



United States  
Department of  
Agriculture

**Forest  
Service**

April 2007



## **Decision Notice & Finding of No Significant Impact**

### **Three Pools Day Use Site Rehabilitation Project**

**Detroit Ranger District  
Willamette National Forest  
Marion County, Oregon**

**Legal Location:** Township 8.S., Range 4.E., Section 34. W.M.



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## Decision and Reasons for the Decision

### Background

The Three Pools Day Use Area is situated within the Opal Creek Scenic Recreation Area (SRA) on the western slopes of the Cascade Mountains, about 35 miles east of the City of Salem. It is a popular summer destination with spectacular emerald pools attracting well over 15,000 visitors each year, primarily for swimming.

The Three Pools Day Use Site Rehabilitation Project Environmental Assessment documents the environmental effects associated with a proposal to reconstruct the parking area and other improvements at this recreation site. The underlying purpose for this project is to implement direction in the Opal Creek Scenic Recreation Area (SRA) Management Plan to help improve safety, social and resource conditions at Three Pools day use site and to align with the desired condition for the SRA. Current management and facilities at Three Pools do not meet Management Plan objectives for providing a quality recreation setting.

I have determined a need to take management actions that help promote a safer, family-friendly, healthful and aesthetic environment at Three Pools by providing *basic physical infrastructure* that will:

- Accommodate existing recreational use and provide for some increased demand on most non-peak days,
- Provide formal organized parking and set a vehicle capacity to reduce road and parking congestion,
- Provide safe road access into the site and trail access along the river,
- Provide modest day use facilities at Three Pools to help meet minimum public safety and sanitation standards and visitor needs, and provide some barrier-free opportunities to persons with disabilities,
- Restore resource conditions combined with new facilities to provide for sustainable protection of the resources, and
- Improve and support onsite visitor management strategies.

## **Decision and Rationale**

The EA analyzed the environmental effects of two alternatives, Alternative 1, no action and Alternative 2, the proposed action. A comparison of these two alternatives can be found in the EA on page 23-25.

Based upon my review of the two alternatives, I have decided to implement Alternative 2, to reconstruct the road and parking areas that would formally organize and accommodate approximately 100 vehicles. Other improvements for the site are to reconstruct trails and obliterate unsafe routes, develop a scenic overlook, install a new toilet, picnic tables and wooden rails and barriers to protect vegetation, and provide information and educational signing. Physical improvements would help improve safety, social and resource conditions within the Three Pools day use area, and provide the necessary basic infrastructure to organize, support and more effectively manage the area.

Some minor construction could begin as early as June of 2007 and the site would continue to be open to public use. Major construction activities would begin as soon as September of 2007, however, the site would be closed to public use until the project is completed. Elements of the proposal include:

### **Road and Parking Improvements**

- Within a 2.7 acre area, provide a one-way paved loop road with clusters of delineated parking spaces for about 100 passenger vehicles. It would involve approximately 900 feet of road construction and 1100 feet of reconstruction.
- Clear approximately 0.43 acres of trees or vegetation to allow for construction of new portions of road and parking areas. The design would integrate and retain existing trees where possible to minimize the amount of vegetation removed and to maintain the desired scenic forested setting. Removed trees would not be sold and would be used for barriers, habitat improvements or for other purposes consistent with the Opal Creek SRA Management Plan. Remaining slash would be treated either mechanically by chipping or by piling and burning to comply with the State of Oregon's Smoke Management Plan.
- Reconstruction would utilize existing access roads, parking areas and other disturbed areas to the greatest extent possible to keep the footprint of the project as small as possible.
- Delineate parking spaces with curb stops and other methods of designation to confine vehicles. Install traffic control devices such as boulders, wooden or log traffic barriers, and traffic directional and regulatory signing along road shoulders and no-parking areas.
- Provide emergency vehicle parking and short-term loading/unloading areas closest to the lower pool access point. Some wheel chair accessible parking spaces would be designated to access the scenic overlook, picnic tables and toilet.
- Reconstruct the site entrance perpendicular to Road 2207 to improve ingress/egress and allow for two-way traffic. The two-way section of the road would be delineated by a centerline curb to prevent vehicles from parking on road shoulders and narrowing it down to one-lane.

