

Marys Peak Meadow Restoration Project

Final Decision and Decision Rationale for Marys Peak Meadow Restoration Project

Environmental Assessment Number DOI-BLM-OR-S050-2010-0002-EA

April 2010

United States Department of the Interior
Bureau of Land Management
Oregon State Office
Salem District
Marys Peak Resource Area

Township 12 South, Range 8 West, Section 28, Willamette Meridian
Upper Alsea River and Marys River 5th field Watersheds.
Benton County, Oregon

Responsible Agency: USDI - Bureau of Land Management

Responsible Official: Trish Wilson, 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-10/046+1792

I. Introduction

The Bureau of Land Management (BLM) conducted an environmental analysis for the Marys Peak Meadow Restoration Project, which is documented in the Marys Peak Meadow Restoration Environmental Assessment (EA, # DOI-BLM-OR-S050-2010-0002-EA) and the associated project file. The proposed action of the Marys Peak Meadow Restoration Project EA is to fall all conifer trees less than 12 inches DBHOB which have been encroaching into meadow habitat on approximately six acre of BLM managed lands. The severed trees would be slashed and scattered under the older conifer forest habitat and/or piled and burned or transported to the existing right-of-way and chipped and hauled off-site.

The project would occur in Late-Successional Reserve (LSR) Land Use Allocation (LUA). A Finding of No Significant Impact (FONSI) was signed on April 27, 2010 and the FONSI was then made available for public review.

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

II. Decision

I have decided to begin to implement the Marys Peak Meadow Restoration Project as described in the proposed action (EA pp. 8 to 9) hereafter referred to as the “selected action”. The selected action is shown on the map attached to this Decision Rationale. This decision is based on site-specific analysis in the Marys Peak Meadow Restoration Project Environmental Assessment (EA # DOI-BLM-OR-S050-2010-0002-EA), the supporting project record, management direction contained in the Salem District Resource Management Plan (May 1995), which are incorporated by reference in the EA.

Changes to the Project Design Features

Since the release of the EA, the IDT has identified the need to add an additional design feature to protect public safety.

This Decision Record adds the following design feature:

- Users would be restricted from using the project area while operations are occurring.

Decision Summary

The following is a summary of his decision.

- Cut and remove all conifers over 12 inches DBHOB within the project area which have become established into the meadow habitat for the past 40 years and would allow for the restoration of the meadow habitat by removing the conifers and allowing for the meadow species to once again become established in the non-forested habitat. This area would be maintained as meadow habitat for the future and all conifer seedlings removed

- All design features and mitigation measures described in the EA (pp. 8 to 9) will be incorporated into the service contract.

III. Compliance with Direction:

The Marys Peak Meadow Restoration Project has been designed to conform to the following documents, which direct and provide the legal framework for management of BLM-managed lands within the Salem District:

- *Salem District Record of Decision and Resource Management Plan (RMP)*, May 1995: The RMP has been reviewed and it has been determined that the Marys Peak Meadow Restoration Project conforms to the land use plan terms and conditions (i.e., complies with management goals, objectives, direction, standards and guidelines) as required by 43 CFR 1610.5 (BLM Handbook H1790-1). Implementing the RMP is the reason for doing this project (RMP p.1-3);
- *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl and Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl* (the Northwest Forest Plan, or NWFP), April 1994.
- *Record of Decision and Standards and Guidelines for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (S&M ROD, January 2001)

The analysis documented in the Marys Peak Meadow Restoration EA is site-specific and supplements analyses found in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS). The RMP/FEIS includes the analysis from the *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* (NWFP/FSEIS), February 1994. In addition, the EA is tiered to the *Final Supplemental Environmental Impact Statement For Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (S&M FSEIS, November 2000).

Survey and Manage Review

The Marys Peak Meadow Restoration project is consistent with 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, 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.

The project 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 Marys Peak Meadow Restoration Project meets 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). Details of the project surveys are described below:

There are no known sites of any Survey and Manage species within the project area. On-site plant and animal habitat evaluations (including some Survey and Manage botany protocol surveys) have determined that suitable habitat for these species is not present due to the severity of high elevation sites (shallow, rocky soils; hot, dry summers; and cold, deep snowpack winters), its natural history as meadow habitat, and the young age and small size of the encroaching conifers.

