Preacher Creek Culvert Replacement Project

Final Decision and Decision Rationale for Preacher Creek Culvert Replacement Project

Lobster Landscape Management Project Environmental Assessment
(U. S. Forest Service)

April 2010

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

Township 15 South, Range 8 West, Section 7 Willamette Meridian
Five Rivers-Lobster Creek Watershed 5th field Watershed
Lane County, Oregon

Responsible Agency:	USDI - Bureau of Land Management
Responsible Official:	Patricia Wilson, Field Manager Marys Peak Resource Area 1717 Fabry Road SE Salem, OR 97306 (503) 375-5968
For further information, contact:	Gary Humbard Marys Peak Resource Area 1717 Fabry Road SE Salem, OR 97306 (503) 315-5981

BLM
Salem District

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-10/027+1792

I. **Introduction**

The United States Forest Service (USFS) has conducted an environmental analysis for the Preacher Creek Culvert Replacement Project, which is documented in the Lobster Landscape Management Plan Environmental Assessment (EA) and the associated project file. The Proposed Action of the Lobster Landscape Management Plan Project EA is to replace one culvert that is currently failing and blocking anadroumous and resident fish passage. The replacement of the culvert would restore habitat to approximately ¼ mile of anadroumous fish habitat and approximately ½ mile of resident fish habitat. Preacher Creek is an anadromous fish-bearing stream with Oregon Coast (OC) Coho Salmon and steelhead trout. The shortage of high quality aquatic habitat in the Oregon Coast Range, including the Five Rivers-Lobster Creek Watershed, limits recovery of coho salmon and the ability to maintain healthy populations of other aquatic-dependant species, especially other anadromous fish.

The project will occur within Riparian Reserve 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 implement the Preacher Creek Culvert Replacement Project as described in the proposed action (EA p.13) 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 Lobster Landscape Management Plan Project 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.

The following is a summary of this decision.

1. Follow the conservation recommendations, the reasonable and prudent measures, and the terms and conditions of the biological opinion (February 25, 2003; reference 2002/01254 (FS))
2. Generally limit the season of operation for in-stream work—such as replacing or removing culverts in roads and road decommissioning—to July 1 through September 15. Obtain a waiver from the State where needed to conduct the work after September 15.

III. **Compliance with Direction:**

The analysis documented in the Lobster Landscape Management Plan 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 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 lands within the Salem District (EA pp. 98). All of these documents may be reviewed at the Marys Peak Resource Area office.

Survey and Manage Species Review

The Preacher Creek Culvert Replacement 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 (including timber sales). Nevertheless, I have reviewed the Preacher Creek Culvert Replacement Project in consideration of both the December 17, 2009 and October 11, 2006 order. Because the Preacher Creek Culvert

Replacement project entails replacing one culvert on a road that is in use and part of the road system, I have made the determination that this project meets Exemption B of the Pechman Exemptions (October 11, 2006 Order), and therefore 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 would remain valid in such case.

Compliance with the Aquatic Conservation Strategy

On March 30, 2007, the District Court, Western District of Washington, ruled adverse to the U. S. Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration (NOAA-Fisheries) and USFS and BLM (Agencies) in *Pacific Coast Fed. of Fishermen's Assn. et al v. Natl. Marine Fisheries Service, et al and American Forest Resource Council,* Civ. No. 04-1299RSM (W.D. Wash)((PCFFA IV). Based on violations of the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA), the Court set aside:

- the USFWS Biological Opinion (March 18, 2004),
- the NOAA-Fisheries Biological Opinion for the ACS Amendment (March 19, 2004),
- the ACS Amendment Final Supplemental Environmental Impact Statement (FSEIS) (October 2003), and
- the ACS Amendment adopted by the Record of Decision dated March 22, 2004.

Previously, in *Pacific Coast Fed. Of Fishermen's Assn. v. Natl. Marine Fisheries Service,* 265 F.3d 1028 (9th Cir. 2001)*(PCFFA II)*, the United States Court of Appeals for the Ninth Circuit ruled that because the evaluation of a project's consistency with the long-term, watershed level ACS objectives could overlook short-term, site-scale effects that could have serious consequences to a listed species, these short-term, site-scale effects must be considered. The following paragraphs show how the Preacher Creek Culvert Replacement project meets the Aquatic Conservation Strategy in the context of PCFFA IV and PCFFA II.