- Designate and post a “No Parking” zone along Road 2207 within ½ mile of either direction from Three Pools.

### **Access Trails**

- Reconstruct about ¼ mile of trail from the eastern parking area to the east end of the site to allow safe access to the upper pools. The existing 150 foot stairway to the lower pool would be reconstructed. Two overlooks would be created along the trail with wooden rails for safety. A 117-foot stairway would be constructed to the lower overlook.
- Reconstruct a portion of the east trail to create a wheel-chair accessible route to the upper scenic overlook of the pools.
- Obliterate and rehab about 0.3 miles of user-created trails and unsafe river access points. Install wooden post fences to discourage use of unsafe routes and discourage new routes from being created.
- Install approximately 3500 linear feet of wooden post fence between river and trails or parking areas for resource protection and improve visitor safety. This will effectively direct traffic to stay on trails and access the river at safe locations and prevent user created trails.

### **Recreation Facilities**

- Provide information and interpretive kiosks to orient and educate visitors. Signs would inform visitors of regulations and instill safety awareness such as the inherent dangers of the river environment and other pertinent safety messages.
- Install picnic tables and benches at the site, including some that are barrier-free.
- Install one additional barrier-free double vault concrete toilet that would include a men’s and women’s family unit. The toilet would be located closer to the lower pool but serviceable from the parking lot.
- Install additional garbage receptacles at key locations and increase education to help reduce litter.

### **Mitigation and Design Measures to Protect Resources**

Mitigation measures are developed to reduce or eliminate some of the potential impacts that the actions may cause. Design measures provide resource protection that ensures implementation activities remain consistent with Willamette Forest Plan Standards and Guidelines. Mitigation measures and design measures would be implemented through project design, contract specifications, construction, and contract administration and are monitored.

### **Wildlife Mitigation Measures:**

- Restrict project activities from March 15 – July 15 to avoid potential disturbance to Harlequin Duck. Surveys may be conducted according to protocol between April 26 and May 23 to determine

if harlequin duck activity is occurring adjacent to or within the project area. If harlequin ducks are determined to not be present in the project area, this restriction may be lifted for the year surveys are conducted.

- Prohibit activities with the potential to disturb nesting spotted owls during the critical nesting period of March 1 – July 15 unless the activity is occurring to protect public safety.

#### **Wildlife Habitat Design Measures:**

- Fall snags outside the project area which have the potential to fall into the project area and leave as down wood to improve prey base habitat for Northern Spotted Owls.

#### **Heritage Resources Design Measures:**

- Project activities planned outside of the area defined in the heritage resource inventory must be coordinated with the district archaeologist prior to initiation. This includes the establishment of storage areas, log placement locations and waste disposal sites.
- In accordance with federal regulations, in the unlikely event that cultural resources that have not been discovered are encountered during the course of this project, earth-disturbing activities in the vicinity of the find shall be suspended. The Detroit Ranger District Archaeologist shall be notified to evaluate the discovery and recommend subsequent courses of action.

#### **Soils, Hydrology & Fisheries Design Measures:**

Best Management Practices (BMP's) are used in the development of design measures to comply with Aquatic Conservation Strategy Objective's. These BMP's can be found in "General Water Quality Best Management Practices" Pacific Northwest Region, November, 1988. Utilizing BMP's for this project specifically address direction and guidance in the protection of water quality. Three Pools project objectives and design measures for water quality are to:

- *Objective:* Continue recovery of downstream riparian, channel and water quality conditions by designing project to insure channel bank stability, and provide adequate buffers to reduce sediment inputs. *Design Measure:* Place a sediment fence between the project site and the Little North Santiam River during construction.
- *Objective:* Minimize the potential for contaminants to enter the stream. *Design Measure:* Keep a hazardous spill containment kit on site during construction activities.
- *Objective:* Maintain or improve the quality of water for domestic users and fisheries by minimizing disturbance to riparian reserves (vegetation loss). *Design Measure:* Coordinate design with Detroit Ranger District Hydrologist who will designate specific prescriptions for each individual site adjacent to stream courses requiring protection (eg. fence placement, trail location, traffic controls, barrier location, drainage structures, etc).

