

Rickreall Creek Large Woody Debris Enhancement

Final Decision and Decision Rationale for Rickreall Creek Large Woody Debris Enhancement

Environmental Assessment Number DOI-BLM-OR-S050-2010-0004

April 26, 2012

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

Township 8 South, Range 7 West, Sections 1, 2, 3, 4, 9 and 10 Willamette Meridian
Polk County, Oregon

Responsible Agency: USDI – Bureau of Land Management

Responsible Official: Rich Hatfield, Field Manager
Marys Peak Resource Area
1717 Fabry Road SE
Salem, OR 97306
(503) 375-5968

For further information, contact: Scott Snedaker, Project Lead
Marys Peak Resource Area
1717 Fabry Road SE
Salem, OR 97306
(503) 315-5928



As the Nation's principal conservation agency, the Department of Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering economic use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interest of all people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

1.0 Introduction

The Bureau of Land Management (BLM) has conducted an environmental analysis for the Rickreall Creek Large Woody Debris Enhancement project, which is documented as Project 3 in the *Rickreall Creek Watershed Enhancement Environmental Assessment* (DOI-BLM-OR-S050-2010-0004) and the associated project file. The EA analyzed three projects: Mid and Late Seral Habitat Enhancement (timber sales), Legacy Tree Release, and Large Woody Debris Enhancement. This decision is limited to Project 3 – Large Woody Debris Enhancement.

The project involves placing trees on up to six miles of three stream segments to enhance structural habitat diversity for aquatic and riparian dependent species (EA, p. 13). These stream segments include the mainstem Rickreall Creek above Mercer Reservoir, the South Fork Rickreall Creek, and North Fork Rickreall Creek (EA, p. 26).

Felling, yarding, and placement of trees in the streams will be conducted in accordance with Project Design Features outlined in the EA (pp. 46-47). Upper Rickreall Creek is an anadromous fish-bearing stream with coho salmon and resident cutthroat trout present. Upper Willamette River Winter Steelhead are present in Rickreall Creek up to Mercer Reservoir. This stream has been identified as being suitable for LWD enhancement (*Mill Creek, Rickreall Creek, Rowell Creek, Luckiamute River Watershed Analysis* [1998]).

The project wood placement will occur within Riparian Reserve (RR) Land Use Allocation (LUA) and on private land. The project tree removal from BLM lands will occur within the RR LUA and Late-Successional Reserve (LSR) LUA. The project will be implemented through a combination of actions, including cooperative agreements with Rickreall Creek Watershed Council, Forest Capital Partners, LLC, with the BLM and contracts.

The EA and FONSI were made available for public review March 7, 2010 to April 6, 2010. A Finding of No Significant Impact (FONSI) was signed on April 19, 2012. The decision documented in this Decision Record (DR) is based on the analysis documented in the EA.

2.0 Decision

I have decided to implement the Rickreall Creek Large Woody Debris Enhancement project, hereafter referred to as the “selected action”. The selected action is shown on the map on the following page. This decision is based on site-specific analysis in the Rickreall Creek Watershed Enhancement Environmental Assessment (EA # DOI-BLM-OR-S050-2010-0004), the supporting project record, management direction contained in the Salem District Resource Management Plan (May 1995), which are incorporated by reference in the EA.

The following is a summary of this decision.

- Remove approximately 330 selected standing trees from BLM-managed lands
- Placement of individual logs and log structures along six miles of fish bearing streams on BLM managed and private lands to improve fish habitat under a cooperative agreement with Rickreall Creek Watershed Council, Forest Capital Inc., with the BLM and contracts