Existing Watershed Condition

The Preacher Creek Culvert Replacement Project area is in the Five Rivers-Lobster Creek 5th-field watershed which drains into the Alsea River. Twenty percent of the Five Rivers-Lobster Creek Watershed is managed by BLM, 19% is private and 61% is managed by the USFS. Approximately 38% of the total BLM managed lands consist of stands greater than 80 years old and approximately 28% of BLM managed lands are located in riparian areas (within 100 feet of a stream).

Review of Aquatic Conservation Strategy Compliance:

Relevant information from the Lobster-Five Rivers Watershed Analysis (USDA 1997), the Water Quality Restoration Plan, Lobster Creek Planning Area (USDA 2004), and the fisheries Biological Assessment, was incorporated by reference into this environmental analysis. Based on this information, all project activities will meet the ACS standards and guides, and all ACS objectives will be met at the 5th-field watershed scale and over longer time periods of decades or more.

IV. **Alternatives Considered**

Pursuant to Section 102 (2) (E) of the National Environmental Policy Act (NEPA) of 1969, as amended, federal agencies shall "Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

Through public scoping, building temporary roads and temporarily reopening non-system roads was considered a problem by some people. The issue of no temporary road building and no reopening of non-system roads was added to the need. Thus, Alternative 3 was developed to address this problem.

V. **Decision Rationale**

Considering public comment, 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 (Chapter 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 p.98).
   - The Preacher Creek Culvert Replacement project is in full and complete compliance with the 2001 Survey and Manage FSEIS and ROD. This project is in compliance with Judge Marsha Pechman's January, 2006 ruling on the 2004 Record of Decision for Survey and Manage Standards and Guidelines, as stated in Point (3) on page 14 of the January 9, 2006, Court order in Northwest Ecosystem Alliance et al. v. Rey et al.
   - Will not have significant impact on the affected elements of the environment (FONSI pp. 1-3) beyond those already anticipated and addressed in the RMP EIS.
   - Has been adequately analyzed.

COMPARISON OF ALTERNATIVES WITH REGARD TO PURPOSE AND NEED
Table 1: Comparison of Alternatives by Purpose and Need

Purpose and Need (EA section 2.1)	No Action	Proposed Action
The shortage of properly functioning aquatic habitat in the Oregon Coast Range, including the Lobster watershed, limits recovery of cold-water species, such as coho salmon. Thus, there is a need to improve watershed function and provide adequate habitat to maintain viable populations of aquatic and terrestrial species.	If the culvert is not replaced, eventually the culvert will fail, resulting in elevated sediment transport and further impairing fish passage.	Based on the design criteria in appendix A, minor, short-term pulses of fine sediment (with associated turbidity) may be produced from removing or replacing stream culverts (generally larger ones), adding ditch relief culverts, or cleaning culvert inlets. These actions help prevent plugging and failure of the stream culverts, which can result in substantial adverse effects to streams. Actions designed to replace and remove culverts would improve salmonid spawning and rearing habitat in the long term as road drainages improve and the potential for culvert failure is reduced.

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 Chapter 1), as shown in *Table 1*.

VI. Public Involvement/Consultation/Coordination

Scoping: Letters describing the actions considered in the proposed project were mailed to about 200 parties, plus local landowners, on January 20, 2005. Public comment was also solicited through news releases in the Newport News-Times in Newport, Oregon; the Corvallis Gazette-Times in Corvallis, Oregon; the Siuslaw News in Florence, Oregon; and the Democrat-Herald in Albany, Oregon. The Siuslaw National Forest's quarterly "Project Update" publications were also used for public outreach. Comments on the proposed project were requested by February 21, 2005. Through these scoping efforts, 11 persons responded.

Comment Period and Comments:
The notice of availability for Lobster Landscape Management Project Preliminary Analysis was published in the Eugene Register-Guard on May 10, 2006, informing the public that the preliminary analysis is available for a 30-day review and comment period. Copies of the preliminary analysis, along with cover letters announcing that the preliminary analysis is available for a 30-day public comment period, were mailed to those who commented on the proposed project or who requested a copy of the document. The legal notice and letters indicated the beginning and end of the comment period, described the comment process, and identified a Forest Service contact person. Copies of the preliminary analysis were also made available at the Siuslaw National Forest Headquarters in Corvallis, and the District offices in Waldport and Florence. The

comment period ended at the close-of-business on June 9, 2006. Two persons, one organization, and one federal agency responded to this request. Comments are summarized, with Forest Service responses, in appendix D of the Project EA.

Based largely on public comment, some alternatives were considered but eliminated from detailed study. The alternatives are described in chapter 2. Comments relevant to clarifying how the Project would be implemented or relevant to the effects of implementing the Project are addressed in chapters 2 and 3, the Project design criteria (appendix A), or the Project file.

