

## APPENDIX 9

### PUBLIC COMMENTS TO ENVIRONMENTAL ASSESSMENT OR-086-99-03 and BUREAU OF LAND MANAGEMENT RESPONSES

On March 10, 2000, a pre-decision letter, along with a copy of the EA (Environmental Assessment Number OR-086-99-03) and draft FONSI (Finding of No Significant Impact), was mailed to 12 interested individuals, groups, or agencies (Project Record, Document 50). Additionally, on March 15, 2000 notices for public comment appeared in the *Headlight Herald*, *Spotlight*, and *Chronicle*, newspapers of Tillamook, Scappoose, and St. Helens, Oregon, respectively (Project Record, Document 51). A total of two letters were received as a result of the pre-decision notice (Project Record, Documents 52 and 53). All public input was assigned a number and filed within the Project Record. The BLM's (Bureau of Land Management) responses to comments received during the 30-day public comment period are contained in this document. All comments presented are direct quotes from the letters received.

Project Record Document 52 - comment #1  
George Sexton, American Lands Alliance, Eugene OR.

“The Dairy-McKay watershed already has approximately 6 miles of road per square mile of forest (see EA Appendix 1 page 81) and AL believes that any new roading is inappropriate given the current road density.”

**BLM RESPONSE:** The BLM agrees that 6 miles/mile<sup>2</sup> is a very high road density, however this number is an average over the entire watershed and includes other land ownerships. Public land is actually a very small percentage of the Dairy-McKay Creek watershed (approximately 5%). The road density of mapped roads on BLM land within the watershed is approximately 1.6 miles/mile<sup>2</sup> (see EA Appendix 1 page 81), and with the addition of 40% that we estimate may exist but not mapped, the actual federal road density is estimated to be approximately 2.3 miles/mile<sup>2</sup>, which is considerably less than the overall average of approximately 6 miles/mile<sup>2</sup>. The BLM recognizes that additional permanent roads in this watershed are not desirable, which is why the proposed action includes some decommissioning of new, reconstructed and legacy roads for a net reduction of 800 feet of road within the project area.

Additionally, in order to minimize the short-term impacts from new road construction, the proposed action entails the provision to locate new roads on or near stable ridge tops (EA, page 20). The short- and long-term impacts of the proposed action are fully disclosed in chapter 3 of the EA, including a finding that there would be “no notable change in the hydrologic regime” of the watershed given the amount of existing roads would be reduced by approximately 800 feet (EA, page 44).

*Note: The Dairy-McKay Watershed Analysis (page 115) identifies two road segments within the same section as Powerline Dairy Project as candidates for closure, obliteration, or subsoiling. These roads include 4N-3-33.2, and the portion of road 3N-3-3.1 within the southeast quarter of the southeast quarter of section 33. In light of the current road density within the watershed, the IDT examined these roads and discovered that our options concerning both of these roads were either partially or completely encumbered by an existing Bonneville Power Administration Right-of-way. Furthermore portions of the 4N-3-33.2 road are too steep and/or rocky to effectively sub-soil.*

Project Record Document 52 - comment #2  
George Sexton, American Lands Alliance, Eugene OR.

“ . . . the proposed new roading in Riparian Reserve violates both the spirit and the letter of the Northwest Forest Plan and the Aquatic Conservation Strategy.”

**BLM RESPONSE:** The NFP (Northwest Forest Plan) does not prohibit road construction within RR (Riparian Reserves). The NFP Standards and Guidelines for road management within RR (RF-2, pg. C-32) directs us to meet ACS (Aquatic Conservation Strategy) objectives for each existing or planned road by the following:

“ a. Minimizing road and landing locations in Riparian Reserves.” This guidance was used in developing all alternatives, including Alternative 2. Each alternative utilizes a different logging system that requires some amount of road and certain road locations to make each particular yarding system feasible. In all alternatives the amount of road located in RR were the minimum amount that would ensure the feasibility of the alternative, and ensure that all guidance in RF-2 is met. In addition, these roads would be decommissioned following completion of the timber sale, and existing roads that are partially within RR would also be decommissioned, leading to a net reduction of road mileage within RR, including, removal of an old, log culvert stream crossing.

