

**Brush Creek Instream Restoration**  
**Decision Document**  
(EA # OR-103-08-09)  
Swiftwater Field Office, Roseburg District

**Decision:**

It is my decision to authorize the Brush Creek instream restoration project including the placement of large wood or boulders and the planting of native shrubs and trees within the boundaries of the Swiftwater Field Office, consistent with restoration projects proposed and analyzed in the Roseburg District Aquatic Restoration Environmental Assessment (EA) #OR-103-08-09. Project locations and details are listed in Table 1. Design and work will be done consistent with the project design features (PDFs) outlined in the EA (pgs. 14-19) and Table 1.

**Rationale for the Decision:**

The placement of large wood and boulders were analyzed under Alternative Two, the “Proposed Action”, of the *Roseburg District Aquatic Restoration EA* (pgs. 27-47). The placement of large wood and boulders meet the stated objectives of increasing stream complexity. Alternative One, the “No Action” alternative, will not meet the identified objectives, and the simplified habitat described in the EA (pg. 24) will remain. I considered the following updated information and potential resource impacts in making my decision.

Conformance

The Roseburg District initiated planning and design for this project to conform and be consistent with the Roseburg District’s 1995 Record of Decision and Resource Management Plan (ROD/RMP). The implementation of this project will not have significant environmental effects beyond those already identified in the 1994 Roseburg District Proposed Resource Management Plan/Environmental Impact Statement (PRMP/FEIS). The Brush Creek Instream Restoration project does not constitute a major federal action having significant effects on the human environment; therefore, an environmental impact statement will not be prepared.

Survey and Manage Compliance

The Brush Creek Instream Restoration project is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Roseburg District Record of Decision and Resource Management Plan (ROD/RMP).

On December 17, 2009, the U.S. District Court for the Western District of Washington (District Court) 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'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 (emphasis added);*
- 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. I have reviewed the Brush Creek Instream Restoration Project in consideration of both the December 17, 2009 partial summary judgment and Judge Pechman's October 11, 2006 order. Because the Restoration project entails placement of large wood and boulders instream and riparian planting, I have made the determination that this project meets Exemption C of the Pechman Exemptions (October 11, 2006 Order), and no surveys or management of known sites is required.

## **Description of the Action:**

### *Brush Creek Project*

An excavator will place logs and boulders at 55 sites along the identified stream reaches in Brush Creek (Table 1; Figure 1). This project will restore 3.2 miles of Brush Creek using 310 logs and 1100 boulders. As stated in the EA, large wood and boulders will be staged on or adjacent to roads and placed in stream channels using a tracked excavator. The excavator will access stream channels and riparian areas through the use of temporary access trails. Upon completion of the log and boulder placement, the excavator will restore temporary access trails as it exits the project area. Restoration of access trails includes surface scarification, scattering of branches and organic material, and seeding and mulching where necessary. Large wood and boulders will be designed to allow fish passage through or over structures at all stream flows. Logs and boulders will be hauled to the site using trucks on existing roads. Work will be completed on this project during the in-water work windows (July 1- September 15) in 2013 and 2014.

### *Project Design Features*

Project design will be consistent with the project design features described in the EA (pgs. 14-19). As noted in the EA, these PDFs come from a variety of sources. Large wood and boulder placement projects incorporate requirements of the *Oregon Road/Stream Crossing Restoration Guide* (Oregon Department of Forestry 1999), the *Oregon Aquatic Habitat Restoration and Enhancement Guide* (The Oregon Plan, 1999), and the Aquatic Restoration Biological Opinion II dated April 25, 2013. Installation will incorporate Best Management Practices from the *Roseburg District Record of Decision/Resource Management Plan* (ROD/RMP, Appendix C, pgs. C-49 to C-50) and project design features that include:

### *Soils*

Where possible, stream entry points will occur in previously disturbed areas or existing entry points, such as: near roads and old access trails. Equipment access routes will be designated to reduce soil displacement and compaction (EA, pg. 15). Projects will take place during the soil dry season, to reduce the risk of compaction. Project design features will further reduce soils impacts by requiring the application of seeding and mulching to re-vegetate any disturbed or compacted sites (EA, pg. 15). The limited instream work window, use of previously disturbed areas, and seeding where necessary will result in sediment contributions to the adjacent streams being confined to a localized, short-term sediment pulse during heavy equipment operation in the stream channel. In addition, a first season pulse of sediment is expected during the first fall rains after the project. By implementing the PDF's discussed above, this sediment pulse will be minimal and will not be measurable from background levels downstream.