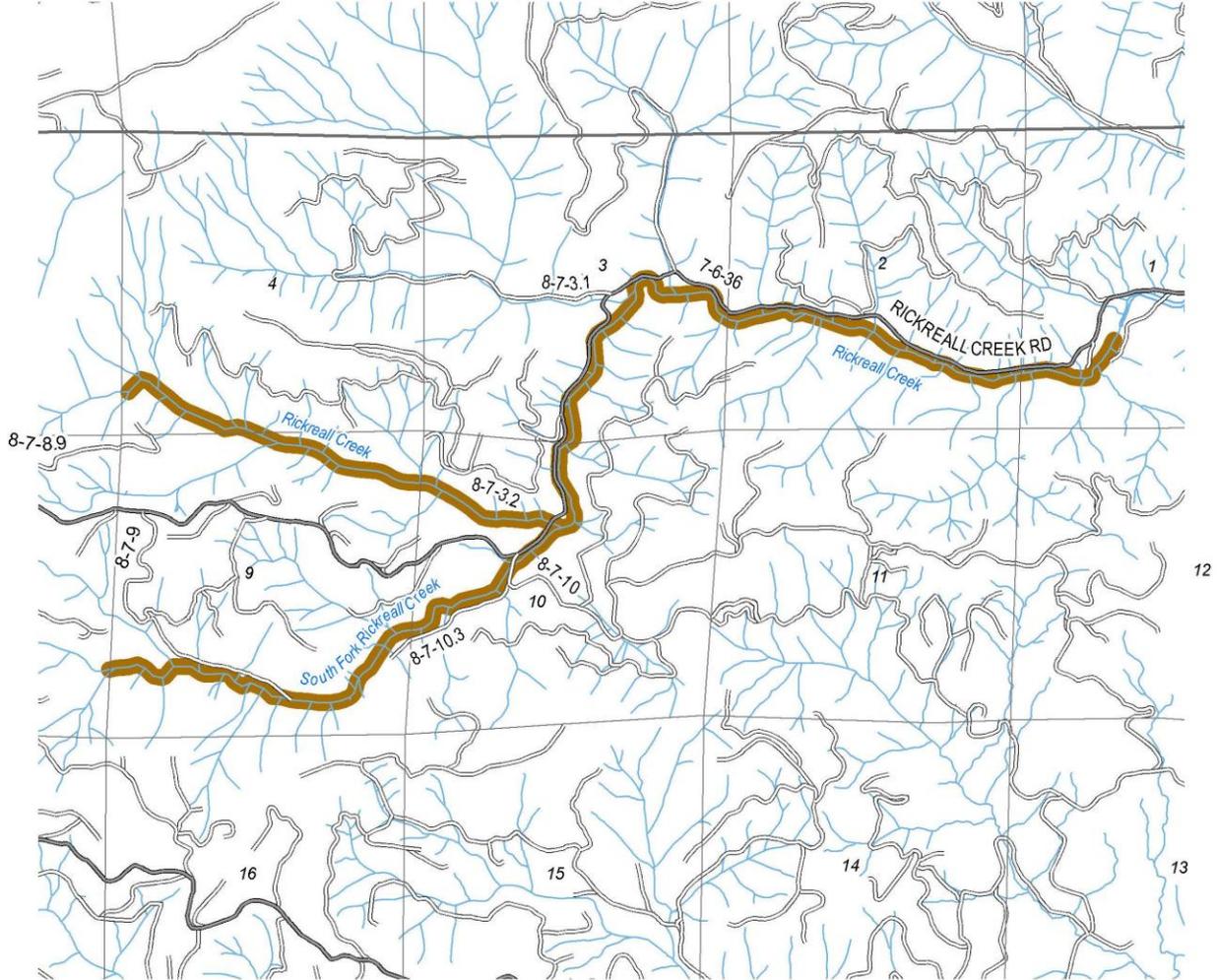
- Standing trees will be felled with chainsaws. Approximately 40 trees will be felled from the adjacent stand directly into the stream segments from the BLM RR LUAs. Additional trees may be felled on private lands, subject to cooperative agreements. Approximately 290 trees will be directionally felled away from the stream within the RR and LSR LUA on BLM.
- Trees felled away from the stream will be yarded using ground based equipment to log trucks and then transported to decking sites, or helicopters will transport logs to decking sites or place directly into treatments sites. All yarding will be consistent with PDFs described in Aquatic and Riparian Habitat Projects as addressed in the *Endangered Species Act Section 7 Programmatic Consultation and Biologic Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation Fish Habitat Restoration Activities in Oregon and Washington, CY 2008 - CY 2012* (aka ARBO) (EA p. 46). Project activities occurring beyond 2012 will be consistent with future programmatic Aquatic Restoration Biological Opinions project design features, where applicable. All logs will be placed into the streams with a helicopter and/or hydraulic excavator equipment. Placement of large wood on private lands is subject to cooperative agreements with private landowners.
- In addition to felling of 60 trees into the adjacent stream, the project will fall individual alder trees adjacent to the stream channel where necessary to safely and effectively place LWD in the stream channel.
- All design features and mitigation measures described in the EA (pp. 46-47) will be incorporated into the cooperative agreement or contracts.



