

Salem District Aquatic and Riparian Habitat Restoration

Decision Record

Environmental Assessment Number OR-S0000-2012-0001-EA

March 22, 2012

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

Responsible Agency: USDI – Bureau of Land Management

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BLM
Salem District



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BLM/OR/WA/AE-12/016+1614

1.0 Introduction

The Bureau of Land Management (BLM) has conducted an environmental analysis for the *Salem District Aquatic and Riparian Habitat Restoration* project. This EA is incorporated here by reference in this Decision Record (DR). The proposed action is to implement a variety of aquatic and riparian habitat restoration activities to restore watershed conditions within the Salem District. Project activities would include large wood, boulder, and gravel placement; reconnection of side channels; streambank restoration; fish passage projects; head-cut stabilization; riparian vegetation treatments and road treatments. The Decision Record (DR) constitutes the BLM's decision to implement the project and reviews and affirms the *Finding of No Significant Impact* (FONSI).

I made the FONSI and Environmental Assessment (EA) available for public review from March 6, 2012 to March 20, 2012 (DR section 6.0). I signed the FONSI on March 22, 2012.

2.0 Decision

I have decided to implement the Salem District Aquatic and Riparian Habitat Restoration Project as described in the proposed action (EA pp. 12 to 26), hereafter referred to as the "selected action". This decision is based on the analysis in the EA, the supporting project record, and 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:

Implement a number of aquatic and riparian restoration activities identified in the National Marine Fisheries Service (NMFS) (2008) and the United States Fish and Wildlife Service (USFWS) (2007) Biological Opinions (NMFS: 2008/03506; USFWS: 13420-2007-F-0055) for Programmatic Consultation on Fish Habitat Restoration Activities in Oregon and Washington, CY2007-CY2012 (ARBO) to improve aquatic and riparian habitat on BLM-administered lands and non-BLM-administered lands including:

- **Large Wood, Boulder, and Gravel Placement**
Place large wood (LW) and/or boulders in stream channels and adjacent floodplains to increase channel stability, rearing habitat, pool formation, spawning gravel deposition, channel complexity, hiding cover, low velocity areas, and floodplain function. Logs would be placed to imitate natural accumulations of LW throughout the proposed restoration reaches including single logs or log jams. Whole trees from the adjacent riparian area or off-site would be used for instream large wood. Logs would be either cut, tipped and yarded from the adjacent riparian stand or transported to the site using helicopters or trucks on established roads.
- **Reconnection of Existing Side Channels and Alcoves**
Reconnect and/or restore existing side channels and alcoves to increase rearing habitat for juvenile fish. Side channel and alcove improvements include fill removal within channels and alcoves, large wood and/or boulder placement, riparian planting etc. Boulder and LW placement may be used in the main river to stabilize the channel and bring the entrance of the side channel into alignment.

- **Streambank Restoration**
Installation of stream bank stabilization structures (e.g., rock barbs, tree revetments, and willow mats) to stabilize stream banks and help riparian vegetation recovery.
- **Head-cut Stabilization and Associated Fish Passage**
Stabilize active or potentially active head-cuts to prevent further channel degradation and to promote downstream channel aggradation.
- **Fish Passage Culvert and Bridge Projects**
Remove or replace existing road-stream crossing structures (culverts and bridges) that restrict fish passage with stream simulation structures to restore up- and downstream passage for all life stages of native fish.
- **Road Treatments**
Proposed treatments would apply to road segments that impair stream function. Projects may include road segments with structurally failing culverts, culverts with excessive erosion at the inlet or outlet, culverts impairing debris and bedload movement, and road segments delivering sediment to stream channels through ditchlines and/or overland conveyance typically within 200 feet of streams. Includes road treatments, from simple closures and decommissioning to more complex road obliteration and removal, with an overall goal of restoring hydrologic functions. Includes stormproofing roads intended to remain open, thereby hydrologically disconnecting such roads from watershed streams.
- **Riparian vegetation treatments**
Non-commercial treatments of vegetation in the riparian area (i.e., Riparian Reserves) to help restore plant species composition and structure that would occur under natural disturbance regimes. Activities would include non-commercial treatments of vegetation such as thinning, enhancing openings for planting, creation of planting gaps, planting conifers and deciduous species, and animal damage control to protect seedlings.

All design features described in the EA (EA pp. 17-26 and 66-80) are incorporated into the selected alternative.

3.0 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 projects and have meaningful differences in environmental effects from the proposed action (EA, p. 11). Complete descriptions of the "action" and "no action" alternatives and their anticipated effects are contained in the EA.

4.0 Decision Rationale

Considering public comment, the content of the EA and supporting project record, and the management direction contained in the RMP, I have decided to implement the selected action, as described in section 2.0 above. The following is my rationale for this decision.

1. The selected action:
 - Meets the purpose and need of the project (EA section 1.1), as shown in *Table 1*.
 - Complies with the Salem District's Record of Decision and Resource Management Plan (1995 ROD/RMP) and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA pp. 8-11).
 - Will not have significant impact on the affected elements of the environment (EA FONSI pp. 62-65) beyond those already anticipated and addressed in the RMP FEIS.
 - Has been adequately analyzed.

