

# 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

## Walker Creek Culvert Replacement and In-Stream Large Wood Projects

### DOI-BLM-OR-S060-2013-0008-DNA

- A. **Location of Proposed Action:** T.3S, R.6W, sections 15, 22 Willamette Meridian, Yamhill County.

#### **Description of the Proposed Action:**

The proposed action is to replace two culverts and place trees into one mile of the Walker Creek stream channel. Walker Creek Culvert Replacements and In-Stream Large Wood Projects are located in the Nestucca River Watershed. These actions will occur in the Riparian Reserve land use allocation. The proposed actions are described and analyzed in Salem District Aquatic and Riparian Habitat Restoration *Environmental Assessment* (DOI-BLM-OR-S0000-2012-0001-EA). See Figure 1

The culvert located in section 15, will be replaced with a bridge of approximately 70 feet in length that will require a change in road alignment to meet stream width requirements for fish passage. On the north end of the new bridge an existing access road would be moved over into an existing borrow site. Material generated by the road location move may be used for construction of the bridge approaches. The existing borrow site and other bare ground (road realignment) will be re-vegetated with native vegetation. The road realignment on the south side of the bridge location will require the removal of 8-12 conifer trees; these trees will be set aside and used in the fish habitat project just downstream.

The other culvert to be replaced for fish passage located in section 22 would be a 20 foot wide open bottom arch which would be built on cement footers.

The in- stream fish habitat improvement project would use heavy equipment to place up to 40 trees into Walker Creek on BLM managed lands in sections 15 and 22. These trees would come from within 150 feet of stream and road edges shown on Figure 1. Trees used for the project would (including the trees from the bridge project) be selected using the criteria defined in the Salem District Aquatic and Riparian Habitat Restoration EA. Trees selected will range in size from 24 to 34 inches DBH and would be either felled or pulled/ pushed over to retain root wads; a portion of these trees will be placed into the stream channel with heavy equipment.

There is a short road spur that would be used to access in-stream work in Section 22, which will be decommissioned and blocked to vehicle traffic upon completion of the project (see figure 1). Decommissioning would include the removal of any culverts or cross drains and re-contouring the side slopes where culverts were removed to match the natural stream channel configuration, and de-compacting the road surface where appropriate.

#### Design Features

- S&M wildlife species: Keep the construction area downstream of the bridge site to the minimum necessary to construct the project. Maintain existing large wood, stumps and vegetation on the edge of