Consultation/Coordination:

Wildlife: The US Fish and Wildlife Service (FWS) is responsible for the wildlife species listed under the Endangered Species Act. Listed species that may occur in the project area include the bald eagle, northern spotted owl, and marbled murrelet. The Forest Service is responsible for supporting recovery of these species, and meets this obligation by working with the FWS through a required consultation process and by implementing their terms and conditions. These terms and conditions are included in appendix A. Consultation for this project is completed, and the FWS concurred with our finding that this project will not jeopardize the continued existence of the bald eagle, northern spotted owl, or marbled murrelet (FWS references: 1-7-05-F-0005 and 1-7-05-F-0664).

Fish: The National Marine Fisheries Service (NMFS) has been consulted about potential impacts to essential fish habitat (EFH) (USDA 2005a). In their response letter (USDC 2006; reference # 2005/06511), 16 conservation recommendations were listed, mostly pertaining to water and substrate quality.

Consultation for this project is completed, and the NMFS concurred with our finding that this project will not jeopardize the continued existence of the Oregon Coastal Coho Salmon.

VII. Conclusion

I have determined that change to the Finding of No Significant Impact (FONSI – April 2010) for the Preacher Creek Culvert Replacement Project is not necessary because I've considered and concur with information in the FONSI. 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 proposed action needs to be altered. There are no significant new circumstances or facts relevant to the proposed action or associated environmental effects that were not addressed in the EA.

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 Form 1842-1. Form 1842-1 can be obtained from the Salem District website at http://www.or.blm.gov/salem/html/planning/index.htm.

If you appeal: A public notice for this decision is scheduled to appear in the *Newport News-Times* newspaper on April 30, 2010. Within 15 days of this notification, a *Notice of Appeal* must be filed in writing to the office which issued this decision – Marys Peak Field Manager, Bureau of Land Management, 1717 Fabry Road SE, Salem, OR, 97306. A copy of the *Notice of Appeal* must also

be sent to the BLM Regional Solicitor (see Form 1842-1). The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your *Notice of Appeal.* 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 Board and to the appropriate Office of the Solicitor (see 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 otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

The relative harm to the parties if the stay is granted or denied,
The likelihood of the appellant's success on the merits,
The likelihood of immediate and irreparable harm if the stay is not granted, and
Whether the public interest favors granting the stay.

Statement of Reasons: Within 30 days of the filing of the *Notice of Appeal*, a complete statement of reasons why you are appealing must be filed with the Interior Board of Land Appeals (see Form 1842-1).

If no appeals are filed, this decision will become effective and be implemented 15 calendar days after the public notice of the Decision Record appears in the *Newport News-Times.* The public notice is scheduled to appear in the *Newport News-Times* on April 30, 2010.

Contact Person: For additional information concerning this decision, contact Gary Humbard (503) 315-5981, Marys Peak Resource Area, Salem BLM, 1717 Fabry SE, Salem, Oregon 97306.