### *Aquatics*

The project will not result in undue environmental degradation, and is consistent with Riparian Reserve objectives (EA pg. 61-65). It will aid in maintenance and restoration of in-stream flows, spatial and temporal connectivity in the watershed, natural sediment regimes, and aquatic habitat.

The potential effects to Oregon Coast coho salmon and other fish species are associated with sediment mobilized during heavy equipment work in the stream channel. Potential sediment effects also affect critical habitat and Essential Fish Habitat for Oregon Coast coho salmon. With application of the project design features described in the EA and identified and adopted in the National Marine Fisheries Service Aquatic Restoration Biological Opinion II, dated April 25, 2013, effects of the project will be localized and short term. Temporarily elevated turbidity levels may cause short-term stress to fish, but will not cause long term stress that may decrease survival rates (EA pg. 33-34). These limited effects will “not

have an adverse effect” on critical habitat or Essential Fish Habitat (EA pg. 52). Placement of large wood and boulders will add stream complexity and cover for juvenile and adult coho salmon, steelhead trout, cutthroat trout, and Pacific lamprey to 3.2 miles of degraded stream habitat which will result in a long-term benefit to these species. The Brush Creek project will also involve the planting of native trees and shrubs and the removal of noxious weeds.

**Table 1.** Brush Creek Instream Restoration Project and Project Design Features.

Project Location		Project Components				Timing & Seasonal Restrictions				
Project Name	Project Location	Length of Stream Reach (miles)	# Sites	# Instream Structures	Instream Work Period	Marbled Murrelet Restriction	Northern Spotted Owl Restriction	Bald Eagle Restriction	Migratory Birds	Net Work Period Available
Brush Creek	T. 22 S., R. 7 W., Section 13 T. 22 S, R. 6W, Sections 19 & 31 T. 23 S, R. 6W, Sections 5, 7, & 9	3.2	55	310 logs 1100 boulders	July 1 – Sept. 15	For project site 22-7-13; Zone 2 (within the 1.3 mile corridor): April 1-August 5 and DORs August 5 – September 15  All other project sites: Zone 2: April 1 – August 5: DORs*	All project sites except 23-6-9: March 1 – July 15	None	Within Seasonal Restrictions of marbled murrelet and northern spotted owl	For project site 22-7-13: August 5-Sept. 15 with DORs  For all other project sites: July 16 – Sept. 15 (July 16 – August 5 with DORs*)
<b>TOTAL</b>		3.2	55	310 logs 1100 boulders						

\*DORs = Daily Operating Restrictions: Operations occur between two hours after sunrise and two hours before sunset.

### Botany

The project areas are within the range of Kincaid's lupine (*Lupinus sulphureus* var. *kincaidii*; a Federally-threatened species) and hairy popcorn flower (*Plagiobothrys hirtus*; a Federally-endangered species). Surveys will be conducted for these species prior to beginning ground disturbing activities. If any are found, they will be protected from the activity. BLM sites will also be surveyed for special status species. If populations are found they will be assessed for the impacts of the project to the population and managed for the best outcome of the project and the protection of the special status species.

Noxious weeds are likely present on most of the sites. The botany surveys will identify and map noxious weed sites and treatment will be carried out according to the Roseburg District Noxious Weed Program prior to ground disturbing activity. Noxious weed populations associated with riparian projects on BLM land will be monitored, evaluated, and treatment undertaken as directed in the Roseburg District's Noxious Weed Program.