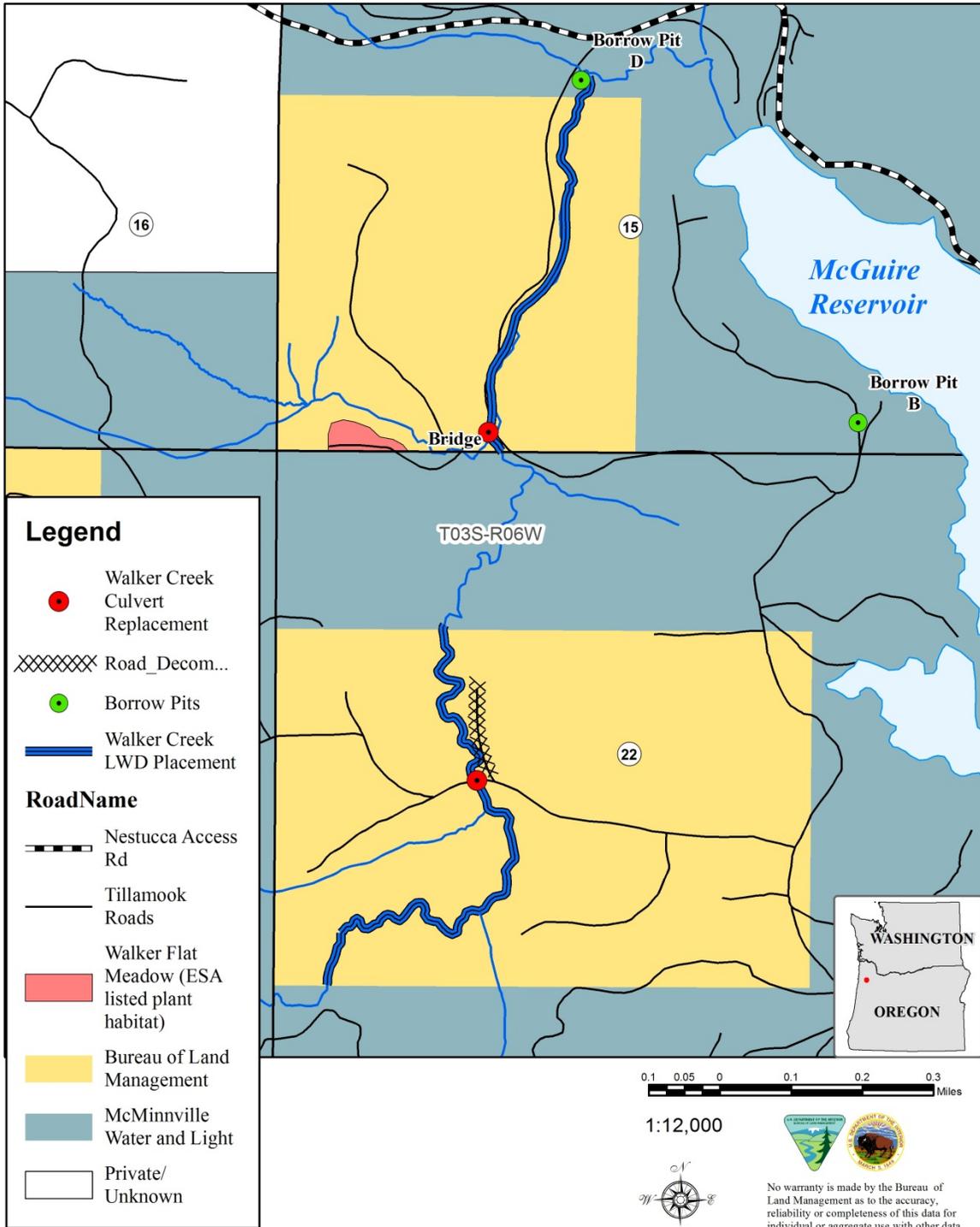
the construction zone. Replant disturbed areas with appropriate native conifers, hardwoods, shrubs, forbs and/or grasses.

- Archeology: If any cultural and/or paleontological resource (historic or prehistoric site or object) is discovered during project activities all operations in the immediate area of such discovery shall be suspended until an evaluation of the discovery can be made by a professional archaeologist to determine appropriate actions to prevent the loss of significant cultural or scientific values.

The project area occurs in the Coast Range Physiographic Province. Survey techniques are based on those described in Appendix D of the Protocol for Managing Cultural Resource on Lands Administered by the Bureau of Land Management in Oregon. Post-disturbance survey, when conducted, follows standards based on slope as defined in the Protocol appendix. These standards only mandate post-disturbance survey on slopes of 10% or less, or if professional judgment prompts such efforts due to topographic features or existence of nearby cultural resources. Ground disturbing work should be suspended if cultural material is discovered during project work until an archaeologist can assess the significance of the discovery.

- Botany/Weeds: To reduce the potential spread of invasive non-native plant species, unload equipment as close to the construction site as possible, keep equipment off the vegetated portion around the edges of the gravel stockpile areas shown on Figure 1, pre-treat (remove) *Geranium lucidum* (known populations of invasive / non-native plant species) adjacent to the project area prior to ground disturbing activities and/or project implementation, power wash equipment prior to delivery to project area to remove all dirt and plant material. Post project monitoring and control efforts of invasive plant species will be implemented over the next 2 to 3 years.

Figure 1: Walker Creek Restoration DNA



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**B. Conformance with the Land Use Plan (LUP) and Consistency with Related Subordinate Implementation Plans:**

Walker Creek Culvert Replacement and In-Stream Large Wood Projects conform to management objectives found in the *Salem District Record of Decision and Resource Management Plan, May 1995 (1995 RMP; USDI 1995)*.