“ b. Completing watershed analysis (including appropriate geotechnical analyses) prior to construction of new roads or landings in Riparian Reserves.” The Dairy-McKay Watershed Analysis was completed in March 1999. Recommendations contained within the analysis under the Aquatic Issues (p. 110) include “Where feasible, avoid road-building activities within Riparian Reserves. Where these activities are necessary, use practices that minimize hazards to the aquatic system.” By designing the roads to be in the best possible locations, hazards to the aquatic system are greatly minimized (see discussion under e. below). A geotechnical analysis was not necessary because roads are on or very near ridgetop lines and located to avoid sensitive sites.

“ c. Preparing road design criteria, elements, and standards that govern construction and reconstruction.” The environmental assessment contains a list of design features that

governs road construction and reconstruction for all alternatives.

“ d. Preparing operation and maintenance criteria that govern road operation.” The EA contains a list of design features that governs road operation and maintenance for all alternatives.

“ e. Minimizing disruption of natural hydrologic flow paths, including diversion of streamflow and interception of surface and subsurface flow.” All roads, including the two roads within the RR, are on or very near ridgetop lines and located to avoid sensitive sites (e.g., steep slopes, inner gorges), eliminating the interception or disruption of subsurface water flows and greatly minimizing disruption of surface flows. Excluding all road segments from the RRs would necessitate moving some of the road segments onto steep midslopes. Side-hill construction would result in more soil disturbance, possibly intercept hydrologic flows and greatly increasing the risk of increased erosion, mass wasting and sediment delivery to streams (EA, pages 42-43). New road construction would employ techniques to reduce concentration of runoff and keep sedimentation to a minimum.

“ f. Restricting sidecasting as necessary to prevent the introduction of sediment to streams.” The location of the roads on or very near ridgetop lines would minimize erosion and mass movement failure generally associated with road building, thus reducing the chances of road-related sediment inputs into streams (EA, page 43).

“ g. Avoiding wetlands entirely when constructing new roads.” All new road construction would avoid wetlands.

Project Record Document 52 - comment #3  
George Sexton, American Lands Alliance, Eugene OR.

“The very first Standard and Guideline in the Northwest Forest Plan regarding new road construction clearly states “minimize road and landing locations in Riparian Reserves.” See the Northwest Forest Plan ROD S&G C-32. It is beyond debate that Alternative 4 would meet this S&G far better than the preferred alternative.”

**BLM RESPONSE:** As previously discussed in the BLM response to Project Record Document 52 comment #2, the proposed action or preferred alternative is consistent with the NFP S&G C-32 and your comment contains no new information that was not already considered and addressed in the EA. Since Alternative 4 does not contain road construction in Riparian Reserves, there is no disagreement that alternative 4 meets the S&G “far better” than the preferred alternative. However, the BLM is not required to select an alternative simply because it will have less environmental impact, especially when that same alternative is inconsistent with Bureau policy. Specifically, BLM Handbook Supplement H-5420-1, dated February 8, 2000, directs that timber sale

contracts will “require the lowest cost methods to accomplish project objectives while providing, but not exceeding, the necessary or required level of environmental protection (e.g., not requiring a more expensive logging system to mitigate impacts below the level of impacts anticipated in the relevant environmental impact statement [EIS] and land use plan).” Alternative 4 utilizes a logging system which is 67% more expensive than the proposed action (Project Record Document 58). Given that the proposed action is consistent with the NFP and would result in environmental impacts below those anticipated in the Final Salem District Resource Management Plan/Environmental Impact Statement, dated September 1994, its selection as the preferred alternative is consistent with Bureau policy.

Project Record Document 52 - comment #4  
George Sexton, American Lands Alliance, Eugene OR.

“The Draft FONSI rejects Alternative 4 because it would “eliminate most of the timber sale receipts on which the 50% share provided to the O&C Counties is based.” AL is able to find no guidance in the RMP of Northwest Forest Plan that calls for circumventing Standards and Guidelines that may reduce payments to counties. Furthermore, businesses such as Columbia Helicopters that provide helicopter yarding might contend that their community stability is greatly enhanced by such yarding.”

**BLM RESPONSE:** Alternative 4 was not selected for several reasons, one of which was timber sale receipts. The proposed action does not circumvent NFP S&Gs as your comment suggests. Also see BLM response to Project Record Document 52 comments #2 and #3.

Project Record Document 52 - comment #5  
George Sexton, American Lands Alliance, Eugene OR.