All equipment will be pressure-washed or steam cleaned prior to mobilization into each project area to minimize the risk of introducing soil from outside or between project areas that may be contaminated with noxious weed seed or other propagative materials.

### Wildlife

#### Threatened and Endangered Species

##### Northern Spotted Owl

The Brush Creek, (Section 13), Thistleburn Creek (Section 19), and Squaw Creek (Section 31) project sites are located within suitable spotted owl habitat. Suitable habitat associated with the Brush Creek, Thistleburn Creek and Squaw Creek project areas have known active owl nest sites within 0.25 miles and protocol surveys to determine occupancy and nest status are being conducted during the 2013 nesting season. Therefore, these projects would be seasonally restricted from March 1 to July 15 to allow completion of surveys and determination of owl activity during the 2013 nesting season (Table 2). This restriction could be waived until March 1<sup>st</sup> of the following year if surveys indicate owls are not nesting or have failed in a nesting attempt.

One of the Brush Creek project sites, Thistleburn Creek project site and Squaw Creek project site occur within a spotted owl nest patch (300-meter radius from an activity center). No trees would be felled within a nest patch that occurs within the project sites in Sections 13, 19, and 31.

Sections 5, 7, and 9 of Brush Creek project sites do not occur within suitable spotted owl habitat and do not have active owl activity centers within 0.25 miles. Therefore, seasonal restrictions to avoid disturbance to spotted owls are not necessary for these project sites (Table 2).

##### Northern Spotted Owl Critical Habitat

The Brush Creek, Thistleburn Creek, Squaw Creek project sites all occur within 2012 Designated Critical Habitat for the spotted owl. The project sites occur within Designated Critical Habitat Unit ORC-5 for the northern spotted owl under the 2012 Rule (Fed. Register; Vol. 77 No. 233; Dec. 4, 2012; pgs. 71876-72068). No suitable nest trees would be felled. For all project sites, there will be approximately 20 trees between 8-20 inches diameter at breast height removed for excavator access and thus will affect Critical Habitat due to the loss of roosting and potential future nest trees which are

primary constituent elements of Critical Habitat. However, the stand will continue to function at its current level of nesting habitat for the spotted owl.

### Marbled Murrelet

The Brush Creek, Thistleburn Creek and Squaw Creek project areas fall within the range of the marbled murrelet. Brush Creek, Section 13, is located within Marbled Murrelet Inland Management Zone 2 within the 1.3 mile corridor. Brush Creek, Sections 5, 7 and 9, Thistleburn Creek and Squaw Creek are located within Marbled Murrelet Inland Management Zone 2 (between 35 -50 miles of the coast). The Brush Creek (Sections 13, 5 & 7), Thistleburn Creek and Squaw Creek project sites are located in or within 100 yards of unsurveyed suitable habitat.

To avoid disturbance to nesting murrelets in unsurveyed habitat, Seasonal Restrictions from April 1<sup>st</sup>- August 5<sup>th</sup> will be implemented for Brush Creek Section 13 with Daily Operating Restrictions from August 5<sup>th</sup> – September 15<sup>th</sup>. Daily Operating Restrictions (operations may occur between two hours after sunrise and two hours before sunset) will be implemented from April 1 through August 5 for Brush Creek (Sections 5 & 7), Thistleburn Creek (Section 19) and Squaw Creek (Section 31) project areas (Table 2).

Trees that contain suitable nest structures and those trees immediately adjacent with interlocking canopies with potential nest trees would not be removed.