The 1995 Salem District Record of Decision and Resource Management Plan (1995 RMP), as amended, incorporated the Aquatic Conservation Strategy, a component of the Northwest Forest Plan, to guide the District in meeting watershed restoration objectives, including but not limited to:

- Maintain and restore the physical integrity of the aquatic system, including shorelines, banks, and bottom configurations.
- Maintain and restore water quality necessary to support healthy riparian, aquatic, and wetland ecosystems. Water quality must remain in the range that maintains the biological, physical, and chemical integrity of the system and benefits survival, growth, reproduction, and migration of individuals composing aquatic and riparian communities.
- Maintain and restore the sediment regime under which an aquatic ecosystem evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.
- Maintain and restore habitat to support well distributed populations of native plant, invertebrate, and vertebrate riparian dependent species.
- 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).

The 1995 RMP also explained 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” (p. 7). Management Actions/Directions addressing watershed restoration cited the following priorities: completion of restoration plans prior to restoration activities; focusing restoration on the removal of some roads and, where needed, upgrading remaining roads; applying silvicultural treatments to restore large conifers in Riparian Reserves; and using instream structures to restore stream channel complexity in the short term.

The analysis in the Salem District Aquatic and Riparian Habitat Restoration EA supplements analyses found in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS), 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*, February 1994 (NWFP/FSEIS). The RMP/FEIS is amended by the *Final Supplemental Environmental Impact Statement for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*, November 2000.

The above documents are incorporated by reference in the environmental analysis and are available for review in the Salem District Office.

**Survey and Manage Species Review**

The Walker Creek Culvert Replacement and In-Stream Large Wood Projects are 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 approval of the 2011 Survey and Manage Settlement Agreement. The case is now remanded back to the District Court for further proceedings. This means that the December 17, 2009, District Court order which found National Environmental Policy (NEPA) inadequacies in the 2007 analysis and records of decision removing Survey and Manage is still valid.

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 District Court's December 17, 2009 ruling, the Pechman exemptions still remained in place. All activities associated with the Walker Creek Culvert Replacement and In-Stream Large Wood Project except the replacement of one of the culverts with a bridge is consistent with Pechman Exemptions:

- 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. and,*
- 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.*

The replacement of the lower Walker Creek culvert with a bridge is not covered by Pechman exemptions and is therefore subject to 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).

That portion of the Walker Creek Culvert Replacement and In-Stream Large Wood Project involving the replacement of a culvert with a bridge 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 because surveys for potentially affected Survey and Manage species were completed to protocol (terrestrial mollusks and botanical species). No Survey and Manage botanical species were found however one warty jumping slug (*Hemphillia glandulosa*) was found adjacent to the lower culvert area on the edge of the forested area. The warty jumping slug is a very common terrestrial mollusk in the Tillamook Resource Area (approx. 2000 sites in NW Oregon) which is included on the 2001 S&M ROD list (category C species) but was removed from the list during the first annual species review (ASR) due to its common nature. However because the ASR's are not in effect, the site will be managed to retain the forested features necessary to support viability for the species and thereby maintain consistency with the 2001 ROD without ASR's.

**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.

The analysis in the Salem District Aquatic and Riparian Habitat Restoration EA supplements analyses found in the *Final Environmental Impact Statement for the Revision of Resource Management Plans of the Western Oregon Bureau of Land Management*, October 2008 (2008 RMP/EIS); *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS), 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*, February 1994 (NWFP/FEIS). The RMP/FEIS is amended by the *Final Supplemental Environmental Impact Statement for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*, November 2000.

**Other Related Documents:**

National Marine Fisheries Service (NMFS). 2008. Programmatic Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Fish Habitat Restoration Activities in Oregon and Washington, CY2007-CY2012. Biological Opinion NMFS:2008/03506. Northwest Region. Portland, OR. The programmatic coverage for the culvert and bridge project was submitted to NMFS in December 2012, as such these fish passage projects fall under the Biological Opinion above and will be built to the design and implementation criteria outlined in this Opinion.

National Marine Fisheries Service (NMFS). 2013. Reinitiation 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).

U.S. Fish and Wildlife Service. 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, these types of projects were specifically considered to be routine restoration actions with annual maximums set for both the District and at the 5<sup>th</sup> field watershed level.

