



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

COOS BAY DISTRICT OFFICE

1300 AIRPORT LANE, NORTH BEND, OR 97459

Home page: www.or.blm.gov/coosbay E-mail: coos_bay@or.blm.gov
Telephone: (541) 756-0100 Toll Free: (888) 809-0839 Fax: (541) 751-4303



1792

Decision Record for **Dean Creek Habitat Projects Environmental Assessment** **EA OR 125-04-08**

Summary:

Implementation of Alternative 2 (Proposed Action) best meets the Purpose and Need as identified in the Dean Creek Habitat Projects Environmental Assessment EA OR 125-04-08. This alternative also meets the management guidelines in the Coos Bay District Resource Management Plan and the Dean Creek Elk Viewing Area-Activity Management Plan, and will be implemented as described below.

Publication of this Record of Decision (ROD) completes the National Environmental Policy Act (NEPA) process for projects analyzed in Dean Creek Habitat Projects Environmental Assessment.

1.0 The Decision

It is my decision to implement the action proposed in the Dean Creek Habitat Projects Environmental Assessment (EA OR 125-04-08) as described in Alternative 2 (Proposed Action) with the modification described below at 2.3.3. To facilitate presenting and understanding the different elements of this decision, this decision record addresses the proposal sequentially in the order they are discussed in the EA.

1.1 Background

The Bureau of Land Management (BLM), Coos Bay District prepared an Environmental Assessment (EA OR125-04-08) and Finding of No Significant Impact to evaluate the effects of various methods for solving some habitat and infrastructure problems at the Dean Creek Elk Viewing Area. The EA addresses a number of habitat improvement projects ranging from noxious weed control to stream restoration and a wide variety of infrastructure projects ranging from culvert replacement to dike repair. The EA analyzed two alternatives, a No Action alternative and an Action Alternative. A thirty-day public comment period ended on June 5, 2004. A total of three comments were received; one from the general public, one from the State of Oregon and one from an adjacent landowner. All public comments were taken into consideration during the decision, but did not substantially alter the action proposal.

1.2 Project Design Features

The Decision incorporates the Project Design Features (EA pg 16 and 17) into the maintenance and habitat projects. Best Management Practices identified in the Coos Bay District RMP (Appendix D) serve as a basis for resource protection in the implementation of these projects and will be strictly adhered to. All identified mitigating measures identified in the EA will be adopted. The features will provide for protection of water quality, botany, fish and wildlife habitat and overall site productivity.

2.0 Alternatives

2.1 Alternative 1, No Action Alternative

Alternative 1, the No Action Alternative, is rejected because it does not meet the management objectives identified in the Dean Creek Elk Viewing Area-Activity Management Plan. It would allow deteriorating conditions of dikes, culverts and waterfowl basins to continue. It would not address vegetation trends that are of major concern relative to maintaining a healthy elk herd and the needs of other wildlife species. The No Action alternative would perpetuate or promote undesirable resource conditions. Under the No Action Alternative, conditions such as thatch buildup and Reed canary grass expansion would not be improved, and the ecological trends would continue unchanged and, in some cases, would be exacerbated with the passage of time.

2.2 Alternative 2, Action Alternative

The decision is to implement projects as described in Alternative 2 with the modification described in section 2.2.3. The Proposed Action (PA) best meets the Purpose and Need as identified in the EA. The PA will meet the habitat needs of a wide variety of wildlife as well as maintain and improve the infrastructure that supports the environmental conditions of the area. Table 1 lists the projects and description.

Table 1. Projects to be implemented with the Decision Record

Project	Description
Pasture Management	Plow, seed, fertilize and lime up to 20 acres annually.
Prescribed Burning	Burn areas of thatch buildup to stimulate plant growth, control Reed canary grass and recycle nutrients.
Dike Repair	Repair Hinsdale Slough dike using tractor and hand tools.
Culvert Installation	Install 4 new culverts to provide better pasture access.
Koepke Creek Restoration	Restore a channel between Koepke Creek and the C-6 ditch
Waterfowl Basin Repairs	Repair 2 waterfowl basins by replacing 2 culverts and flashboard risers.
Tree Planting	Plant Sitka spruce, Oregon ash in three areas in the pastures.
Upland Meadow Creation	Create 2 upland meadows >5 acres in areas dominated by red alder.
Culvert Replacement	Replace undersized, poorly placed and broken culverts.
Noxious Weed Control	Identify noxious weed strategies which may include use of approved herbicides.

2.3 Projects and Decision Rationale

2.3.1 Pasture Management (EA, p. 7)

Decision: My decision is to implement pasture management as described in the EA in areas that are currently dominated by Reed canary grass. In addition, the BLM will continue explore any new methods of controlling Reed canary grass.

Rationale: Reed canary grass, a highly competitive, poor forage plant has been spreading across the bottom land, replacing plants that provide higher quality elk forage. In addition, plant diversity and wildlife habitat across the bottomlands is being lost. This project will begin to reverse the trend in those areas that currently are dominated by Reed canary grass, by temporarily replacing it with a wider variety of plant species that provide a higher quality of elk forage.