### Marbled Murrelet Critical Habitat

The Brush Creek project sites i.e. Thistleburn Creek (Section 19), Squaw Creek (Section 31) and Section 5 of Brush Creek (with the exception of Sections 13, 7 and 9) are located within Designated Critical Habitat Unit OR-04-f for the marbled murrelet (Federal Register; Vol. 61 No.102; May. 13, 1996; pgs. 26256-26230). Trees that contain suitable nest structures and those trees immediately adjacent with interlocking canopies with potential nest trees would not be removed. For all project sites, there will be approximately 20 trees between 8-20 inches diameter at breast height removed for excavator access and thus will affect Critical Habitat. Removal of these trees would modify Primary Constituent Elements of Critical Habitat because they are within 0.5 miles of suitable nest trees and are at least one-half site potential tree height. However, because existing nest structure would not be removed, the Critical Habitat Unit would maintain its function by continuing to provide forested habitat that could support future nesting opportunities for marbled murrelets.

**Table 2: 2013-2014 Brush Creek Instream Restoration Project  
Wildlife Concerns – Threatened and Endangered Species**

Restoration Site	TRS	Wildlife Concerns				Comments
		Spotted Owl (NSO)		Murrelet (MAMU)		
		Habitat	Disturbance	Habitat	Disturbance	
Thistleburn Creek	T22S-R06W-Section 19	Yes	Yes	Yes	Yes	NSO Seasonal Disruption Restrictions - March 1st-July 15th. MAMU Seasonal Disruption Restrictions - DORs April 1st -August 5th.
Squaw Creek	T22S-R06W-Section 31	Yes	Yes	Yes	Yes	NSO Seasonal Disruption Restrictions - March 1st-July 15th.MAMU Seasonal Disruption Restrictions - DORs April 1st -August 5th.
Brush Creek	T23S-R06W-Sections 5, 7	No	No	Yes	Yes	MAMU Seasonal Disruption Restrictions -DORs April 1st - August 5th.
Brush Creek	T23S-R06W-Section 9	No	No	No	No	None
Brush Creek	T22S-R07W-Section 13	Yes	Yes	Yes	Yes	NSO Seasonal Disruption Restrictions - March 1st-July 15th.MAMU Seasonal Restrictions - April 1st - August 5th and DOR's from August 5th -September 15th.

Special Status Species (Table 3)

Bald Eagle

None of the project sites will occur within a bald eagle nesting territory, therefore, no known nest or roost trees will be removed.

Migratory Songbirds

The work associated with the instream restoration project may occur during the breeding season (April – July) and cause direct disturbance to breeding birds and/or destruction of nests within the project area, as well as cause disturbance to nesting birds in surrounding habitats. However, in those sites where spotted owl seasonal restrictions and marbled murrelet seasonal restrictions would be implemented, would also mitigate disturbance during the migratory bird nesting season. In addition, given that the work is very localized with minimal ground disturbance and planned to begin late in the breeding season (mid-July or later), impacts to nesting birds is expected to be minimal; most chicks are likely to have fledged from nests and are expected to be able to escape direct disturbance. The instream restoration work would not affect migratory birds at the population levels.

Yellow-legged Frog

All of the project sites are within yellow-legged frog habitat. All projects within suitable habitat will occur outside the key breeding/rearing period of March 1 to June 30 thus reducing direct effects to yellow-legged frog egg masses and juveniles. An overall increase in quality and availability of habitat is expected to occur following completion of the projects. The projects are expected to increase the complexity of the streams by reducing stream velocities and developing a system of cobbles, riffles and pools as well as shallow backwaters. The shallow backwaters will create refugia

for tadpoles and increase streamside sedge and other plant development for egg mass attachment and adult shelter.

### Terrestrial Mollusks

#### Oregon Shoulderband (*Helminthoglypta hertleini*)

The range of the Oregon shoulderband includes all of the Roseburg District.

The Oregon shoulderband habitat consists of rocky areas, including talus deposits and outcrops, which contain stable interstitial spaces large enough for snails to enter and includes herbaceous vegetation and deciduous leaf litter within rocky inclusions in forest habitat. (*Survey Protocol for Survey and Manage Terrestrial Mollusk Species from the Northwest Forest Plan*, Version 3.0, 2003, Appendix A and Appendix B). There is no habitat within any of the project areas. No surveys are required.