Northern Spotted Owl (NSO) Status Review

"The following information was considered in the analysis of the Marys Peak Meadow Restoration proposed activities: 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 *Northwest Forest Plan – The First Ten Years (1994-2003)*: d/ *Status and trend of northern spotted owl populations and habitat, PNW Station Edit Draft* (Lint, Technical Coordinator, 2005).

The Salem District analyzed reports regarding the status of the northern spotted owl and 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

The EA analyzed the effects of the proposed action and the no action alternatives. No unresolved conflicts concerning alternative uses of available resources (section 102(2) (E) of NEPA) were identified. No action alternatives were identified that will meet the purpose and need of the project and have meaningful differences in environmental effects from the proposed action (EA Section 3.1). Complete descriptions of the "action" and "no action" alternatives are contained in the EA, pages 17-33.

V. Decision Rationale

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

1. The selected action:

- Meets the purpose and need of the project (EA section 1.6), as shown in *Table 1*.
- Complies with the *Salem District Record of Decision and Resource Management Plan*, May 1995 and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA pg. 4).
- Complies with the *Record of Decision and Standards and Guidelines for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (S&M ROD, January 2001).
- Will not have significant impact on the affected elements of the environment (EA FONSI pp. i-iv) beyond those already anticipated and addressed in the RMP EIS.
- Has been adequately analyzed.

Table 1: Comparison of the Alternatives with Regard to the Purpose of and Need for Action (EA section 2.2.2)

Purpose and Need (EA Section 1.6)	No Action (Alternative 1)	Proposed Action (Alternative 2)
There is a need to restore meadow habitat as directed by the <i>Salem District Record of Decision and Resource Management Plan</i> (RMP, P. 33)	Without meadow restoration treatments, the meadow habitat near the summit of Marys Peak would remain in decline and conifer habitat would continue to increase and encroach into the existing meadow habitats.	This project would restore meadow habitat perimeter, structure, and species composition to conditions believed to have existed during a regime of frequent, low-intensity fire.
Emphasize management of scenic resources in selected high-use areas to retain or preserve scenic quality. Manage scenic, natural, and cultural resources to enhance visitor recreation experiences and satisfy public land users.	Without meadow restoration treatments visitor recreation experiences would be limited to a forest setting. Opportunities for scenic viewing, photography and nature study and their view of the valley below would not occur.	Restoring meadow habitat would enhance visitor recreation experience of the scenic and natural resources of the Mary's Peak Recreation Area by restoring additional areas for scenic viewing, photography and nature study and their view of the valley below.

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 1.6), as shown in *Table 1*.

VI. Public Involvement/ Consultation/Coordination

- **Scoping:** A scoping letter, dated January 28, 2010, was sent to 20 potentially affected and/or interested individuals, groups, and agencies. Four responses were received during the scoping period.
- A description of the project was included in the March 2010 project update to solicit comments on the proposed project.

Comment Period and Comments:

The EA and FONSI were made available for public review March 12, 2010 to April 12, 2010. The notice for public comment was published in a legal notice by the *Gazette-Times* newspaper. No comments were received by the Marys Peak Resource Area of the Salem District Office, 1717 Fabry Road SE, Salem, Oregon 97306.

Consultation/Coordination:

U. S. Fish and Wildlife Service

The proposed action would have no effect on northern spotted owl or its critical habitat and would have no effect on marbled murrelet or its critical habitat. No known sites or existing nesting habitat would be impacted. The project area is very small and adjacent to a well travelled road. In addition, the project areas has a long history of moderate-heavy recreational use, which minimizes the nesting and foraging suitability of this site. Based on the 'no effect' determination consultation on ESA listed species and critical habitat is not required for this project.

