* meets the purpose and need by restoring main channel and side channel habitats for use by threatened salmon and steelhead by adding large wood to increase habitat complexity (*EA sections 3.3 and 3.4*; pp. 11-13).
- Improve floodplain and side channel connectivity of lower Elkhorn Creek and the Elkhorn Side channel of the Little North Santiam River;
 - *The No Action Alternative*: This objective would not be met because no restoration actions would be implemented under this alternative.
 - *The Proposed Action* meets this objective by adding large wood to side and main channels of the Salmon River to increase the stability of floodplain surfaces and side channel connections, and by planting riparian tree seedlings to supply large wood for floodplain function over the long term.
- Provide high quality rearing habitat in stream and river side-channels for salmon and steelhead;
 - *The No Action Alternative*: This objective would not be met because no restoration actions would be implemented under this alternative.
 - *The Proposed Action* meets this objective by adding large wood to side and main channels of Elkhorn Creek and the Little North Santiam River to increase habitat complexity.
- Facilitate the development of riparian forest and shrub (willow) stands to shade stream channels and supply LW to the streams over the long term;
 - *The No Action Alternative*: This objective would not be met because no restoration actions would be implemented under this alternative.
 - *The Proposed Action* meets this objective by planting riparian tree seedlings.
- Minimize erosion and impacts to soil productivity.
 - *The No Action Alternative*: This objective would be met because no soil would be disturbed (no action taken) under this alternative.
 - *The Proposed Action* meets this objective by implementing project design features (*EA section 2.2.1*) to minimize disturbance to soils.
- Not contribute to the expansion of invasive/nonnative weed populations..
 - *The No Action Alternative*: This objective would not be met because no restoration actions would be implemented under this alternative.

- The *Proposed Action* meets this objective by implementing project design features (*EA section 2.2.1*) to prevent the spread of weeds.

Considering public comment, the content of the Little North Santiam River and Elkhorn Creek Habitat Restoration Project EA, the supporting project record, and the management direction contained in the RMP, I have decided to implement the selected action as described in *DR section 2.0*. The following is my rationale for this decision.

1. No Action Alternative: This alternative was not selected because none of the aquatic habitat restoration needed to improve habitat for threatened salmon and steelhead would be implemented under this alternative.
2. Selected Action: The selected action implements the Salmon River Habitat Restoration project described in the *DR section 2.0*. The Selected Action:
 - Meets the purpose of and need for action and the decision criteria/ project objectives described in *EA section 1.2* (EA pp. 1-3).
 - Is consistent with the Salem District Record of Decision and Resource Management Plan and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA pp. 4-5, *DR sections 5.0, 7.0*).
 - Complies with authorities described in *EA section 1.4* (EA pp. 4-5) and 3.10 (EA pp. 19-20).
 - Will not have significant impact on the affected elements of the environment beyond those already anticipated and addressed in the RMP EIS (EA FONSI, pp. 3-6, and *DR section 7.0*).

5.0 Compliance with Direction

The analysis documented in the Little North Santiam River and Elkhorn Creek Habitat Restoration Project EA is site-specific and supplements analyses found in the Salem District Proposed Resource Management Plan/Final Environmental Impact Statement, September 1994 (RMP/FEIS). This project was designed under 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. 4-5). All of these documents may be reviewed at the Cascades Resource Area office.

The project also complies with authorities described in *EA sections 1.4* (EA pp. 4-5) and 3.10 (EA pp. 19-20).

Survey and Manage Review (EA pp. 13-14): 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, I have reviewed the Little North Santiam River and Elkhorn Creek Habitat Restoration project in consideration of both the December 17, 2009 and October 11, 2006 order.

I have made the determination that the Little North Santiam River and Elkhorn Creek Habitat

Restoration project meets Exemption C of the Pechman Exemptions (October 11, 2006 Order) (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). Therefore the Little North Santiam River and Elkhorn Creek Habitat Restoration project may still proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision since the Pechman exemptions will remain valid in such case.