### Aquatic Mollusks

#### Rotund Lanx (*Lanx subrotunda*)

Habitat consists of unpolluted rivers and large streams at low to moderate elevations, in highly oxygenated, swift-flowing, cold water on stable cobble, boulder or bedrock substrates. (Version 2.0 originally drafted October 1997 by Joseph Furnish, Roger Monthey, and John Applegarth, Revised July 2008 by Nancy Duncan: *Survey protocol for aquatic mollusk species: Preliminary Inventory & Presence/Absence Sampling* Version 3.1, July 2008, pg. 45)

Although surveys are not required, only the Brush Creek project sites (22-7-13, 23-6-5, 23-6-7 and 23-6-9), which is a 6<sup>th</sup> order stream, will be surveyed to determine presence/absence for this species according to survey protocol for aquatic mollusk species standards. Management recommendations for this species have not been established, however, if species is found, mitigation measures for the species will be to place logs/boulders in a different location, if possible, to avoid potential impacts to that site. (Version 2.0 originally drafted October 1997 by Joseph Furnish, Roger Monthey, and John Applegarth, Revised July 2008 by Nancy Duncan: *Survey protocol for aquatic mollusk species: Preliminary Inventory & Presence/Absence Sampling* Version 3.1, July 2008)

#### Western Ridged mussel (*Gonidea angulate*)

These species are found in streams of all sizes and are rarely found in lakes or reservoirs. They are found mainly in low to mid-elevation watersheds, and do not often inhabit high elevation headwater streams. They inhabit mud, sand, gravel, and cobble substrates. (Version 2.0 originally drafted October 1997 by Joseph Furnish, Roger Monthey, and John Applegarth, Revised July 2008 by Nancy Duncan: *Survey protocol for aquatic mollusk species: Preliminary Inventory & Presence/Absence Sampling* Version 3.1, July 2008, pg. 44)

Although surveys are not required, Brush Creek, a 6<sup>th</sup> order stream, project sites (22-7-13, 23-6-5, 23-6-7 and 23-6-9), Thistleburn Creek, a 5<sup>th</sup> order stream (22-6-19) and Squaw Creek, a 5<sup>th</sup> order stream (22-6-31) will be surveyed to determine presence/absence for this species according to survey protocol for aquatic mollusk species standards. Management recommendations for this species have not been established, however, if the species is found, mitigation measures will be to place logs/boulders in a different location, if possible, to avoid potential impacts to that site. (Version 2.0 originally drafted October 1997 by Joseph Furnish, Roger Monthey, and John Applegarth, Revised July 2008 by Nancy Duncan: *Survey protocol for aquatic mollusk species: Preliminary Inventory & Presence/Absence Sampling* Version 3.1, July 2008)

**Table 3: 2013-2014 Brush Creek Instream Restoration Project  
Wildlife Concerns – Interagency Special Status/Sensitive Species Program (ISSSSP)**

Special Status/ Sensitive Species	Instream Restoration Project Location										Comments
	Thistleburn Creek 22-6-19		Squaw Creek 22-6-31		Brush Creek 23-6-5,7		Brush Creek 23-6-9		Brush Creek 22-7-13		
	Habitat	Disturbance	Habitat	Disturbance	Habitat	Disturbance	Habitat	Disturbance	Habitat	Disturbance	
<b>Bald Eagle</b>	Yes	No	Yes	No	Yes	No	No	No	Yes	No	Bald eagle nest or roost trees will not be removed.
<b>Migratory Birds</b>	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Migratory bird mitigation would correspond with MAMU and NSO seasonal restrictions.
<b>Yellow-legged Frog</b>	Yes	No	Yes	No	Yes	No	Yes	Yes	Yes	No	*YLFR mitigation would correspond with MAMU and NSO seasonal restrictions.
<b>Oregon Shoulderband</b>	No	No	No	No	No	No	No	No	No	No	No habitat within all project areas
<b>Crater Lake Tightcoil</b>	No	No	No	No	No	No	No	No	No	No	Outside distribution range (Western Cascades)
<b>Green Sideband</b>	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Outside distribution range (Southern Oregon Coast)
<b>Chace Sideband</b>	No	No	No	No	No	No	No	No	No	No	Outside distribution range (Klamath Province; western cascades)
<b>Western Ridged Mussel</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	*GOAN mitigation will be to move the placement of the log/boulders if found
<b>Rotund Lanx</b>	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	*LASU mitigation will be to move the placement of the log/boulders if found