NOAA NMFS

A determination has been made that this proposed project would have 'No Effect' on Endangered Species Act (ESA) listed Upper Willamette River (UWR) steelhead trout, UWR Chinook salmon, Oregon chub, and Oregon Coast coho salmon. Generally, the 'No Effect' determination is based on the distance of the proposed project to ESA listed fish habitat. The distance from ESA listed fish or critical habitat is over two miles to project activities and proposed actions do not impact any riparian systems. Based on the 'No Effect' determination consultation on ESA listed species and critical habitat is not required for this project. Protection of Essential Fish Habitat (EFH) as described by the Magnuson/Stevens Fisheries Conservation and Management Act and consultation with NMFS is required for all projects which may adversely affect EFH of Chinook and coho salmon. The proposed Marys Peak Meadow Restoration project does not include any riparian systems and is not anticipated to adversely affect EFH. Consultation on EFH is not required for this project.

VII. Conclusion

I have determined that change to the Finding of No Significant Impact (FONSI – March 2010) for the Marys Peak Meadow Restoration Project is not necessary because I've considered and concur

with information in the EA and FONSI. There are no significant new circumstances or facts relevant to the proposed action or associated environmental effects that were not addressed in the EA. The comments on the EA were reviewed and no information was provided in the comments that lead me to believe the analysis, data or conclusions are in error or that the selected action needs to be altered. There are no significant new circumstances or facts relevant to the selected action or associated environmental effects that were not addressed in the EA.

Administrative Review Opportunities

Protests: In accordance with Forest Management Regulations at 43 CFR 5003.2, the decision for this project will not become effective or be open to formal protest until the notice of decision is published "in a newspaper of general circulation in the area where the lands affected by the decision are located". Protests of this project must be filed within 15 days of the first publication of the notice. For this project, the notice of project will be published in the *Gazette Times* newspaper on or around April 30, 2010.

Implementation Date

If no protest is received within 15 days after publication of this Decision Record this decision will become final. For additional information, contact Gary Humbard (503) 315-5981, Marys Peak Resource Area, Salem BLM, 1717 Fabry Road SE, Salem, Oregon 97306

Approved by: Patricia Wilson
Patricia Wilson
Marys Peak Resource Area Field Manager