2.3.2 Prescribed Burning (EA, p. 7&8)

Decision: Prescribed burning will be implemented as proposed to reduce thatch build-up, recycle nutrients and encourage new forage growth.

Rationale: Haying has not taken place at DCEVA since 1999. Since then, private parties have expressed interest in haying portions of DCEVA but due to their schedules it has not taken place. In the meantime, thatch has been building up on the fields, inhibiting the growth of new forage in some places. Prescribed burning will remove the excess thatch and stimulate plant growth. In addition, prescribed fire has been demonstrated as a potential tool used to curb the expansion of Reed canary grass (EA section 4.6 Fuels).

2.3.3 Dike Repair (EA, p. 9)

Decision: My decision is to implement Option 2 with the following change; the dike road will be built on the western dike as described under Option 1.

Rationale: Option 1 was rejected because it involved the removal of several mature maple, spruce and alder trees. While these trees may uproot and damage the dike when they get blown over they currently provide habitat for a variety of wildlife as well as ecological functions that contribute to Aquatic Conservation Strategy objectives. It is my decision to implement Option 2 with the following modification; the access road on the western dike described under Option 1 will be constructed. The road can be built without removing any mature trees and would provide increased access to the field immediately in front of the B ditch system and will allow for more efficient mowing saving time and equipment cost.

2.3.4 Culvert Installation (EA, p. 10)

Decision: New culvert installation would be implemented as proposed, with funding being pursued in the following order; the culvert that allows for crossing the B-ditch will be sited 1st, the culvert near the intersection of the C-6 and C-7 will be sited 2nd, and the culvert crossing the C-1 ditch will be sited 3rd. The fourth culvert is associated with the Koepke Creek stream restoration project and will be sited independent of this order of priority.

Rationale: The new culverts will allow for better access from one field to another and will allow for a more efficient mowing pattern. There will be additional time savings and less wear and tear on the mowing equipment.

2.3.5 Koepke Creek Channel Restoration (EA, p. 10&11)

Decision: My decision is to implement Option 1.

Rationale: Option 1 was chosen because it is the most cost effective method of the two alternatives, it is the route fish currently use and may help prevent fish from moving into the B ditch system which provides no spawning habitat. In addition, the risk of flooding the primary elk pastures increases under Option 2. (EA section 4.1 hydrology).

2.3.6 Waterfowl Basin Structure Repairs (EA, p. 12)

Decision: My decision is to implement the repairs to the waterfowl basins.

Rationale: The waterfowl basins were part of a wetland enhancement project that was developed by Ducks Unlimited, Pacific Coast Joint Venture and the BLM in 1992. The intent of the project was to improve nesting habitat for waterfowl. Under the term of the agreement the BLM committed to “assume long-term management and maintenance responsibilities” for the project. Therefore, reconstructing the water control structure will improve waterfowl habitat and meet our obligation under the original agreement.

2.3.7 Tree Planting (EA, p. 12)

Decision: The decision is to implement the tree planting as proposed.

Rationale: Additional trees are necessary to replace those annually lost to age, disease and disturbance. Trees contribute to the overall habitat complexity of the viewing area and are used by a myriad of wildlife species.

2.3.8 Upland Meadow Habitat Creation (EA, p. 13)

Decision: The decision is to create the two upland meadows as described in the EA.

Rationale: Maintaining open areas in the uplands will improve elk calving habitat by providing small areas with forage in a secluded setting. They will also provide alternative forage sites when the lowlands are flooded during the winter months.

Three options were available for this decision. Option 1 is selected because the sale of the alder removed would pay for the construction of the meadows. Option 1 would also allow easier long-term maintenance of the site, by removing the stumps and allowing for a tractor to access the site and maintain conditions. If no one bids on the sale, then Option 2 is selected. Option 2 would remove the alder via a contract fire wood cutter. The contractor would pay for the removing of the alder, but longtime site maintenance would not be as easy as Option 1 because of the continued presence of the stumps. Option 3 is the least desirable option because the project would have to be completed under a service contract in which the government would have to pay to have the trees removed. Long term site maintenance would be more difficult than under Option 1 and 2 because the access road would not be maintained.

2.3.9 Culvert Replacement (EA, p. 14)

Decision: New culvert installation would be implemented as proposed, with funding being pursued in the following order; the culverts that allow for crossing the C-5 and the C-6 ditch will be replaced 1st, the culvert crossing the C-3 will be sited 2nd, and the final two culverts along the Hinsdale slough will be replaced last.

Rationale: Culverts allow the tractor and maintenance workers to cross the ditch/drainage system. Pasture management could not be performed without the access to the fields that culverts allow. This project will replace damaged culverts, poorly installed culverts and culverts that pose a safety problem for maintenance workers.