6.0 Public Involvement/ Consultation/Coordination

6.1 Scoping

BLM sent a scoping letter on April 15, 2011 to federal, tribal, state and municipal government agencies, nearby landowners, and interested parties on the Cascades Resource Area mailing list. I received scoping comments from Mr. Bill Sanderson, and the Confederated Tribes of the Warm Springs Reservation of Oregon, and incorporated these comments into the development of the action alternatives and into the effects analysis.

6.2 Comment Period and Comments:

BLM made the EA and FONSI available for public review from June 8, 2011 to June 23, 2011. I received one comment letter during the public review period that was in support of the project.

6.3 ESA Section 7 Consultation

1. U.S. Fish and Wildlife Service (EA p. 24)

The only threatened or endangered species which this project could affect would be the northern spotted owl. Due to the nature, duration and timing of this project, no adverse effects to the northern spotted owls or their habitat are anticipated. No suitable habitat would be removed or downgraded, and suitable habitat would be maintained after individual tree removal for the project. The project would occur outside of the critical nesting season for spotted owls. The project area is not located in Critical Habitat and is not located within disturbance distance of any known spotted owl sites.

2. National Marine Fisheries Service (NMFS) – Endangered Species Act Determination of Effect for Upper Willamette River (UWR) steelhead trout, and UWR Chinook salmon (EA p. 24)

NMFS (2008) concluded that restoration projects similar to this one may affect, but are not likely to jeopardize the continued existence of Upper Willamette River (UWR) steelhead trout, and UWR Chinook salmon, nor are they likely to adversely modify their designated critical habitat. Short-term adverse impacts of the habitat restoration projects include displacement of juvenile salmonids from project sites during project construction, and disruption of feeding (unable to see prey items) during short term increases in turbidity. No long-term adverse effects of the restoration projects on ESA listed fish or their habitat are expected because turbidity levels would return to background levels soon after cessation of in-water work.

Adult ESA listed fish would not be impacted because restoration work would be conducted

during the in-water work period when adult fish are absent from the project reach. Habitat quantity and quality for ESA listed fish would improve over the short to long term as a result of the restoration actions (*EA sections 3.3.1 and 3.4.1*). Consultation for aquatic restoration projects such as this are included in the Programmatic Consultation Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Fish Habitat Restoration Activities in Oregon and Washington, CY2007-CY2012 issued by NMFS on June 27, 2008.

7.0 Conclusion

I have reviewed the information in the EA, public comments, and this DR. I have determined that a change to the Findings of No Significant Impact (Little North Santiam River and Elkhorn Creek Habitat Restoration EA pp. 3-6) is not necessary. No new information was provided during the public comment period for the EA that led me to believe the analysis, data or conclusions related to environmental effects of the proposed action are in error or that the selected action needs to be altered.

The selected action will not have effects beyond those already anticipated and addressed in the RMP EIS. Supplemental or additional information to the analysis in the RMP/FEIS in the form of a new environmental impact statement is not needed for the reasons described in the Findings of No Significant Impact (Little North Santiam River and Elkhorn Creek Habitat Restoration EA pp. 3-6).

8.0 Administrative Review Opportunities and Implementation

This decision may be appealed to the Interior Board of Land Appeals in accordance with the regulations contained in 43 Code of Federal Regulations (CFR), Part 4 and the attached Form 1842-1.

8.1 Implementation Date

Implementation of this decision may begin 30 calendar days after the public notice of the Decision Record appears in the *Stayton Mail* newspaper. The public notice is scheduled to appear in the *Stayton Mail* on June 29, 2011.