4-27-2010
Date

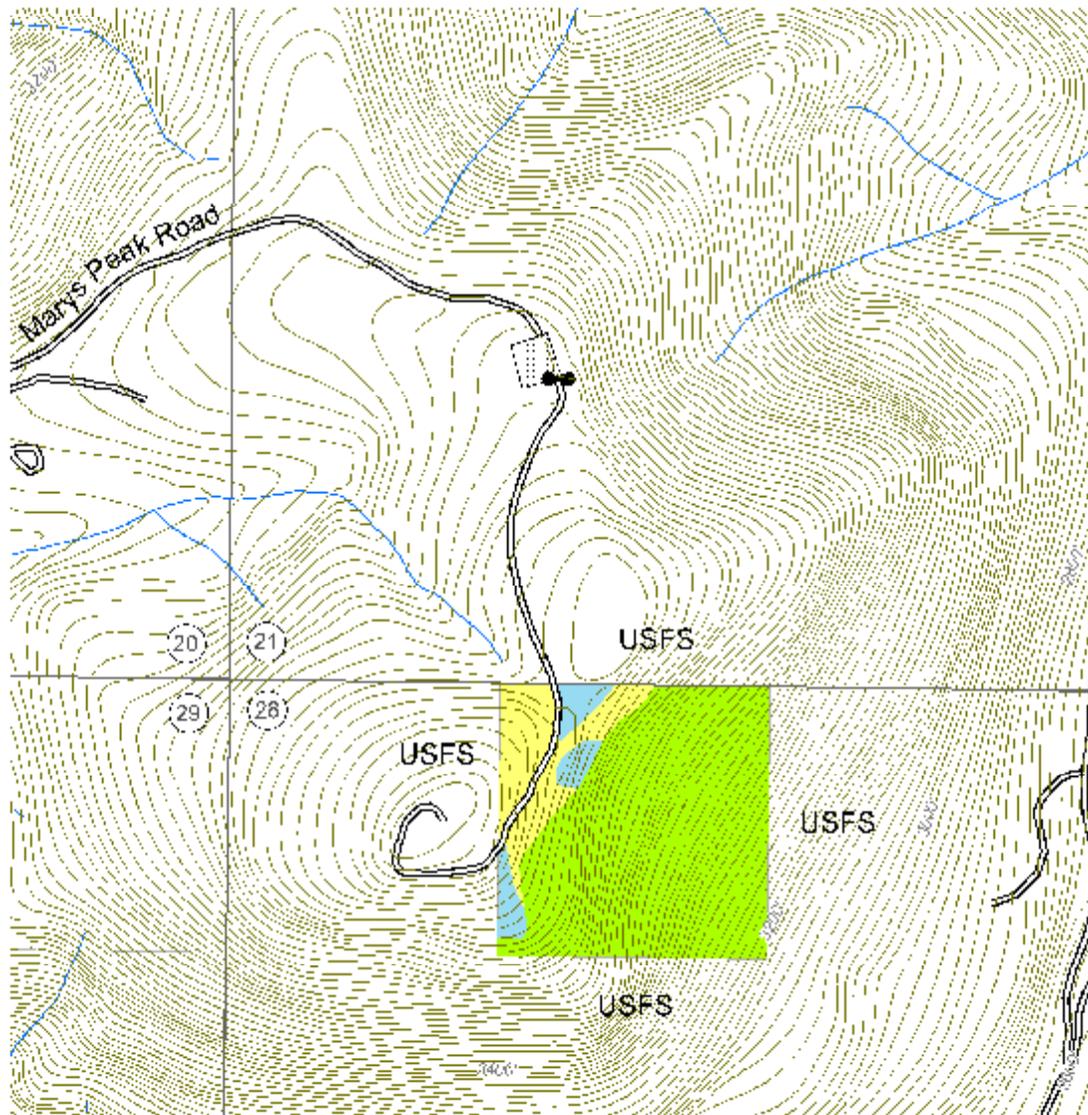
Selected Action Map

United States Department of the Interior BUREAU OF LAND MANAGEMENT

Marys Peak Meadow Restoration

Selected Action Map

T. 12 S., R. 7 W., Section 28



- | | | |
|---------------|---------------------------------|------------------------------|
| Gate | Parking Lot | Older Forest |
| Existing Road | Meadow Restoration
(6 acres) | Existing Meadow
(3 acres) |
| Stream | | |

0 250 500 1,000 Feet

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Data was compiled from multiple sources and may not meet U.S. National Mapping Accuracy Standard of the Office of Management and Budget.



April 19, 2010

Marys Peak Meadow Restoration Finding of No Significant Impact

Environmental Assessment Number DOI-BLM-OR-S050-2010-0002-EA

April 29, 2010

United States Department of the Interior
Bureau of Land Management
Oregon State Office
Salem District
Marys Peak Resource Area

Responsible Agency: USDI - Bureau of Land Management

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For further information, contact: Ron Exeter, Project Lead
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Abstract: The environmental assessment (EA) disclosed the predicted effects of one project occurring in Township 12 South, Range 7 West, Section 28, Willamette Meridian. This project is located on a ridge and is included in both the Upper Alsea River and the Marys River 5th-field Watersheds.

This meadow restoration project is located near the summit of Marys Peak on BLM managed lands. This project would fall all conifer trees less than 12 inches diameter breast height outside bark (DBHOB) which have been encroaching into meadow habitat. The severed trees would be slashed and scattered under the older conifer forest habitat and/or piled and burned or transported to the existing right-of-way and chipped and hauled off-site.

The project would occur in Late-Successional Reserve (LSR) Land Use Allocation (LUA).

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.

FINDING OF NO SIGNIFICANT IMPACT

Introduction

The Bureau of Land Management (BLM) has conducted an environmental analysis (Environmental Assessment Number DOI-BLM-OR-S050-2010-0002-EA) for a proposal to implement one project in Late-Successional Reserve (LSR) Land Use Allocation (LUA) as follows:

This project is a meadow restoration project and proposes to remove all conifer trees less than 12 inches diameter breast height outside bark (DBHOB) which have encroached on known meadow habitat.