Portion of Table 1. Pg 13. Salem District Aquatic and Riparian Habitat Restoration EA

Restoration Category	Typical Year	Annual Maximum
Instream structure and gravel placement - excavator-type placement	2 projects in two 5 <sup>th</sup> fields for a total of 3 miles	<i>District:</i> 10 stream miles <i>5th Field Watershed:</i> 4 stream miles
Fish passage - culvert and bridge replacements	2 projects in two 5 <sup>th</sup> fields for a total of 4 structures	<i>District:</i> 10 structures <i>5th Field Watershed:</i> 4 structures

The Walker Creek Culvert Replacement and In-Stream Large Wood Projects are the only fish passage and instream large wood projects the Salem District would be implementing within the Nestucca River 5<sup>th</sup> field watershed in the next year and therefore are within the scope of a typical year and annual maximum's effects. Based on discussions with the Salem District lead fisheries Biologist, the District Annual Maximum would also be well below the annual maximum considered for the entire Salem District.

**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. 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." No unresolved conflicts concerning alternative uses of available resources (section 102(2) (E) of NEPA) were identified. No alternatives were identified that would meet the purpose and need of the project and have meaningful differences in environmental effects from the Proposed Action. Therefore, the Salem District Aquatic and Riparian Habitat Restoration EA analyzed the effects of the "Proposed Action" and the "No Action Alternative" in this project area.

**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 [PFC] 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. New circumstances have arisen since the publication of the Salem District Aquatic and Riparian Habitat Restoration EA in 2012.

- 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. The projects in Walker Creek are not located within Spotted Owl Critical Habitat and therefore is unaffected by this change.
- 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 approval of the 2011 Survey and Manage Settlement Agreement. The case is now remanded back to the District Court for further proceedings. This means that the December 17, 2009, District Court order which found National Environmental Policy (NEPA) inadequacies in the 2007 analysis and records of decision removing Survey and Manage is still valid. See detailed discussion of Survey and Manage on pp. 5 and 6.

**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. (3) Changes in resource related plans, policies or programs, include the recent change in survey and manage discussed above on pages 5 and 6. (4) There are no new land designations in the Headwaters Nestucca 6<sup>th</sup> field planning areas (which includes Walker Creek).

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 needs have been addressed by directly surveying for species where required and appropriate measures taken, see Survey and Manage Species Review section above and Project Design Features.

**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 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 the culvert replacement and in-stream large wood projects would fall within those analyzed in the EA, and were anticipated in the EA.

Specialists' review of this project has identified several additional design features to reduce the potential of affects to those resources. These will be implemented as design features of this project, see proposed action and design features above.

Also see section D(3) of this DNA for further discussion.

**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 projects, there should be no change in anticipated cumulative effects with these restoration projects.

Due to the limited duration of these projects, other actions planned in the area will not have effects that would be considered cumulative. With the improvement of both the in stream habitat and the road with these new bridges and culverts other actions i.e. timber haul on Walker Creek Road would have a lower potential of affects to fish resources.

**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 Salem District Aquatic and Riparian Habitat Restoration EA.

External scoping (seeking input from people outside of the BLM) was conducted by means of a scoping letter. 41 copies of this letter went out to federal, state municipal government agencies, tribal authorities, and interested parties on the Salem District on May 13, 2011. One comment in support of these types of projects was received from Oregon Wild.

**E. Interdisciplinary Analysis: Identify those team members conducting or participating in the preparation of this worksheet.**

<u>Name</u>	<u>Resource Represented</u>
Matt Walker	Fisheries/ hydrology
Steve Bahe	Wildlife / S&M
Kurt Heckerath	Botany/weeds
Heather Ulrich	Archeology
Andy Pampush	NEPA

**F. 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 required, however Design Features were incorporated into the selected alternative of the Salem District Aquatic and Riparian Habitat Restoration EA. This project incorporates design features set forth pp. 66-67 and pp. 69-71 of the EA. This project also incorporates additional site specific design features (see proposed action above). All design features are consistent with the conservation recommendations and terms and conditions of the Aquatic Restoration Biological Opinion (ARBO April 28 2007) for the bridge and culvert project. The large wood project would be consistent with the Aquatic Restoration Biological Opinion (ARBO II April 25, 2013)

**REVIEWED BY**

Planning and Environm

  
\_\_\_\_\_  
Planning and 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