2.3.10 Noxious Weed Control (EA, p. 15)

Decision: The decision is to implement the noxious weed control as described in the EA.

Rationale: The Proposed Action should reduce long term impacts to resources caused by the introduction and spread of noxious weeds. Design methods for managing noxious weeds include preventing introduction, eradicating small populations, and controlling existing, well established, populations. Noxious weeds reduce biodiversity and negatively impact all land resources, with direct effects to native vegetation, wildlife habitat, and recreational needs.

3.0 Endangered Species Act Section 7, and Magnuson-Stevens Fishery Conservation and Management Act Consultation.

Consultation with the US Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration – Fisheries (NOAA Fisheries) is required under Section 7 of the Endangered Species Act (ESA) for Threatened and Endangered (T&E) species.

Section 7(a) (2) of the Endangered Species Act requires Federal agencies to consult with the USFS and/or NOAA Fisheries to ensure their activities will not jeopardize the continued existence of listed species or adversely modify designated critical habitat.

3.1 Coho Salmon (*Oncorhynchus kisutch*)

Coho salmon in the project area are located within the Oregon Coast (OC) Evolutionarily Significant Unit (ESU), which extends south from the Columbia River to Cape Blanco. The following summarizes the ESA status of salmonids within the ESU.

- OC coho salmon were listed as “threatened” on August 10, 1998. However, in September 2001, the US District Court for the District of Oregon (Judge Hogan) determined that the listing was unlawful and it was set aside as being arbitrary and capricious (*Alesea Valley Alliance v. Evans*). Hogan wrote that the listing by the National Marine Fisheries Service (NMFS) arbitrarily excluded hatchery spawned coho. In review of Judge Hogan’s ruling, the Ninth Circuit Court of Appeals issued a stay on December 14, 2001. The listing of OC coho salmon as “threatened” had been reinstated.
- On Tuesday, February 24, 2004, The Ninth Circuit Court issued an Opinion returning the case back to Hogan’s Court claiming it had no jurisdiction in the case.
- In response, on March 24, 2004, the BLM issued an Instruction Memorandum (IM No. OR-2004-058: Approving and Implementing Actions in the Area of the Oregon Coastal Coho Salmon ESU). This memorandum summarized that this action by the Ninth Circuit Court removed the ESA listing status of “threatened” from OC coho salmon.
- On May 18, 2004, the Department of Justice issued a clarification regarding this matter. “This is to advise you that it is the position of the United States that the Ninth Circuit’s order of February 24, 2004, will become effective when the Ninth Circuit issues a mandate to the district court, pursuant to Federal Rule of Appellate Procedure 41. Thus, for the time being the district court’s order remanding and vacating the listing of the Oregon Coast coho salmon ESU remains listed as “threatened” under the ESA.”
- The BLM responded by rescinding IM No. OR-2004-058 on May 27, 2004.
- On June 15, 2004, the Ninth Circuit Court issued the mandate dismissing their consideration of the case and returning it back to Hogan’s court. Therefore, the original decision by Hogan stands and OC coho have lost their “threatened” status under the ESA.

•In a related action, NOAA issued an open letter to the United States Congress on May 14th, stating that “after re-evaluating the listing of 26 species of salmon and steelhead, and considering the science on hatcheries, we have preliminarily determined to propose relisting at least 25 of the 26 species.” As a result, Oregon Coast coho salmon were also officially proposed for listing under the ESA on June 14, 2004 and are now treated as a “candidate” species.

For those actions that “may affect” the coho salmon or essential habitat, the Bureau will be pursuing a “conference opinion” with NOAA fisheries for those actions that are not covered under the October 18, 2002 Programmatic Biological Opinion (BO). In the advent that the fish is “relisted” the Bureau will pursue a letter of concurrence for those actions discussed in the conference opinion that are not covered by the Programmatic BO.

3.2 Spotted Owl, Marbled Murrelet and Bald Eagle

Analysis presented in the Environmental Assessment concluded that the proposed action would not affect the above listed species or adversely modify designated critical habitat. Therefore, consultation with the USFWS was not required. This effects determination was based on disturbance distances identified in Biological Opinion No. 1-15-04-5-0178.

3.3 Special Status Species

An additional Appendix has been added to the Environmental Assessment (EA OR 125-04-08) identifying Special Status Species that have suitable habitat in the project area and potential impacts to those species. The proposed action would not contribute to the need to list any of the special status species, either under the Endangered Species Act or the OR/WA Special Status Species Policy, because of the limited nature of the disturbance and anticipated impacts on habitat.

Decision recommended by:

Natural Resource Staff Administrator
Kathy Wall Kathy Wall

Date: July 14, 2004

Natural Resource Staff Administrator
Ralph Thomas Stafford Owen(Acting)

Date: July 14, 2004

Decision approved by:

Umpqua Field Office Manager
M. Elaine Raper Ralph Thomas (Acting)

Date: July 14, 2004