- *Objective:* Control the amount of sediment leaving the road system. *Design Measures:* Use appropriate clauses within the contract to insure that winter activities occur on roads with adequate surface rock. Control potential erosion by mulching bare soils associated to the road system and use sediment control techniques.
- *Objective:* Use erosion control methods to stabilize the soil and minimize the amount of erosion and sedimentation in areas cleared of vegetation. *Design Measures:* Mulch bare ground and re-vegetate within one growing season. Utilize barriers (eg. fence, curbing, log structures) to control foot and vehicular traffic along trails, parking areas and at picnic sites.

**Invasive Weeds Design Measures:**

Minimize the spread of noxious weeds and other invasive non-native plants through preventative measures taken prior to and during construction operations:

- Minimize areas of disturbance during road reconstruction/construction.
- Where practical and at the first appropriate opportunity following project work, prepare soil and re-vegetate shoulders of reconstructed road and abandoned old roadbed and user created trails with competitive seeding and native plantings.
- Use weed-free rock sources for any additional gravel needed for road construction and reconstruction.
- Use only certified weed-free seed and straw for erosion.
- Pressure wash all construction and logging equipment prior to working in the area.

**Monitoring**

- **Invasive Weeds:** Post-construction noxious weed surveys would be completed by the District botanist to ensure mitigation measures for prevention was effective. Annual monitoring would identify any weed establishment, which would subsequently be eradicated.
- **Visitor Displacement:** As part of the Opal Creek Scenic Recreation Area Monitoring plan, high impact dispersed sites would get evaluated annually. Use on peak weekends (June through August) would be monitored during routine patrols to observe trends and if visitor displacement is occurring. Monitoring results would determine if subsequent management actions are needed and a course of action.

This decision is based on my review of the analysis presented in the Three Pools Day Use Site Rehabilitation Environmental Assessment and public involvement. Public comments were supportive of the project. When compared to Alternative 1, Alternative 2, the proposed action, best meets the purpose and need to attain the Desired Condition prescribed in the Opal Creek SRA Management Plan. Alternative 2 alleviates the issues that stem for traffic and parking congestion, unsafe access, sanitation

and litter concerns, and unconfined foot and vehicle travel that's results in vegetation loss and soil erosion.

### **Other Alternatives Considered**

I considered two other action alternatives to either minimize or maximize vehicle parking capacity but eliminated them from further consideration (EA pp. 17).

### **Alternative 1 - No Action**

Under the No Action alternative, current management plans would continue to guide management of the project area. The existing condition and facilities at Three Pools Day-Use Area would not change but basic maintenance of the site would continue. The no action alternative would retain the existing condition, and does not meet the purpose and need. The existing condition is described in Chapter 1 in the EA , pages 6-7. If no action is taken, the current condition would continue to result with increasing congestion, sanitation issues and impacts to resources.

## **Public Involvement**

### **Opal Creek Scenic Recreation Area Advisory Council**

As directed by the Opal Creek Act, the Forest Service consults with a federally appointed Advisory Council on matters relating to the management of the SRA. The Advisory Council consists of 13 members, each of whom represents a particular interest including recreation, education and research, environmental organizations, economic development, mining, Marion County (law enforcement), City of Salem, State of Oregon, Indian tribes, inholders, and public at-large.