**Rickreall Creek Watershed
PROJECT 3 - LARGE WOODY DEBRIS ENHANCEMENT**

4/17/2012

T. 8 S. R. 7 W., Sections 1, 2, 3, 4, 9 & 10, W. M. - SALEM DISTRICT - OREGON



Large Woody Debris Placement Location

Stream

Major Access Road

Other Existing Road



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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 project and have meaningful differences in environmental effects from the proposed action (EA, chapter 3). Complete descriptions of the "action" and "no action" alternatives are contained in the EA, pages 15-34.

4.0 Decision Rationale

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

1. The selected action:
 - Meets the purpose and need of the project (EA section 1.6), as shown in Table 1 of this DR.
 - Complies with the *Salem District Record of Decision and Resource Management Plan*, May 1995 (RMP) and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA, p. 3).
 - Complies with the *Record of Decision and Standards and Guidelines for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (S&M ROD, January 2001).
 - Will not have significant impact on the affected elements of the environment (FONSI, pp. i-vii) beyond those already anticipated and addressed in the RMP EIS.
 - 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 (EA section 1.6), as shown in Table 1 on the following page.

Table 1. Comparison of the Alternatives with Regard to the Purpose of and Need for Action

Purpose and Need (EA Section 1.6)	Alternative 1 (No Action)	Alternative 2 (Proposed Action)	Alternative 3 (No New Road Construction)
Maintain and restore access to stream channels for all life stages of fish species	Does not meet the purpose and need. Outside of stochastic events, stream channels would generally remain in their current conditions.	Structural complexity provided by the addition of trees in the stream channels would increase the variety of habitat for fish across multiple age classes.	Same as Alternative 2.
Provide for riparian and aquatic conditions that supply stream channels with shade, sediment filtering, leaf litter and large wood, and streambank stability	Does not meet the purpose and need. Riparian and aquatic conditions would generally remain in their current condition.	The placement of trees in the stream would improve riparian and aquatic conditions by increasing structural complexity and streambank stability.	Same as Alternative 2.
Enhance or restore habitat (e.g. CWD, snag habitat, instream large wood) for populations of native riparian-dependent plants, invertebrates, and vertebrate species	Does not meet the purpose and need. No restoration or enhancement of habitat would occur.	Input of large wood into stream channels would increase streambank stability, pool forming, and complex structure to benefit a wide variety of riparian-dependent species.	Same as Alternative 2.
Log structures would help to rehabilitate the stream and enhance natural populations of anadromous and resident fish by improving spawning and rearing habitat (RMP p.27).	Does not meet the purpose and need. Recruitment of LWD to stream channels would continue to occur at a low rate. Rickreall Creek would remain deficient in LWD.	Trees would be placed in stream channels to improve channel conditions to enhance fish habitat.	Same as Alternative 2.

5.0 Compliance with Direction

Following the March 31, 2011 decision by the United States District Court for the District of Columbia in *Douglas Timber Operators et al. v. Salazar*, which vacated and remanded the administrative withdrawal of the Salem District's 2008 *Record of Decision and Resource Management Plan* (2008 ROD/RMP), we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD/RMP. Based upon this review, we found that this project is consistent with the Salem District's 1995 RMP and 2008 ROD/RMP.

A recent U.S. District Court ruling in *Pacific Rivers Council v. Shepard* (No. 3:11-cv-442-HU) (D. Or.) has indicated the Court's intent to vacate the 2008 RODs/RMPs and reinstate the BLM's 1995 RMPs. While a final judgment has not been issued in the *Pacific Rivers Council* case at the time of this Decision, this project is fully consistent with the 1995 RMP.

Survey and Manage Review

The Rickreall Creek Large Woody Debris Enhancement project is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Salem District RMP.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey, et al.*, No. 08-1067 (W.D. Wash.) (Coughenour, J.), granting Plaintiffs' motion for partial summary judgment and finding a variety of NEPA violations in the BLM and USFS 2007 Record of Decision eliminating the Survey and Manage mitigation measure. Previously, in 2006, the District Court (Judge Pechman) had invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations. Following the District Court's 2006 ruling, parties to the litigation had entered into a stipulation exempting certain categories of activities from the Survey and Manage standard (hereinafter "Pechman exemptions").