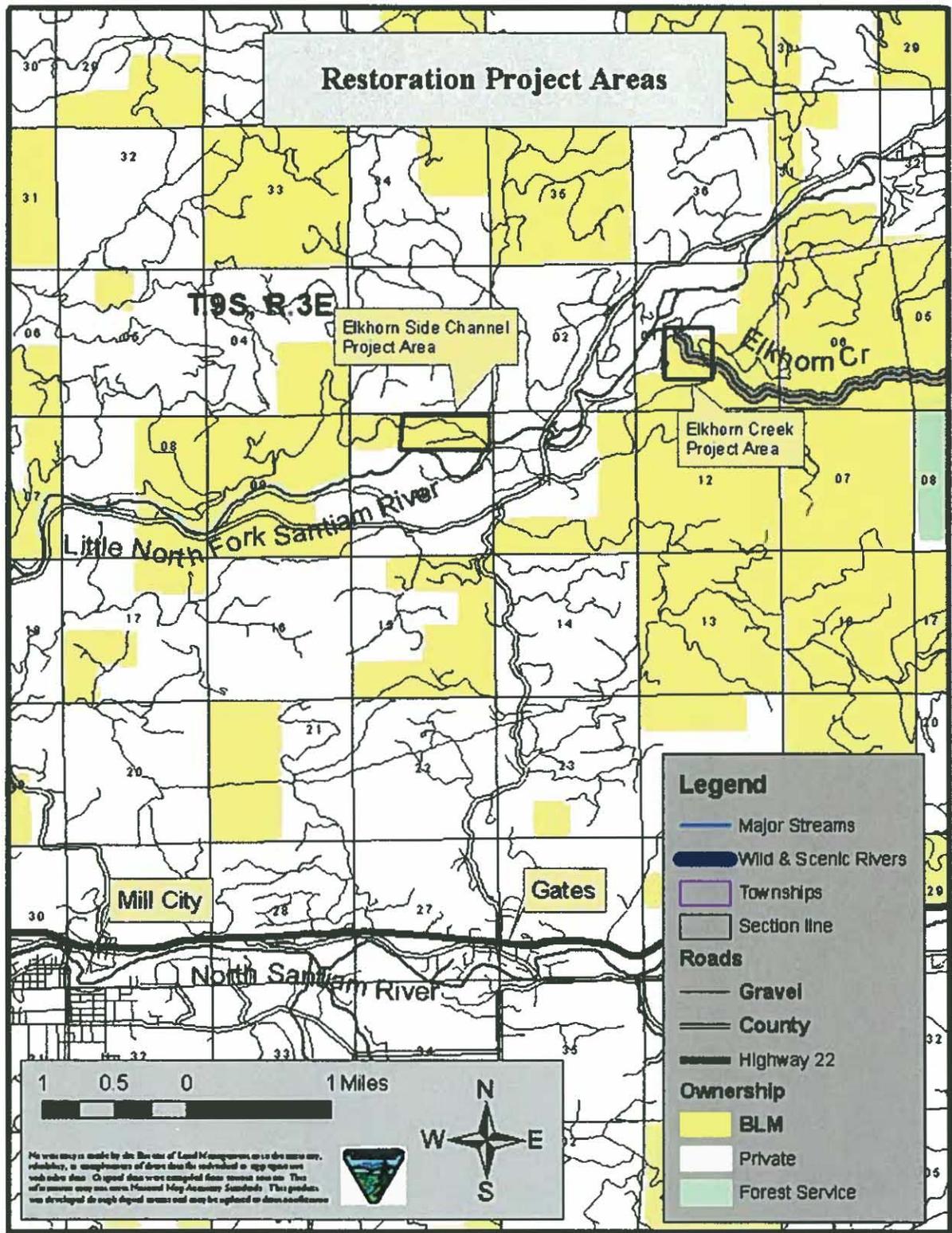
Agency contact: For additional information concerning this decision or the appeal process, contact Bruce Zoellick (503) 375-5672 or Carolyn Sands at (503) 315-5973, Cascades Resource Area, Salem District Office, 1717 Fabry Road SE Salem, OR 97306.