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 as shown in *Table 1*.

Table 1: Comparison of Alternatives with Regard to the Purpose and Need (EA Section 1.1)

Purpose and Need (EA Section 1.1)	Alternative 1 (No Action)	Alternative 2 (Proposed Action)
<ul style="list-style-type: none"> • Meet the purpose and need of the project (Section 1.1) • Provide high quality spawning and rearing habitat and increase aquatic habitat complexity in stream and river side-channels for salmon and steelhead • Provide for fish passage at road crossings • Facilitate the development of riparian forest and shrub stands to shade stream channels to maintain water quality • Minimize road erosion and sediment impacts to water quality. 	<p>Under the No Action Alternative, aquatic and riparian restoration actions would continue to occur but some opportunities maybe delayed or not implemented. Partnership and funding opportunities may be lost because projects cannot be implemented until environmental assessments are completed. Thus, the number and extent of enhancement activities would be reduced compared to the action alternative and there would be reduced opportunities to enhance production and survival of aquatic species.</p> <p>Fish habitat and populations would continue to be dependent upon current trajectories and ecological processes resulting from the current riparian stand conditions. In-stream habitats and forested riparian stands would retain the current low levels of large wood (LW) and simplified riparian stand structure. The natural recruitment process for LW into streams would be maintained at its current low level. Stream complexity would remain low, possibly negatively affecting sediment routing and gravel sorting capabilities. Roadways adjacent to streams that are adversely affecting the fish habitat either through adverse sedimentation of the stream bed/channel or fish passage blockage would continue in its</p>	<p>Implementation of aquatic and riparian habitat restoration actions would be more efficient. Just as the aquatic restoration biological opinion consultations improved the efficiency of consultation on individual projects, the Action Alternative would improve the efficiency of NEPA review. It is anticipated that through increased planning efficiencies, partnerships and funding opportunities would also increase. Partnerships are particularly important for watershed improvements on the Salem District due to the checkerboard ownership pattern. As a result, the Salem District would be in a better position to help facilitate the recovery of ESA-listed salmonids.</p>

Purpose and Need (EA Section 1.1)	Alternative 1 (No Action)	Alternative 2 (Proposed Action)
	<p>present condition and potentially degrade the fish habitat unless mitigated. Quality fish habitat that is currently blocked by culverts would remain inaccessible to fish. Proposed riparian planting areas would continue to be dominated by a few species of trees and brush with limited potential for future increase in tree species diversity, structural complexity or increasing shade that would come from riparian planting.</p>	

5.0 Compliance with Direction

The analysis documented in the Aquatics and Riparian Restoration EA is programmatic and supplements analyses found in the Salem District Proposed Resource Management Plan/Final Environmental Impact Statement, September 1994 (RMP/FEIS). The Aquatics and Riparian Restoration project was designed under the Salem District Record of Decision and Resource Management Plan, May 1995 (1995 RMP) and the 2008 Records of Decision for the Revision of Resource Management Plans of the Western Oregon Bureau of Land Management (see below) and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA pp. 8-9). All of these documents may be reviewed at the Salem District office. The project also complies with authorities described in EA sections 1.3.1 and 3.6.

Since 2008, there has been considerable uncertainty surrounding planning in western Oregon. The BLM revised their resource management (land use) plans in 2008. On July 16, 2009, the Secretary of the Interior withdrew the 2008 Records of Decision for the Revision of Resource Management Plans of the Western Oregon Bureau of Land Management (2008 RODs/RMPs); and directed the BLM to implement actions in conformance with the resource management plans for western Oregon that were in place prior to December 30, 2008. For the Salem District, the plan in place prior to December 30, 2008 is the 1995 Salem District Management Plan (1995 ROD/RMP), which provides the specific direction for implementing the Northwest Forest Plan (NWFP).

In 2011, one court decision reinstated the 2008 RODs/RMPs while another decision appeared to vacate the 2008 RODs and return management to the Northwest Forest Plan and the 1995 RODs/RMPs.

Given this uncertainty, the Salem District has designed projects to conform to the 1995 ROD/RMP and the 2008 ROD/RMP. Consequently, projects have been consistent with the goals and objectives in the 1995 ROD/RMP and 2008 ROD/RMP.

Survey and Manage Review

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 Final Supplemental to the 2004 Supplemental Environmental Impact Statement to Remove

or Modify the Survey and Manage Mitigation Measure Standards and Guideline. In response, parties entered into settlement negotiations in April 2010, and the Court filed approval of the resulting Settlement Agreement on July 6, 2011.

Projects that are within the range of the northern spotted owl are subject to the survey and management standards and guidelines in the 2001 ROD, as modified by the 2011 Settlement Agreement (IM-OR-2011-063, July 2011).