The Advisory Council identified Three Pools as a high priority area within the SRA needing improvement to meet the Desired Condition described in the Opal Creek Scenic Recreation Area Management Plan. The Opal Creek Advisory Council originally submitted a letter of support in May 2006 to the Hood-Willamette Resource Advisory Committee to fund improvements at Three Pools through the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393) otherwise known as "Payments to Counties." The project was supported by the Hood-Willamette Resource Advisory Committee who approved \$124,875 of funding on September 29, 2006 for site improvements upon completion of the environmental analysis.

The proposed action was developed based on previous discussions and site visits with the Advisory Council. A presentation about the project was made by the Forest Service to the Opal Creek Advisory Council on October 25, 2006 to assist with the development of the proposed action. Since there was no quorum, a subcommittee was formed and provided input to be presented at a subsequent meeting. At the December 6, 2006 meeting, the Opal Creek Advisory Council held discussion and made a recommendation to unanimously support the proposed action as presented and no issues were raised.

### **Public Scoping**

Scoping is a process used to determine the scope and significance of a proposed set of actions, to determine the issues that should be addressed in analyzing proposed actions, and to determine the



alternatives that need to be addressed when accomplishing the analysis. The first announcement of this proposal was made in the Willamette National Forest Schedule of Proposed Actions (SOPA) - Fall Quarter, October 1, 2006.

A scoping document for this project, a more comprehensive and focused solicitation of public comment, was mailed on November 9, 2006 to a list of 54 individuals, Indian Tribes, organizations, elected officials and other agencies which have expressed or may have interest in this project. A news release about the proposed project resulted in articles published in the *Salem Statesman-Journal* on November 20 & 23, 2006, and in the *Mill City Independent Press* on November 22, 2006. A copy of the scoping notice cover letter, project proposal, and a comment form was also available on the Willamette National Forest web page. Seven written comments and two verbal comments were received; however, no significant issues were identified. Visitor displacement as identified as a non-significant issue since it is speculative and did not result in the formulation of an alternative. The effects of visitor displacement were discussed in the pertinent sections of the effects analysis (EA pp. 32, 35, 39, 45, 50 & 61).

The EA was released for a 30-day comment period on March 22, 2007. One individual, Karen Sjorgren, submitted a written comment. Appendix A of this Decision Notice contains the responses to the comments contained in the comment letter.

## **Finding of No Significant Impact**

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action. No significant adverse *direct or indirect effects to the environment* from this project were identified during the environmental effects analysis. No significant irreversible or irretrievable commitments of resources, such as loss of soil productivity, water quality, wildlife habitat, plant species or heritage resources, will result from this project (EA pp. 69). As described on pages 27-68 of Chapter 3 of the EA, adverse effects and the reasons they are not expected to be significant include:
  - Heritage Resources – there are no direct or indirect effects expected from this project (EA, p. 34-35, 62-63).
  - Soils Stability and Productivity –effects to soils are expected to be minimal. (EA, pp. 36).
  - Hydrology, Water Quality, Riparian Areas, Stream Channels –effects are anticipated to be beneficial and outweigh any possible indirect effects to riparian reserves. (EA, pp. 37-39, 63-64).
  - Fisheries – no effects to fish and/or their habitat are expected. (EA, p.41-47, 63).