Judge Pechman's Order from October 11, 2006 directs: "Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004), except that this order will not apply to:

- A. Thinning projects in stands younger than 80 years old;
- B. Replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned;
- C. Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions; and
- D. The portions of project involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging will remain subject to the survey and management requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph."

Following the Court's December 17, 2009 ruling, the Pechman exemptions are still in place. Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and Decision Record for Rickreall Creek Large Woody Debris Enhancement
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did not enjoin the BLM from proceeding with projects (including timber sales).

Nevertheless, I have reviewed the Rickreall Creek Large Woody Debris Enhancement Project in consideration of both the December 17, 2009 and October 11, 2006 order. Because this project entails obtaining and placing large woody debris for stream improvement, I have made the determination that this project meets Exemption C of the Pechman Exemptions (October 11, 2006 Order), and therefore may still proceed to be offered for sale even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision since the Pechman exemptions would remain valid in such case.

Compliance with the Aquatic Conservation Strategy

I have reviewed this project against the ACS objectives at the project scale with the following results. The no action alternative does not retard or prevent the attainment of any of the nine ACS objectives because this alternative will maintain current conditions. The Selected Action does not retard or prevent the attainment of any of the nine ACS objectives for the following reasons.

Table 2. Aquatic Conservation Strategy Objectives

Aquatic Conservation Strategy Objectives (ACSOs)	Rickreall Creek Large Woody Debris Enhancement Project
<i>1. Maintain and restore the distribution, diversity, and complexity of watershed and landscape-scale features.</i>	Does not prevent the attainment of ACSO 1 . This project will increase aquatic habitat complexity and diversity on up to six miles of stream segments that are currently lacking LWD.
<i>2. Maintain and restore spatial and temporal connectivity within and between watersheds.</i>	Does not prevent the attainment of ACSO 2 . Long term connectivity of terrestrial watershed features will be improved by increasing the availability and proximity of functioning riparian habitat.
<i>3. Maintain and restore the physical integrity of the aquatic system, including shorelines, banks, and bottom configurations.</i>	Does not prevent the attainment of ACSO 3 . Placing LWD in Rickreall Creek will encourage the formation of pools/riffles, meanders, and other complex channel morphological features.
<i>4. Maintain and restore water quality necessary to support healthy riparian, aquatic, and wetland ecosystems.</i>	Does not prevent the attainment of ACSO 4 . Although some short-term effects to water quality may occur (primarily increased fine sediment loads during LWD placement), the proposed project will help restore water quality over the long-term by increasing the amount of in-channel sediment retention areas and restoring more natural channel conditions.

Aquatic Conservation Strategy Objectives (ACSOs)	Rickreall Creek Large Woody Debris Enhancement Project
<i>5. Maintain and restore the sediment regime under which aquatic ecosystems evolved.</i>	Does not prevent the attainment of <i>ACSO 5</i> . Large woody debris placement will help restore the historical sediment regime of the aquatic ecosystem. Based on similar work this increase in sediment is expected to last less than two days before pre-project conditions re-establish themselves at the site.
<i>6. Maintain and restore in-stream flows sufficient to create and sustain riparian, aquatic, and wetland habitats and to retain patterns of sediment, nutrient, and wood routing.</i>	Does not prevent the attainment of <i>ACSO 6</i> . Large woody debris placement will not affect the volume of stream flow. However, it will help to restore the routing of instream flows.
<i>7. Maintain and restore the timing, variability, and duration of floodplain inundation and water table elevation in meadows and wetlands.</i>	Does not prevent the attainment of <i>ACSO 7</i> . Large woody debris placement in the channel will help restore floodplain function by increasing the stream's ability to access its floodplain. The project will be unlikely to affect water table elevations. Project design features, coupled with the small percent of vegetation proposed to be removed, will maintain groundwater levels and floodplain inundation rates.
<i>8. Maintain and restore the species composition and structural diversity of plant communities in riparian areas and wetlands.</i>	Does not prevent the attainment of <i>ACSO 8</i> . Current species composition and diversity of plant communities will be maintained within the project area.
<i>9. Maintain and restore habitat to support well-distributed populations of native plant, invertebrate and vertebrate riparian-dependent species.</i>	Does not prevent the attainment of <i>ACSO 9</i> . Large woody debris placement will increase habitat connectivity for riparian-dependent species, in-channel habitat diversity, and riparian functions (floodplain inundation, CWD, increasing nutrients for primary producers, etc.).