“The . . . NWFP S&G regarding new road construction calls for “completing watershed analysis (including appropriate geotechnical analyses) prior to construction of new road or landings in Riparian Reserves.” IBID C-32. . . . The Dairy-McKay WA was not completed “while some of the planning for the Powerline Dairy Project was occurring.” EA Appendix 1 - page 81. Yet the EA contends that “the Resource Area staff’s involvement in the process of the WA has assured that the proposed action is fully consistent with the completed WA.” Clearly this is not what the NWFP calls for. While the WA was not available to the public during scoping, I find it highly unlikely that it calls for additional new roading in Riparian Reserves as part of the desired range of future conditions.”

**BLM RESPONSE:** As stated on page 10 of the EA, the proposed action was listed in the “June, September, and December 1998, March and June 1999 and in the February

2000 editions of the quarterly Salem District Project Update”. The Dairy-McKay WA was completed in March 1999. Although the WA was not complete when the initial scoping letter was issued in December 1998, scoping continued until February 2000. The WA was completed and available for public review almost one year prior to the release of the Powerline Dairy EA. In fact, on page 66 of the EA it states that “recommendations contained on pages 109 - 116 of the WA were considered in the development of the Powerline Dairy action alternatives.” Also see BLM responses to Project Record Document 52 comments #2 and #3.

Project Record Document 52 - comment #6  
George Sexton, American Lands Alliance, Eugene OR.

“The BLM is required to have a Transportation Management Plan (TMP) that is site-specific. This is especially important when contemplating drastic actions such as building a road through a Riparian Reserve. Does the Tillamook Resource Area have a TMP or are you relying on the general Western Oregon TMP?”

**BLM RESPONSE:** The Tillamook Resource Area completed the first iteration of the TMOs (Transportation Management Objective) for the roads under its management in April, 1999. Additionally, on April 21, 2000, the Salem District Manager approved the first iteration of the Salem District implementation strategy for the Western Oregon Transportation Management Plan. This implementation strategy had been in draft for more than six months prior to its approval.

*NOTE: TMOs are specific management objectives considering multiple resource needs for both the short- and long-term access needs for each road under BLM management. The multiple resource needs that were considered included: current and future use and constraints of each road; appropriate maintenance level to reflect uses; improvement and maintenance needs of each road that fit within budget limits; roads in sensitive soils or unstable areas that need stabilization; and roads that may be closed to meet road density targets.*

Project Record Document 52 - comment #7  
George Sexton, American Lands Alliance, Eugene OR.

“Alternative 4 would clearly meet Aquatic Conservation Strategy Objectives 5, 6, 8 and 9 much better than the preferred alternative. Please note that all ASCOs call for the BLM to maintain and *restore* the objectives at issue. Simply stating that all of the action alternatives will not retard or prevent the attainment of an objective does not meet the agency’s NEPA requirement.”

**BLM RESPONSE:** The wording “will not retard or prevent the attainment of” for each

of the ACS objectives is equivalent to stating that the objectives would be maintained. The Northwest Forest Plan ROD and Standards and Guidelines states “Complying with the Aquatic Conservation Strategy objectives means that an agency must manage the riparian-dependent resources to *maintain* the existing condition or implement actions to restore conditions.”. The “will not retard or prevent the attainment of” wording is emphasized because maintaining the ACS objectives is the minimum we can do and still implement a project, - “Management actions that do not maintain the existing condition or lead to improved conditions in the long term would not ‘meet’ the intent of the Aquatic Conservation Strategy and thus, should not be implemented.” (B-10). However, if you read the discussions addressing each ACS objective (Appendix 7) you will see that Alternative 2 has the potential to restore a number of these objectives.

Also see BLM response to Project Record Document 52 comment #3.

Project Record Document 52 - comment #8  
George Sexton, American Lands Alliance, Eugene OR.

The preferred alternative (Alternative 2) would retard Aquatic Conservation Objectives 5, 6, 8 and 9. “Real world observation confirms that new roading and ground based yarding often contribute to sediment loading and peak flows.”

**BLM RESPONSE:** The preferred alternative (Alternative 2) is consistent with ACS Objective 5 as project design features and retention of Riparian Reserves would maintain the sediment regime under this aquatic ecosystem. No alteration of the current sediment regime is expected.

As stated in Appendix 7, ACS Objective 4, page 151 that “Timber activities .... could lead to sediment movement into streams in the short term.” However, the risk of sedimentary delivery impacts to streams for Alternative 2 is low and any increases in sedimentation due to the proposal would be minimal, temporary and within the range under which the aquatic ecosystem developed. Riparian Reserves would adequately filter any sediment before it reaches the stream due to the low risk of hill slope erosion and limited sediment routing paths. (EA, pages 42-45).