\*GOAN = Western Ridged Mussel; LASU = Rotund Lanx; YLFR = Yellow-legged Frog

*Cultural*

The Brush Creek instream restoration project is exempt from normal survey requirements under the 1998 Oregon Protocol, Appendices A (Survey Techniques for Densely Vegetated Areas of Western Oregon) and D (Coast Range Inventory Plan). The probability of finding sites in the project area is low due to its location in the Coast Range and because much of the project will occur in steep, confined canyons. Previous surveys of higher probability terrain in the project areas resulted in no cultural resources identified (CRS Nos. 049204 and 049226) and there are no National Register properties in the vicinity. The BLM has completed its Section 106 responsibilities.

### **Public Involvement & Response to Comment:**

No issues were identified by any local or tribal governments, State agencies, or other Federal agencies.

The EA and Draft Finding of No Significant Impact (FONSI) were made available for public review from August 4, 2009, through September 3, 2009. No comments were received. The signed FONSI was published March 30, 2010.

Consultation for the project is covered under the National Marine Fisheries Service Aquatic Restoration Biological Opinion II, dated April 25, 2013 and under the U.S. Fish and Wildlife Service Aquatic Restoration Biological Opinion, dated June 14, 2007.

### **Administrative Remedies:**

#### **Effective Date of Decision**

This decision will become effective on the day after the expiration of the appeal period, 30 days after this decision is signed, where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR § 4.21(b).

#### **Right of Appeal**

Pursuant to 43 CFR § 4.410, this decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case.”

Appeals of this decision must be filed within 30 days after the decision is signed with the authorized officer, Max Yager, in the Roseburg District Office, Roseburg, Oregon. In filing an appeal, there must be strict compliance with the regulations. Only signed hard copies of a notice of appeal that are delivered to the Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, Oregon will be accepted. Faxed or emailed appeals will not be considered.

If you choose to appeal, a notice of appeal must be filed in this office within thirty (30) days of receipt of this decision for transmittal to the Board. If your notice of appeal does not include a statement of reasons, one must be filed with the Board within thirty (30) days after the notice of appeal was filed.

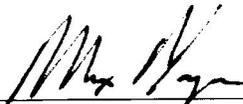
A copy of your notice of appeal and any statement of reasons, written arguments, or briefs, must also be served upon the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97232. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations.

As provided by 43 CFR Part 4, you have the right to petition the Office of Hearings and Appeals to stay implementation of the decision; however, you must show standing and present reasons for requesting a stay of the decision that address your interests and the manner by which they would be harmed.

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.