It occurs on BLM managed lands in Township 12 South, Range 7 West, Section 28, Willamette Meridian and is located on a ridge dividing the Upper Alsea River 5th-field Watershed and the Marys River 5th-field Watershed. (See EA project map, p.10)

Implementation of the proposed action would conform to management actions and direction contained in the *Marys Peak Meadow Restoration Environmental Assessment* (Marys Peak Meadow Restoration EA). The Marys Peak Meadow Restoration EA is incorporated by reference in this Finding of No Significant Impact (FONSI) determination.

The analysis in the EA is site-specific and supplements analyses found in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS). The Marys Peak Meadow Restoration project has been designed to conform to 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-managed lands within the Marys Peak Resource Area (EA p. 4).

The FONSI will be made available for public review at the Salem District office and on the internet at Salem BLM's website, <http://www.blm.gov/or/districts/salem/index.htm> (under Plans and Project) from April 30, 2010 to May 14, 2010. The notice for public comment will be published in a legal notice by the *Gazette-Times* newspaper.

Finding of No Significant Impact

Based upon review of the Marys Peak Meadow Restoration EA and supporting documents, I have determined that the proposed action is not a major federal action and would not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No site-specific environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. Therefore, supplemental or additional information to the analysis done in the RMP/FEIS through a new environmental impact statement is not needed. This finding is based on the following information:

Context: Potential effects resulting from the implementation of the proposed action have been analyzed within the context of Upper Alsea River 5th-field Watershed and the Marys River 5th-field Watersheds and the project area boundaries. The proposed action would occur on approximately six acres of LSR LUA land which is mapped as non-forest meadow and encompassing less than 0.01 percent of the lands within the affected watershed [40 CFR 1508.27(a)].

Intensity:

1. The resources potentially affected by this project are: air quality, fire hazard/risk, invasive, non-native plant species, migratory birds, other special status species / habitat – wildlife, recreation, soils, threatened or endangered species – northern spotted owl, visual resources, and wildlife habitat components. The effects of the meadow restoration are unlikely to have significant adverse impacts on these resources [40 CFR 1508.27(b) (1)] for the following reasons:
 - *Project design features* described in (EA section 2.2.2): would reduce the risk of effects to affected resources to be within RMP standards and guidelines and to be within the effects described in the RMP/EIS.
 - *Vegetation and Forest Stand Characteristics* (EA section 3.2.1): The removal of the conifer overstory on six acres is minimal when compared to the vast coniferous forest of the northwestern Oregon. Although young conifer trees would be removed in the areas to allow for meadow restoration, other perennial native vegetation would continue to dominate the landscape within the project areas. All effects to vegetation would be localized within the project area.
 - *Noxious Weeds*: The amount of mineral soil exposed for this project would be minimal and caused by human traffic or located within burn pile area and not by any machinery. Although we expect common non-native species already established in the general area to increase in paths or in burn piles, we do not expect the establishment of any noxious weeds in the project area. However, because the amount of soil disturbance would be small, if any noxious weeds were to be identified within the project area they would likely be treated by physical means (pulled) on the day they were identified.
 - *Soils* (EA section 3.2.4) : There would only be hand felling and hand moving of the small trees to be cut at the meadow restoration site and minimal soil disturbance is expected.
 - *Special Status Species*: (EA section 3.2.1): There are no known bureau special status species present within the project areas.
 - *Wildlife* (EA section 3.2.5): Due to the small size, natural history, and location of the project, impacts to forest-dependent species would be insignificant. The project would have a positive impact on several migratory bird species and other wildlife species which nest or forage in, or adjacent to, meadows and non-forested shrub openings within the forest environment.
 - *Air Quality and Fire Hazard/Risk* (EA section 3.2.6) : Impacts to air quality would be minimal due to the small amounts of debris to be burned.
 - *Recreation/Visual* (EA section 3.2.2): Restoring meadow habitat would enhance visitor recreation experience of the scenic and natural resources of the Mary's Peak Recreation Area by restoring additional areas for scenic viewing, photography and nature study and the view of the landscape below.