Risk of hill slope erosion and sediment delivery to streams is discussed in the EA ( pp. 43-45, 48, 53; Appendix 6 - p 145). Roads are located on or near stable ridgetops away from streams. Only very small road segments would be constructed within the RR. They would be constructed on ridgetop, avoiding hill-slope construction (See BLM Response to Project Record Document 52 comment #2). Due to the site’s topography, streams are not located directly downslope of the road segments with the RR, thereby eliminating or greatly minimizing the risk of sediment delivery.

The following design features would minimize or eliminate sediment movement into

streams: Rocking roads used during the wet season to avoid sediment run-off, no-cut buffers at least 50 feet wide on both sides of all non-fish bearing streams and 100 feet wide on all fish bearing streams, no ground-based yarding equipment or skid trails allowed within RR (with the exception of the use of winch cable and where logging equipment is able to be operated from an existing road), utilize existing skid trails to the greatest extent possible, limiting the number and width of new skid trails and cable yarding corridors, and restrict ground-based yarding to periods of low soil moisture.

Several restoration activities are included within Alternative 2, including decommissioning roads for a net decrease of 800 feet in roads within the watershed, and removing fill on a log culvert that is expected to eventually fail. Although there is a low potential for short-term increases in sediment input to streams, the long-term effect would be a decrease in sedimentation.

Alternative 2 is also consistent with ACS Objective 6. RR would maintain and restore conditions to sustain the riparian, aquatic, and wetland habitats. Proposed actions under this alternative would not likely adversely affect the timing, magnitude, duration, or distribution of flows (EA, pages 42-45).

To summarize, the watershed is rain dominated. Studies have found that increases in peak flows in rain dominated watersheds tend to be smaller, more variable, and shorter in duration than in both rain and snow. Observed increases were primarily in small basins with large clearcut units and high road densities (5% or greater versus 3% in the basin). Only 0.02 (92 acres) of the subwatershed would be harvested under this alternative. Most of the area treated would be commercially thinned, not regeneration harvested. Roads to be constructed are on or near ridgetops (eliminating the interception of subsurface flows and greatly minimizing disruption of surface flows). There are no stream crossings with the exception of one, temporary, small ephemeral/intermittent stream crossing and there would be a net reduction of 1,550 feet of road within the project area.

Therefore, timber harvesting and road construction or reconstruction will have no impact on in-stream flows and they will be maintained. (EA, pages 42-45).

In addition, Alternative 2 is consistent with ACS Objectives 8 and 9. Species composition and structural diversity of plant communities in riparian areas affected by road construction is not expected to change because the area in question is so small. The approximate length that falls within the RR is 700 feet for both roads. This small amount of road construction that actually falls within the RR will not disturb habitat to such a degree that plant populations found there would cease to be well-distributed. No rare taxa of plants were found during the surveys of these units, and the level of disturbance will not be sufficient to change plant population densities across the landscape. Also see EA, Appendix 7 and 8.

Project Record Document 52 - comment #9  
George Sexton, American Lands Alliance, Eugene OR.

“ ... the Willamette Pilot Roads Analysis (USFS October 1998) contends of noxious and non-native plant species, that “There is almost a 1 to 1 correlation between movement of new invaders and the road network” . . . Introducing the ubiquitous Scotch Broom and other exotics into Riparian Reserves will not help attain ACSOs 8 and 9.”

**BLM RESPONSE:** Although disturbances allow for the distribution of weeds, a number of design features were created to avoid increases in noxious weed populations. All earth moving equipment is to be washed and free of weed material prior to each entry onto BLM lands. Surveys were conducted for weeds within the proposed units and on the roads approaching the units and only common roadside species were found. These species may increase in number due to higher light levels after a harvest but will decline over time as overstory canopy develops (EA, Appendix 8). Finally, the roads to be constructed are non-rocked, temporary roads that will be seeded with a native mix after the project is complete.

Given the mitigating design features and that the incursions into the RR will be very small, attainment of ACS objectives will not be prevented. Effects to native species composition and diversity of plant communities (ACS Objective 8) are expected to be small and temporary on the local scale and next to non-existent on the landscape scale due to the location of road and its temporary nature. Nor is achievement of ACS Objective 9 expected to be prevented. The small amount of road construction (see BLM responses to Project Record Document 52 comments #8 above) that actually falls within the RR will not disturb habitat to such a degree that plant populations would cease to be well-distributed.

Project Record Document 52 - comment #10  
George Sexton, American Lands Alliance, Eugene OR.

