

Decision Record

Grande Ronde River Riparian Restoration Environmental Assessment OR-035-03-02

Vale District Bureau of Land Management Baker Field Office Baker City, Oregon

This decision record documents my decision to adopt the Grande Ronde River Riparian Restoration Project as presented under Alternative B in the Environmental Assessment (EA) OR-035-03-02. Included in my decision are mitigation measures identified by my staff and concurred upon by the U.S. Fish and Wildlife Service (USFWS) through consultation required under Section 7 of the Endangered Species Act (ESA). This project was also consulted on with the National Oceanic and Atmospheric Administration (NOAA) Fisheries and consultation has been completed for the portion of the project with the Wallowa subbasin. Consultation is on-going for the portion of the project within the Lower Grande Ronde subbasin, and any mitigation measures identified and concurred upon by NOAA Fisheries will be incorporated into my decision.

The project area will be surveyed for cultural resources before any ground disturbing activities. Any cultural sites found during survey will be avoided and as such no impacts to cultural resources will occur. The EA is tiered to and the project is within the bound of the Baker Resource Management Plan (RMP) Record of Decision (ROD, 1989).

Public Comments Review

A public scoping letter was mailed to local government, area landowners, grazing permittees, and other members of the public on December 20, 2002 to solicit comments on the proposed project. Comments received from this scoping were incorporated into the final EA.

Subsequent to the preparation of the EA, a Legal Notice setting forth the EA's availability for public comments was published. During the 30-day public comment period, three comment letters were received.

One letter indicated concerns that only one action alternative was considered and also that no cost estimates were included in the EA. The Baker Field Office, Bureau of Land Management (BLM) considered other means of accomplishing the stated objectives, such as opening roads to provide for machinery access to planting sites as opposed to having machinery cross the Grande Ronde River, however the impacts from this was considered to be too great and was eliminated from further review as mentioned in the EA. In addition, no other alternatives were brought forth during the public scoping and as such the BLM is confident that a reasonable range of alternatives was analyzed.

Concerning the comments that no cost estimates were included in the EA, the main reason that the public comment period is available is for disclosure of significant impacts. The BLM does not believe that any significant impacts would occur with this project, and a cost analysis would not change the on-the-ground impacts of this project. In addition, the types of activities contained within this project have been performed previously by the BLM at a reasonable cost, and the project would only be implemented within our allowable budgets and if costs are feasible.

Another letter addresses concerns involving the proposed cattleguard installation on the Snake River Road in Asotin County, Washington. Specifically, the letter addresses whether or not Asotin County officials were contacted about the cattleguard and the impacts that the cattleguard will have on private landowners. The BLM has contacted the Asotin County road department and they are aware of BLM's intent to install a cattleguard. As for the impacts to private landowners, the EA did mention that this cattleguard could result in concentration of cattle on adjacent private landowners whose land is currently not fenced. The BLM does not consider this to be a significant impact, and under the Open Range Law within this area of Asotin County, the private landowners are responsible for fencing their property to restrict cattle.

The third comment letter included concerns over the cattleguard which are addressed above and included the opinion that cattle grazing should be discontinued on BLM managed land near the Snake River. Discontinuing cattle grazing is outside the scope of this analysis as well as the RMP that the Baker Field Office is currently working under.

Decision

My decision to select the proposed alternative (Alternative B), is based upon the interdisciplinary analysis contained in the Environmental Assessment OR-035-03-02, a copy of which is attached or which may be obtained as indicated below, as well as the supporting record, field review, public comments received, and consultation with the regulatory agencies (NOAA Fisheries, USFWS).

All mitigating measures, stipulations, design features, and monitoring described in the EA and concurred upon by the regulatory agencies are incorporated into project implementation plans. Among these are:

- ◆ Protection of cultural resources by inventory and strict avoidance;
- ◆ A joint permit from the Oregon Division of State Lands and U.S. Corps of Engineers would be obtained before culvert replacements would occur. In addition, in-stream work windows defined by the Oregon Department of Fish and Wildlife would be followed;
- ◆ Machine planting sites would have river crossings identified by BLM personnel prior to planting and in coordination with state and federal agencies to ensure that spawning redds, in-stream habitat, and riparian vegetation are not impacted;

- ◆ All machinery working in and near the riparian areas would have adequate spill protection equipment to mitigate damages should a hydraulic oil or fuel spill occur;
- ◆ No new roads would be constructed to facilitate any restoration activity. Only existing roads would be utilized;
- ◆ Prescribed fires would not be set in any areas in which bare soil would produce sediment to the river.

One action alternative and a no action alternative were considered. The no action alternative was not chosen because active management is needed to ensure establishment of native vegetation, reduce sedimentation, and improve livestock management in the riparian areas. While some of the objectives such as native vegetation establishment could possibly be attained from the no action alternative, the time frame that would be needed for this to take place could be decades or longer. Not all identified sites could necessarily have native vegetation established naturally, and with the BLM's responsibility for sound management of public land, the no action alternative was not practical.

Decision Rationale

The proposed project will have no effects on Areas of Critical Environmental Concerns, Cultural Resources, Prime Farmlands, Threatened and Endangered Animals, Threatened and Endangered Plants, Native American Treaty Rights, Hazardous Wastes, Wild and Scenic Rivers, or Wilderness Areas.

There are Threatened and Endangered fish species present in the project area and the effects to these from the plan have been analyzed and mitigation measures have been adopted. This has resulted in a "may effect, not likely to adversely affect" determination. USFWS has formally concurred with this determination for the entire project. NOAA Fisheries has formally concurred with this determination for the portion of the project within the Wallowa subbasin, and informally concurred for the portion of the project within the Lower Grande Ronde subbasin. In the event that formal concurrence is not forthcoming for the project area within the Lower Grande Ronde subbasin, the proposed plan will be amended in accordance with NOAA Fisheries directives.

Air quality will be affected during project implementation but will be short lived and confined to the immediate vicinity due to the timing and location of the work. The project is located in a floodplain/riparian area and water quality may be minimally affected during work by the introduction of sediment into the stream channel. This impact to water quality and riparian areas will be minimized by following the Terms and Conditions identified in the Biological Assessments and Mitigation Measures listed in the EA.

No disproportionately high adverse human or environmental impact on minority or low-income populations or Indian tribes is likely to result from the proposed action.

This plan meets none of the criteria for significance. This action is consistent with the Baker Resource Area Resource Management Plan (1989) Record of Decision.

Appeal Rights

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is taken, a notice of appeal must be filed in this office (BLM, 3165 10th Street, Baker City, Oregon, 97814) within 30 days from date that a notice of this decision is published in the Lewiston Morning Tribune. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request), pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993), for a stay (suspension) of effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your 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 and 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 you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Except as otherwise provided by law or other pertinent regulation, a petition for a 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.

s/Penelope Dunn Woods

Penelope Dunn Woods
Field Manager
Baker Field Office, Vale District BLM

May 9, 2003

Date