A recreational forest setting would convert to a historical open meadow setting allowing more light to reach the forest floor helping with the conversion to meadow habitat. Evidence of the cutting and clean up operations would not be observable within three years after the completion of the project as the meadow habitat and vegetation returns to a more natural appearance.

- *Public health or safety* [40 CFR 1508.27(b)(2)]: The project's effects to public health and safety would not be significant. Public safety would be minimally affected because the project's location is behind a locked gate and there are other public routes that would access the summit of Marys Peak. In addition, users may be restricted (could be for hours or days during a 24 month time period) from using the project area while operations are occurring (EA section 2.2.2).
- a. The proposed project activities would not affect:
 1. Unique characteristics of the geographic area [40 CFR 1508.27(b)(3)] because there are no historic or cultural resources, parklands, prime farmlands, wild and scenic rivers, wilderness, or ecologically critical areas located within the project area (EA Section 3.1);
 2. Districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places, nor would the proposed actions cause loss or destruction of significant scientific, cultural, or historical resources [40 CFR 1508.27(b)(8)] (EA Section 3.1).
 - b. *The Project is not unique or unusual.* The BLM has experience implementing similar actions in similar areas without highly controversial [40 CFR 1508.27(b) (4)], highly uncertain, or unique or unknown risks [40 CFR 1508.27(b) (5)].
 - c. *The Project does not set a precedent for future actions that may have significant effects, nor do they represent a decision in principle about a future consideration* [40 CFR 1508.27(b) (6)]. The BLM has experience implementing similar actions in similar areas without setting a precedent for future actions.
 - d. *The Project is not expected to adversely affect threatened or endangered species, or their habitat, under the Endangered Species Act (ESA) of 1973* [40 CFR 1508.27(b)(9)].

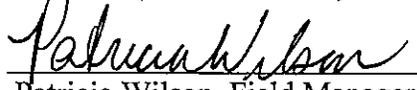
ESA Wildlife – The proposed action would have no effect on northern spotted owl or its critical habitat and would have no effect on marbled murrelet or its critical habitat. No known sites or existing nesting habitat would be impacted. The project area is very small and adjacent to a well travelled road. In addition, the project area has a long history of moderate-heavy recreational use, which minimizes the nesting and foraging suitability of this site. Based on the 'no effect' determination consultation on ESA listed species and critical habitat is not required for this project.

ESA/EFH Fish – A determination has been made that this proposed project would have 'no effect' on Endangered Species Act (ESA) listed Upper Willamette River (UWR) steelhead trout, UWR Chinook salmon, Oregon chub, and Oregon Coast coho salmon. Generally, the 'no effect' determination is based on the distance of the proposed project to ESA listed fish habitat. The distance from ESA listed fish or critical habitat is over two miles to project activities and proposed actions do not

impact any riparian systems. Based on the 'no effect' determination consultation on ESA listed species and critical habitat is not required for this project. Protection of Essential Fish Habitat (EFH) as described by the Magnuson/Stevens Fisheries Conservation and Management Act and consultation with NMFS is required for all projects which may adversely affect EFH of Chinook and coho salmon. The proposed Marys Peak Meadow Restoration project does not include any riparian systems and is not anticipated to adversely affect EFH. Consultation on EFH is not required for this project.

- e. *The Project* does not violate any known federal, state, or local law or requirement imposed for the protection of the environment [40 CFR 1508.27(b)(10)].
1. The interdisciplinary team evaluated the *Project* in context of past, present and reasonably foreseeable actions [40 CFR 1508.27(b) (7)]. Potential cumulative effects are described in the attached EA. These effects are not likely to be significant because of the project scope (effects are likely to be too small to be detectable) and scale (project area of approximately six acres, encompassing less than 0.005 percent of the forest cover within the Upper Alsea River Watershed and Marys River 5th-field Watersheds. (EA Section 3.2).

Approved by:


Patricia Wilson, Field Manager
Marys Peak Resource Area

4-27-2010
Date