- Botanical Species – effects on sensitive and Survey and Manage botanical species is expected to be low risk since these species were absent during a survey assessment. Potential risk of invasive weeds is reduced by project design activities such as prevention measures, weed removal, and re-vegetation of disturbed areas with native species. No effects on special habitats are anticipated. (EA, pp. 22, 48-50, 63 & 66).
  - Threatened/Endangered, and Sensitive Wildlife Species – Effects may impact the Baird’s shrew, Pacific shrew, Oregon slender salamander or their habitat but is not expected to jeopardize the species or move any of these species toward federal listing as a threatened and endangered species. Since the area of habitat removal is very small in terms of the overall habitat available in the eastern Little North Santiam watershed, the impact on these species is inconsequential. The project may affect and is not likely to adversely affect northern spotted owl habitat (EA, pp. 53-60, 63).
  - Migratory Birds, Raptors and Colonial Nesting Birds – There are no effects to these species or their habitat. (EA, pp. 52, 56, 60)
  - Survey and Manage Wildlife Species – There is no habitat for great gray owl, Crater Lake tightcoil snails and amphibians. No red tree vole nest structures were located during survey. There will be no effect on red tree voles. (EA pp.52, 57, 61)
  - Management Indicator Species (MIS)– There are no effects to MIS habitat from this project (EA, pp. 52, 56, 60-61).
  - Snag habitat and downed woody material (DWD) – There are no effects since the project would occur in an existing recreation site and would be maintained in adjacent areas (EA, pp. 52, 58, 61).
2. There will be no significant effect on *public health and safety*. The project is expected to have a beneficial effect on health and safety by developing infrastructure to improve existing conditions such as organized formal parking, safer egress/ingress to the site, improved emergency vehicle access, improved trails and decommissioning of unsafe trails, fencing and rails along trails, additional toilet and garbage facilities and safety messaging on information signs (EA pp. 31-33).
3. The supporting documentation located in the EA and Project Record provides sufficient information to determine that this project will *not significantly affect any known unique characteristics or ecologically critical areas* of the geographic area such prime farmlands, rangeland and forestlands, parklands, wetlands, historic or cultural resources or wild and scenic rivers.

There are no *prime farm or range lands* in the project area. The cutting and selling of trees within the Opal Creek Scenic Recreation Area is prohibited by law so there is no effect to the *forest land* timber base for commodities. (EA pp. 68).

The project does involve improving an existing recreation site and is expected to have beneficial effects to *park lands*. (EA, pp. 31-33).

No *wetlands or floodplains* are involved and does not affect stream banks. (EA, pp. 64).

A *cultural resource* survey has been completed in the Three Pools project area. The project would have no effect on heritage resources since the one known cultural site within the proposed project area was evaluated and determined not eligible to the National Register of Historic Places. (EA, pp. 34-35, 62-63).

*Wild and Scenic Rivers:* The Little North Santiam River, and its entire 7.8 mile length on National Forest lands, has been determined to be eligible for the inclusion into the National Wild and Scenic River System through the 1990 Forest Land Management Planning process, also known as a Section 5(d) river in the Wild and Scenic Rivers Act. This river has been classified “Scenic” with Outstandingly Remarkable Values tied to its variety and quality of recreational opportunities. The outstandingly remarkable, values recreation and scenery would be protected and enhanced. The “free-flowing” character of the river would not be modified. The project would have no adverse affect on the values for which the river was deemed eligible into the National Wild and Scenic Rivers System (EA, pp. 65-66).

The State established a system of designated scenic waterways to preserve free-flowing rivers of Oregon and lands adjacent that possess outstanding scenic, fish, wildlife, geological, botanical, historic, archaeological, and outdoor recreation values of present and future benefit to the public. The Little North Fork of the Santiam River from the confluence of Battle Ax Creek and Opal Creek downstream to the boundary of the Willamette National Forest was designated on September 20, 1985. The significant attributes for this scenic waterway are recreation and scenery. The Oregon State Parks and Recreation Department was contacted and they found Alternative 2 best meets the objectives for the scenic waterway in the protection of the recreation and scenic attributes by improving access and safety, formalizing parking in clusters, minimizing disturbance to natural features, and better manages the use to enhance recreation experiences. There are no water impoundments or changes to the stream channel as a result of implementing Alternative 2. The free-flowing character of these waters would remain unchanged and maintained in quantities necessary for recreation, fish and wildlife uses. (EA, pp. 65).

4. The effects on the quality of the *human environment are not likely to be highly controversial*. There is no known scientific controversy over the impacts of the project.

Implementation of the project would not favor or discriminate against any social or ethnic group. The project may indirectly create job opportunities or money spent in the communities that are trying to diversify their tourism economy. An attractive safe recreation area helps to improve the quality of life of local communities (EA pages 67-68).