“AL wishes to convey to the BLM that the *Final Supplemental EIS for Amendment to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*, is clearly illegal and should not be relied on for guidance for fall fungi, or and other, surveys. Much like the REO Red Tree Vole memorandum of 1996 (which is also relied on in the EA), the proposed Forest Plan Amendment proposes to weaken the survey and manage protocols in order to expedite logging and will be found to violate NEPA, NFMA and the APA.”

**BLM RESPONSE:** Comments concerning the Survey and Manage Draft SEIS is outside the scope of this project; the close of the public comment period for the Draft SEIS was March 3, 2000. The BLM intends to complete required surveys consistent with existing survey protocols.

Project Record Document 52 - comment #11  
George Sexton, American Lands Alliance, Eugene OR.

“ . . . if the proposed alternative is chosen in the Final FONSI, it is likely that AL will seek NMFS consultation for impacts on listed Steelhead and the Upper Willamette Chinook Salmon ESU . . . “

**BLM RESPONSE:** A biological assessment addressing the effects of Alternative 2 on Upper Willamette steelhead, Upper Willamette chinook, and their designated critical habitats, has been prepared and presented to the Willamette Level 1 Team, which includes a NMFS representative. The NMFS has also received copies of the initial scoping document and the final Environmental Assessment which, as you know, discusses all four alternatives. In addition, the Powerline Dairy project would not be implemented until ESA (Endangered Species Act) section 7 consultation with NMFS is completed, including our receipt of a biological opinion.

Project Record Document 53 - comment #1  
Doug Heiken, Oregon Natural Resources Council Fund (ONRC), Eugene OR.

“ONRC is concerned about logging in late-successional and old-growth because it destroys habitat for vulnerable species.”

**BLM RESPONSE:** No late-successional and old-growth habitats exists within the project area.

Project Record Document 53 - comment #2  
Doug Heiken, Oregon Natural Resources Council Fund (ONRC), Eugene OR.

“We are also concerned about all road-building because it causes unnecessary impacts to soil and water and other resources. This area is already overbuilt with roads. Do not build any new roads nor reconstruct roads that are healing naturally.”

**BLM RESPONSE:** See BLM responses to Project Record Document 52 comments #1, #2, and #3. Additionally, building on or reconstructing old, inactive roads will greatly minimize impacts (e.g., compaction, displacement, erosion, and loss in timber production) that would be associated with building new roads necessary for implementing the project. It takes a very long time for abandoned roads to heal naturally. Subsoiling these roads, as proposed, will greatly accelerate their recovery.

Project Record Document 53 - comment #3

Doug Heiken, Oregon Natural Resources Council Fund (ONRC), Eugene OR.

“Be sure to survey for all special status Species including survey and manage and protection buffer species. Pay special attention to the dusky subspecies of the Red tree vole which is critically imperiled and may occur in the project area.”

**BLM RESPONSE:** As per Appendix 1 of the EA (page 79-80), Powerline Dairy Issue Disposition - (document 22 comment 5) appropriate surveys have been or will be conducted within the project area. Due to an omission, one survey protocol was not listed in the EA Issue Disposition Appendix although surveys were completed. The omitted protocol is *Survey Protocols for Survey and Manage Component 2 Bryophytes*. Version 2.0, December 11, 1997. In addition, a new version of the fungi protocols has been issued and was followed to conduct applicable surveys: Version 1.3 by Thomas E. O’Dell December 1999.

The project area was surveyed to protocol for red tree voles; the surveys resulted in no voles or vole nests being located.

Project Record Document 53 - comment #4

Doug Heiken, Oregon Natural Resources Council Fund (ONRC), Eugene OR.

“This project will likely violate the principles of the ACS affirmed by Judge Rothstein, i.e., to maintain and restore ACS objectives at all scales and in both the short and long-term.”

**BLM RESPONSE:** As disclosed in the EA, Appendix 7, the proposed action (Alternative 2) is consistent with the nine ACS objectives. Judge Rothstein’s September 29, 1999 opinion in *PCFFA v. NMFS* is currently under appeal. When this case is resolved the BLM will comply to the extent applicable with the terms of any final decisions of the courts in this matter.

Project Record Document 53 - comment #5

Doug Heiken, Oregon Natural Resources Council Fund (ONRC), Eugene OR.

“We hereby incorporate by reference the comments of George Sexton of American Lands Alliance.”

**BLM RESPONSE:** See BLM responses to Project Record Document 52 comments #1-#11 above.