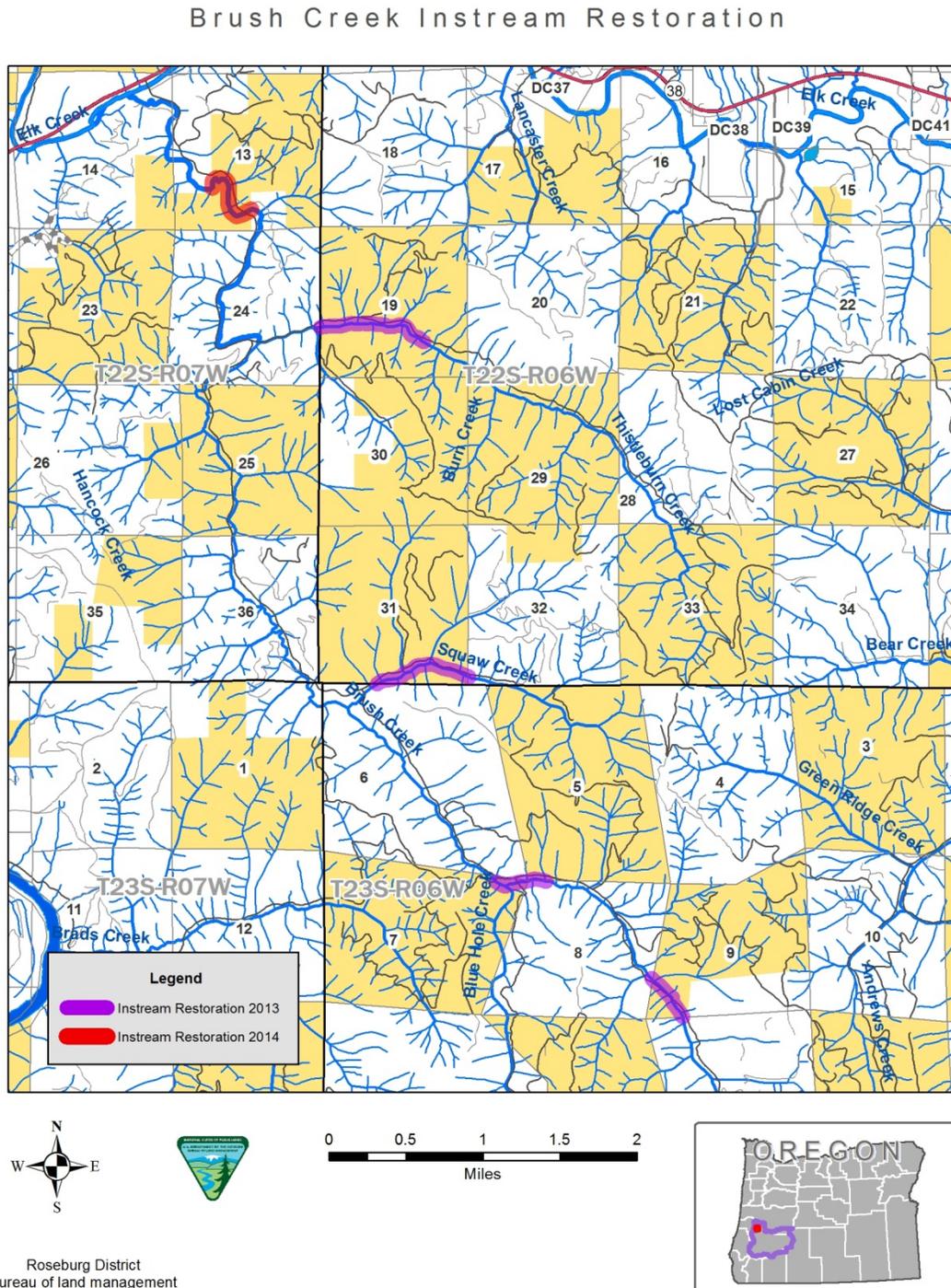
Should you choose to file one, your stay request must accompany your notice of appeal. A notice of appeal with petition for stay must be served upon the Board, Regional Solicitor, and adverse parties at the same time such documents are served on the deciding official at this office. The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3.

For further information, contact Max Yager, Field Manager, Swiftwater Field Office, Roseburg District, Bureau of Land Management, 777 NW Garden Valley Blvd., Roseburg, OR 97471, 541-440-4930.

  
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Max Yager, Field Manager  
Swiftwater Field Office

June 6<sup>th</sup>, 2013  
Date

**Figure 1:** Map of the 2013-2014 Brush Creek Instream Restoration Project. Legal locations for project sites: T. 22 S., R. 7 W., Section 13; T. 22 S., R. 6 W., Sections 19 & 31; and T. 23 S., R 6 W., Sections 5, 7, & 9.



Roseburg District  
Bureau of land management  
777 NW Garden Valley Blvd.  
Roseburg, Oregon 97471

Date: 4/8/2013

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