Approved by: Cindy Enstrom
Cindy Enstrom, Field Manager
Cascade Resource Area

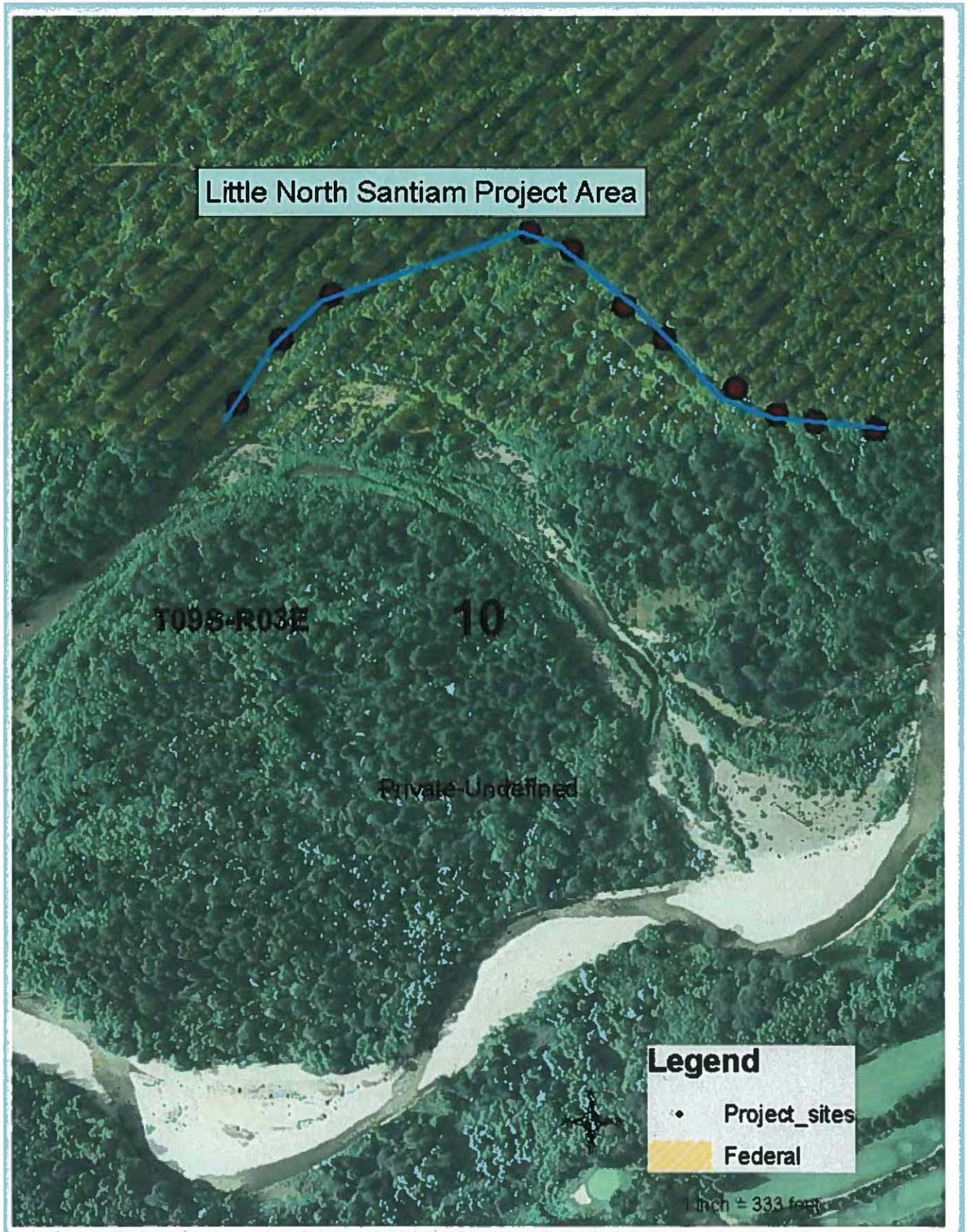
6/28/2011
Date

9.0 Maps

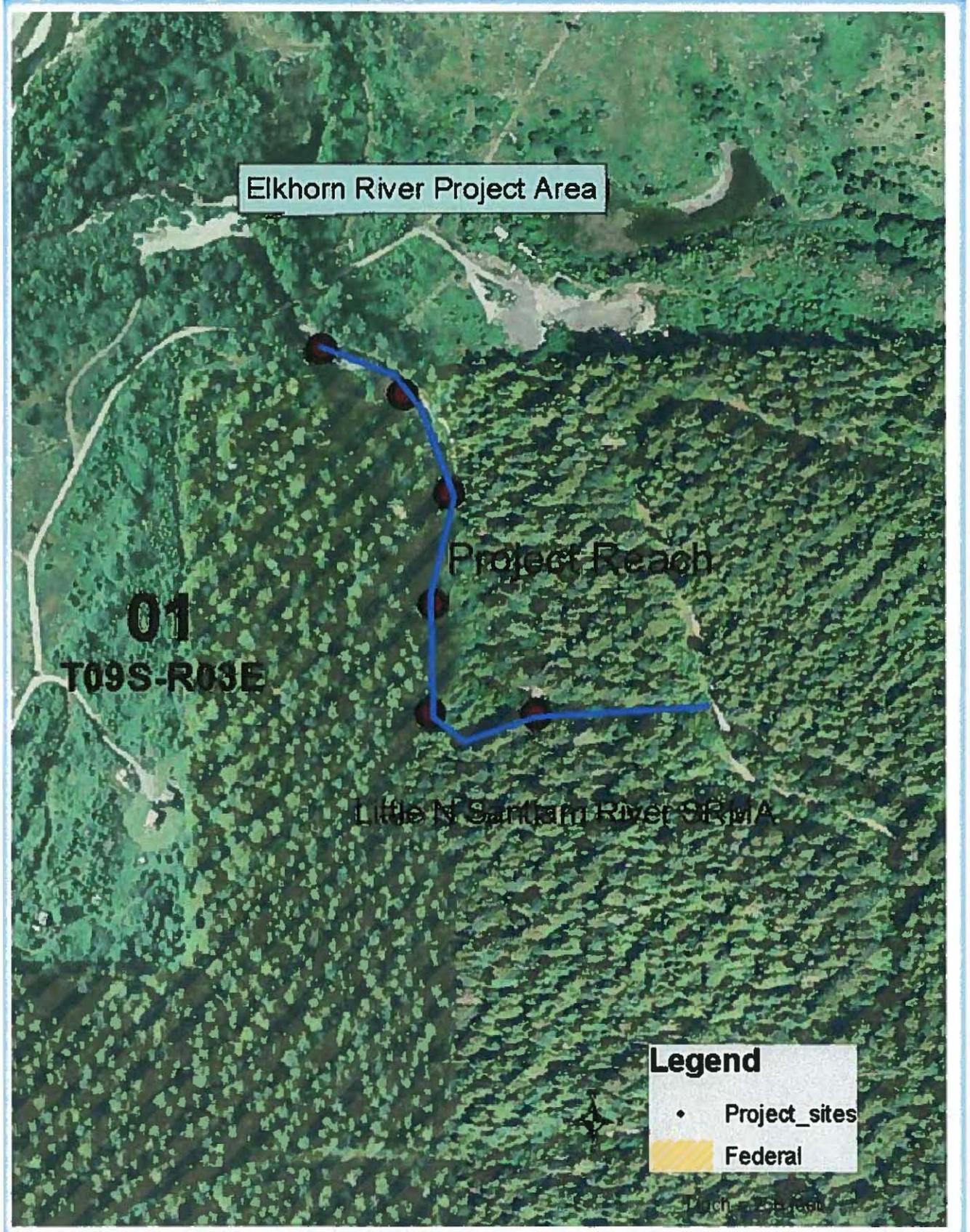
Map 1: Location of Project Areas



Map 2: Large wood placement sites (project sites) on the Elkhorn side channel of the Little North Santiam River.



Map 3: Large wood placement sites (project sites) on lower Elkhorn Creek.



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you.
AND

2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

-
- 1. NOTICE OF APPEAL**..... A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
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- 2. WHERE TO FILE NOTICE OF APPEAL**..... **A. Cindy Enstrom, Cascades Resource Area Field Manager, Bureau of Land Management, 1717 Fabry Road SE, Salem, OR 97306**
WITH COPY TO SOLICITOR..... **B. U.S. Department of the Interior, Office of the Regional Solicitor, 805 SW Broadway, Suite 600 Portland, OR 97205**
-
- 3. STATEMENT OF REASONS**..... Within 30 days after filing the Notice of Appeal, file a complete statement of the reasons why you are appealing. This must be filed with the **United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203**. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR..... Same as 2 B.
-
- 4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
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- 5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the **United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203**. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
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- 6. REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 3804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and *Petition for a Stay* must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellants' success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ----- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)