6.0 Public Involvement, Consultation, and Coordination

A scoping letter, dated August 19, 2010, was sent to 22 potentially affected or interested individuals, groups, and agencies. Two responses were received during the scoping period. A description of the project has been included in the quarterly Salem BLM publication *Project Update* since 2007.

EA and FONSI Comment Period and Comments

The BLM made the EA and FONSI available for public review from March 7, 2012 to April 6, 2012. Two (2) comment letters were received during the EA comment period. No comments were directed at

the Large Woody Debris Enhancement project. The scoping and EA comment letters are available for review at the Salem District BLM Office, 1717 Fabry Rd SE, Salem, Oregon.

Consultation and Coordination

Wildlife: United States Fish and Wildlife Service (USFWS)

Due to potential effects to spotted owls, marbled murrelets and their designated critical habitat, as outlined in Table 22 (EA, Page 116), Section 7(a) of the Endangered Species Act requires that this proposed action receive consultation with the U.S. Fish and Wildlife Service. Consultation has been completed within a batched Biological Assessment (BA) that analyzed all projects that may modify the habitat of listed wildlife species on federal lands within the Northern Oregon Coast Range during fiscal years 2011 and 2012. This project has been designed to incorporate all appropriate design standards included in the BA. A Letter of Concurrence (#13420-2010-I-0105) and a Biological Opinion (#13420-2010-F-0184) have been received from the Service which does not require any changes or additions to the incorporated project design standards. This proposed action is not likely to adversely affect any federally listed wildlife species, and it would not adversely affect any designated critical habitat (or proposed critical habitat) for any species.

Fish: National Marine Fisheries Service (NMFS)

Proposed actions which may affect listed fish and Essential Fish Habitat (EFH) would comply with existing programmatic consultation and relevant design criteria, and no additional consultation would be necessary. The proposed action is covered under NMFS *Endangered Species Act Section 7 Programmatic Consultation Biological and Conference Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Fish Habitat Restoration Activities in Oregon and Washington, CY2007-CY2012*. Project activities occurring beyond Calendar Year 2012 will be consistent with future programmatic Aquatic Restoration Biological Opinions project design criteria, where applicable.

7.0 Conclusion

Review of Finding of No Significant Impacts

I have determined that changes to the Finding of No Significant Impact (FONSI – April 2012) for the Rickreall Creek Watershed Enhancement EA project are not necessary because I have considered and concur with information in the EA and FONSI. No information was provided during the public comment period that leads me to believe the analysis, data, or conclusions are in error or that the proposed action needs to be altered. There are no significant new circumstances or facts relevant to the proposed action or associated environmental effects that were not addressed in the EA.

Administrative Review Opportunities

The decision described in this document is a forest management decision and is subject to protest by the public. Protests are limited to the Large Woody Debris Enhancement project authorized in this

decision. No decision has been made at this time on Project 1 (Mid and Late Seral Habitat Enhancement) or Project 2 (Legacy Tree Release). Those projects will be subject to a protest period upon issuance of a future decision.

In accordance with Forest Management Regulations at 43 CFR 5003, protests of this decision may be made within 15 days of the publication of a notice of decision in a newspaper of general circulation. This notice of decision will be published in the Polk County *Itemizer Observer* newspaper on or around May 2, 2012.

To protest this decision, a person must submit a written protest to Rich Hatfield, Marys Peak Field Manager, 1717 Fabry Rd SE., Salem, Oregon 97306 by the close of business (4:30pm) on May 17, 2012. The regulations do not authorize the acceptance of protests in any form other than a signed, written, and printed original that is delivered to the physical address of the advertising BLM office.

The protest must clearly and concisely state the reasons why the decision is believed to be in error. Any objection to the project design or my decision to go forward with this project must be filed at this time in accordance with the protest process outlined above. If a timely protest is received, I will consider the decision in light of the statements of reasons for the protest and other pertinent information available and shall serve a decision in writing on the protesting party (42 CFR 5003.3).

Implementation Date

If no protest is received within 15 days of publication of this Decision Record (Project 3 –Large Woody Debris Enhancement), this decision will become final. For additional information, contact Scott Snedaker, Fish Biologist, Marys Peak Resource Area, Salem BLM, 1717 Fabry Road SE, Salem, Oregon 97306 or (503) 315-5928.

Approved by:  4-26-2012
Rich Hatfield Date
Marys Peak Field Manager