Approved by: Patricia Wilson — 4-27-2010

Patricia Wilson
Marys Peak Resource Area Field Manager

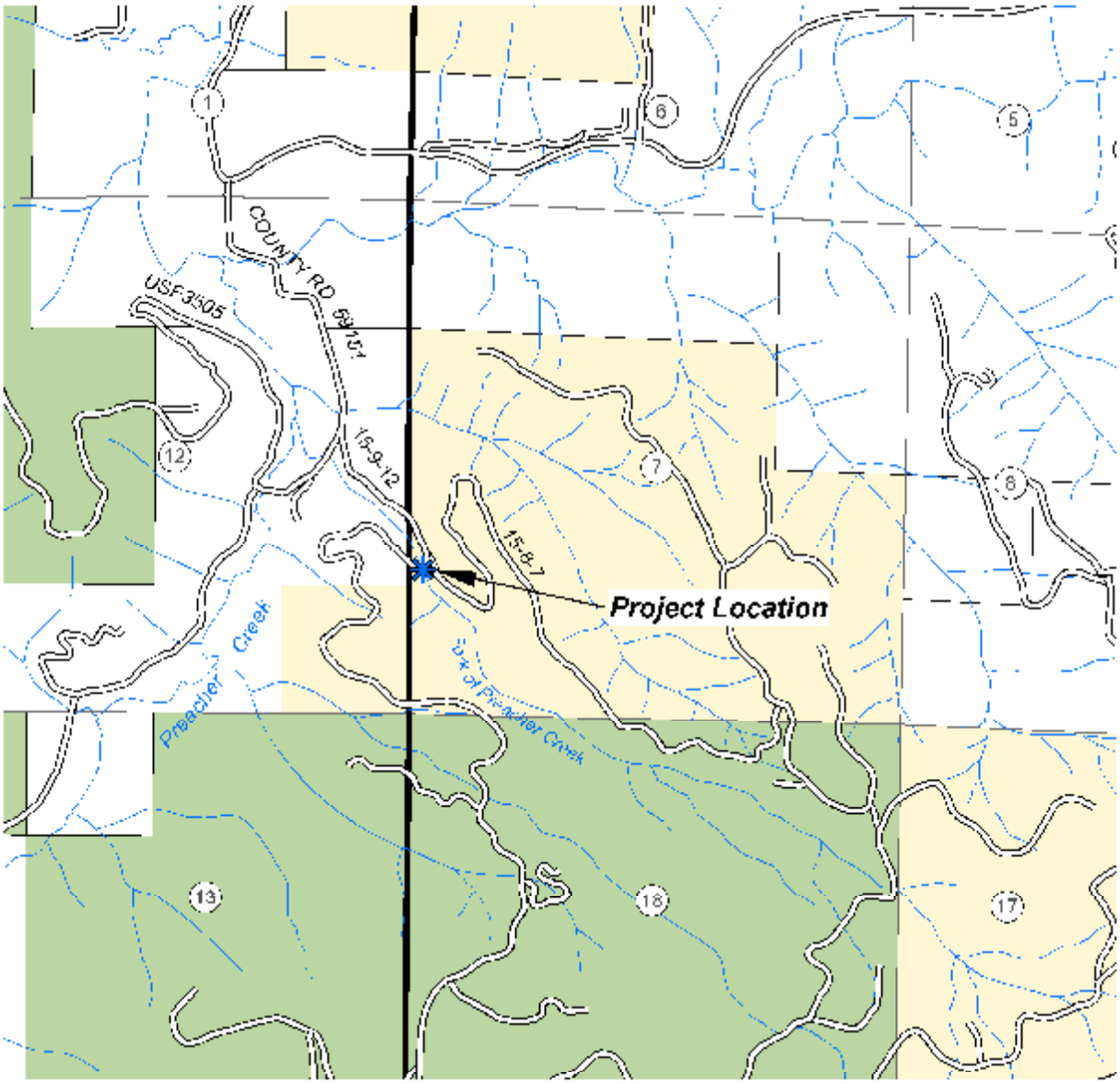
Date

April 1, 2010

United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Selected Action Map

Preacher Creek Culvert Replacement
T. 15 S., R. 8 W., W.M. - Salem District - Oregon



Culvert to be replaced
Existing road
Stream
Private
Salem District
Siuslaw NF

N
W
S

Feet
1,000 500 0 1,000

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. Original data was compiled from various sources and may not meet U.S. National Mapping Accuracy Standard of the Office of Management and Budget.

Preacher Creek Culvert Replacement Project

Finding of No Significant Impact

Lobster Landscape Management Project Environmental Assessment

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
Responsible Official:	Patricia Wilson Field Manager Marys Peak Resource Area 1717 Fabry Road SE Salem, OR 97306 or (503) 315-5969
For further information, contact:	Scott Snedaker, Project Lead Marys Peak Resource Area 1717 Fabry Road SE Salem, OR 97306 (503) 315-5928

BLM
Salem District

Abstract: This Finding of No Significant Impact (FONSI) discloses the predicted environmental effects of one project on federal land located in Township 15 South, Range 8 West, Section 7, within the Five Rivers-Lobster Creek Watershed. The project proposes to restore the distribution, diversity, and complexity of watershed and landscape features to ensure protection of the aquatic systems to which species, populations and communities are uniquely adapted by replacing a culvert that is currently blocking anadromous fish passage. The replacement of the culvert would restore habitat to approximately ¼ mile of anadroumous fish habitat and approximately ½ mile of resident fish habitat. Preacher Creek is an anadromous fish-bearing stream with Oregon Coast (OC) Coho Salmon and steelhead trout. The action will occur within Riparian Reserve (RR) 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.

BLM/OR/WA/AE-10/026+1792

FINDING OF NO SIGNIFICANT IMPACT

Introduction

The United States Forest Service (USFS) has conducted an environmental analysis (Lobster Landscape Management Project Environmental Assessment) for a proposal to replace one large (approximately 14 feet diameter) culvert replacement project as follows: By replacing the culvert that is currently blocking anadromous and resident fish passage, approximately ¼ mile of anadroumous fish habitat and approximately ½ mile of resident fish habitat would be restored. Preacher Creek is an anadromous fish-bearing stream with Oregon Coast (OC) Coho Salmon and steelhead trout. The project is on BLM managed land in Township 15 South, Range 8 West, Section 7 Willamette Meridian.