I have reviewed the Aquatic and Riparian Restoration Project, and I have determined that it complies with the December 17, 2009 order, the October 11, 2006 order, and the Settlement Agreement because:

The Aquatic and Riparian Habitat Restoration Project applies a 2006 Exemption from a stipulation entered by the court in litigation regarding Survey and Manage. Also known as the Pechman Exemptions, the Court'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.
- 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.”

6.0 Public Involvement, Consultation, and Coordination

Public Scoping

- A scoping letter, dated May 13, 2011, was sent to 41 potentially affected and/or interested individuals, groups, and agencies. One favorable response was received from Oregon Wild during the scoping period.
- A description of the project has appeared regularly in the BLM Project Update publication to solicit comments on the proposed project.

EA and FONSI Comment Period and Comments

The BLM made the EA and FONSI available for public comment from March 6, 2012 to March 20, 2012. No comment letters were received during this comment period. The scoping comment letters/emails are available for review at the Salem District BLM Office.

Consultation and Coordination

Wildlife: United States Fish and Wildlife Service (USFWS)

Projects implemented under the proposed action may affect, and are likely to adversely affect Northern Spotted Owls and Marbled Murrelets, however these actions will not adversely affect critical habitat for either of these species. The U.S. Fish and Wildlife Service determined the proposed action may adversely affect young Northern Spotted Owls due to disturbance of during aquatic restoration activities within the critical nesting season (March 1- July 15), using helicopters, heavy equipment, and chainsaws, and during entire breeding system with Type I helicopters within the disruption distances of nesting pairs. The Service determined the proposed action may adversely affect Marbled Murrelets due to disturbance while implementing aquatic restoration activities within the murrelet critical nesting season (April 5 –August 5) and the late breeding season (August 6 –September 15). Consultation for aquatic restoration projects covered under this environmental assessment has been completed in the U.S. Fish and Wildlife Service Programmatic Consultation for Aquatic Habitat Restoration Activities in Oregon and Washington (BO #13420-2007-F-0055) issue on June 14, 2007. After 2012, consultation with the U.S. Fish and Wildlife Service would be conducted under the future reinitiation of the Aquatic Habitat Restoration Activities in Oregon and Washington biological opinion.

Fish: National Marine Fisheries Service (NMFS)

Projects implemented under the proposed action may affect, and are likely to adversely affect Upper Willamette River (UWR) steelhead trout, UWR Chinook salmon, Lower Columbia River (LCR) steelhead trout, LCR Chinook salmon, LCR Coho salmon, and Oregon Coast Coho salmon.

The National Marine Fisheries Service determined that these species may be adversely affected due to disturbance, minor increases in sediment, turbidity, and injury or death during work area isolation. Consultation for aquatic restoration projects covered under this environmental assessment has been completed in the Programmatic Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Fish Habitat Restoration Activities in Oregon and Washington, CY2007CY2012 issued by NMFS on June 27, 2008. After 2012, consultation with NMFS would be conducted under the future reinitiation of the Aquatic Restoration Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation.

The only basin utilized by eulachon where the Salem District would implement the proposed action is the Sandy River basin. Although eulachon are not likely present in the lower Sandy River in most years, in years of high population abundance eulachon could be present in the lower Sandy River until early June. Adults die after spawning and larvae are rapidly carried downstream by the current. No in-channel actions are allowed within the Sandy River until July 15, well after all life stages of eulachon have left the river. Post construction sediment movement may occur during late fall freshets but would be stabilized before adults enter the Sandy River for spawning. As such, the proposed action would have no effect on eulachon or its designated critical habitat.

Consultation for fish passage culverts on fish-bearing streams within 1 mile of natural barriers to anadromy has been completed in the National Marine Fisheries Service Biological Opinion for Programmatic Activities of USDA Forest Service, USDI Bureau of Land Management, and Coquille Indian Tribe in Western Oregon. (NMFS No. 2010/02700).

7.0 Administrative Review Opportunities

Any person adversely affected by this decision may appeal it to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, a notice of appeal must be filed at the physical address of the Salem District BLM office within 30 days from the date of this decision. In an appeal the appellant has the burden of showing that the decision is in error.

If, pursuant to 43 CFR 4.21, an appellant wishes to file a petition (request) to stay (suspension) this decision during the time that an appeal is being reviewed by the IBLA, the petition for a stay must accompany the 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, to the Interior Board of Land Appeals 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 a stay is requested, the applicant has the burden of proof to demonstrate that a stay should be granted. Except as otherwise provided by law or other pertinent regulations, a petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

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

8.0 Implementation Date

Implementation of this decision may begin 30 calendar days after the public notice of the Decision Record appears in the Salem Statesman Journal newspaper. The public notice is scheduled to appear in the Salem Statesman Journal on March 23, 2012.

For additional information concerning this decision or the appeal process, contact Rich Hatfield (503) 315-5968 or Bob Ruediger, (503) 375-5608.

Approved by: Daniel Hollenkamp
Daniel Hollenkamp
Associate District Manager, Salem

3/22/2012
Date