Implementation of the proposed action would conform to management actions and direction contained in the attached *Lobster Landscape Management Project Environmental Assessment* (Lobster Landscape Management EA). The Lobster Landscape Management Project Restoration EA is incorporated by reference in this Finding of No Significant Impact (FONSI) determination. The Preacher Creek Culvert Replacement Project has been designed to conform to the *Salem District Record of Decision and Resource Management Plan*, (RMP) May 1995, and related documents which direct and provide the legal framework for management of BLM lands within Marys Peak Resource Area. Consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (NMFS) is described in Chapter 4 of the EA.

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 Projects) from April 30, 2010 to May 14, 2010. The notice for public review will be published in a legal notice by the *Newport News Times* newspaper.

Finding of No Significant Impact

Based upon review of the Lobster Landscape Management Project 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 the Five Rivers-Lobster Creek 5th-field watershed and the project area boundaries. The proposed action (replacement of one culvert within Preacher Creek) would occur within 0.1 acres of RR LUA land, encompassing less than 0.00013% of the forest cover within the affected watershed [40 CFR 1508.27(a)].

Intensity:

1. The Project is unlikely to a have any significant adverse impacts on the affected elements of the environment (EA chapter 3 - vegetation, soils, water, fisheries/aquatic habitat, and wildlife). The following is a summary of the design features that would reduce the risk of affecting the above resources (EA Appendix A).

   - Follow the conservation recommendations, the reasonable and prudent measures, and the terms and conditions of the biological opinion (February 25, 2003; reference 2002/01254 (FS))
   - Generally limit the season of operation for in-stream work—such as replacing or removing culverts in roads and road decommissioning—to July 1 through September 15. Obtain a waiver from the State where needed to conduct the work after September 15.

   With the implementation of the project design features described in EA Appendix A, potential effects to the affected elements of the environment are anticipated to be site-specific and/or not detectable (i.e. undetectable over the watershed, downstream, and/or outside of the project areas). The project is designed to meet RMP Standards and Guidelines, and the effects of this project would not exceed those effects described in the RMP/FEIS [40 CFR 1508.27(b) (1), EA Chapter 3].

2. The Project would not affect:
   - ü Public health or safety [40 CFR 1508.27(b)(2)];
   - ü 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 Chapter 3);
   - ü Districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places, nor would the proposed action cause loss or destruction of significant scientific, cultural, or historical resources [40 CFR 1508.27(b)(8)] (EA Chapter 3).

3. 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)].

4. 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.

5. The interdisciplinary team evaluated the project context of past, present and reasonably foreseeable actions [40 CFR 1508.27(b)(7)]. Potential cumulative effects are described in the EA. These effects are not likely to be significant because of the project's scope (effects are likely to be too small to be detectable), scale (project area of 0.1 acres, encompassing less than 0.00013% of the forest cover within the Five Rivers-Lobster Creek Watershed), and duration (direct effects would occur over a maximum period of 4-6 years) (EA Chapter 3).

6. *The Project* is expected to adversely affect Oregon Coastal coho salmon, a threatened species and its habitat under the Endangered Species Act (ESA) of 1973 [40 CFR 1508.27(b)(9)]. Effects to listed species and take protection are addressed in the programmatic consultation.

   Fisheries: Oregon Coast Coho Salmon (*Oncorhynchus kisutch*) is listed as threatened under the Endangered Species Act; designated critical habitat for this species has been identified as well as essential fish habitat under the Magnuson-Stevens Fisheries Conservation and Management Act. Consultation for this project is completed, and the NMFS concurred with USFS finding that this project will not jeopardize the continued existence of the Oregon Coastal Coho Salmon.

   Wildlife: The US Fish and Wildlife Service (FWS) is responsible for the wildlife species listed under the Endangered Species Act. Listed species that may occur in the project area include the bald eagle, northern spotted owl, and marbled murrelet. The Forest Service is responsible for supporting recovery of these species, and meets this obligation by working with the FWS through a required consultation process and by implementing their terms and conditions. These terms and conditions are included in appendix A. Consultation for this project is completed, and the FWS concurred with our finding that this project will not jeopardize the continued existence of the bald eagle, northern spotted owl, or marbled murrelet (FWS references: 1-7-05-F-0005 and 1-7-05-F-0664).

7. 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)].

Approved by: Patricia Wilson 4-27-2010

Patricia Wilson, Field Manager Date
Marys Peak Resource Area