Effects to recreationists are expected to be beneficial and helps align Three Pools with the desired condition prescribed in the Opal Creek Scenic Recreation Area Management Plan (EA, page 31-33).

No specific sacred sites have been identified. No impacts, as outlined in the American Indian Religious Freedom Act, are anticipated upon American Indian social, economic or subsistence rights. Alternative 2 complies with Consultation and Coordination with Indian Tribal

Governments Executive Order 13084 and Indian Sacred Sites Executive Order 13007. (EA, page 68).

5. The project effects do not entail *uncertain, unique, or unknown risks*. We have considerable experience with the types of activities to be implemented. All actions are standard practices that have been previously implemented with known cause and effect relationships.
6. The action is not likely to establish a *precedent for future actions* with significant effects, because it conforms to all existing Forest Plan direction, as amended by the Opal Creek Scenic Recreation Area Management Plan, and is applicable only to the project area.
7. No potentially significant adverse *cumulative effects* of the project have been identified (EA pp. 33, 35, 36, 39, 46-47, 50, 61).
8. The action will have no significant adverse effect on *districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places*. This action will not cause loss or destruction of significant scientific, cultural, or historical resources. An appropriate review has been conducted by this undertaking (as discussed in Factor 3). The project would have no effect on heritage resources since the one known cultural site within the proposed project area was evaluated and determined not eligible to the National Register of Historic Places. A letter of concurrence from the State Historic Preservation Office that no historic properties are affected by this project can be found in the project planning record. (EA, pp. 34-35, 62-63).
9. The action will not adversely affect any *endangered or threatened species* or its habitat that has been determined to be critical under the Endangered Species Act (ESA) of 1973. The ESA establishes a policy that all federal agencies would seek to conserve endangered and threatened species of fish, wildlife and plants. The action is consistent with Endangered Species Act direction. Biological Evaluations for plants and wildlife and a Biological Assessment for fisheries have been prepared. These describe possible effects of Alternative 2 on sensitive and other species of concern that may be present in the project area. Biological Evaluations and the Biological Assessment can be found in the project planning record. (EA, pp. 63).

Results of the botanical Biological Evaluation and surveys indicates an absence of Sensitive and Survey & Manage botanical species occurrence in the project area and supports an assessment of low risk to these species as a result of the action.

The wildlife Biological Evaluation findings for the action may impact the Baird's shrew, Pacific shrew, Oregon slender salamander or their habitat but is not expected to jeopardize the species or move any of these species toward federal listing as a threatened and endangered species. Since the area of habitat removal is very small in terms of the overall habitat available in the eastern Little North Santiam watershed, the impact on these species is inconsequential. Consultation with the U.S. Fish and Wildlife concluded that the action may affect and is not likely to adversely affect spotted owl habitat. A Biological Opinion (1-7-06-F-0179) was issued September 22, 2006. Consultation results concluded this activity may affect and is not likely to

adversely affect spotted owl habitat. This opinion requires seasonal restrictions from March 1 – July 15 where activities have the potential to disturb nesting spotted owls.

A Biological Assessment was prepared for threatened upper Willamette Chinook salmon and upper Willamette steelhead. The action would have no effect on Chinook or steelhead or on designated critical habitat. Consultation with US Fish and Wildlife Service for fisheries was not required since no bull trout habitat exists in the planning area. In addition, consultation with National Oceanic and Atmospheric Administration (NOAA) Fisheries was not required because this undertaking would have no effect on ESA-listed anadromous fish species or critical habitat.

10. The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (EA pp. 62-68). The action is consistent with the Willamette National Land and Resource Management Plan (EA pp. 13, 33, 40, 50, 62).

## **Findings Required by Other Laws and Regulations**

This decision to implement Alternative 2 is consistent with the intent of the forest plan's long term goals and objectives. The project was designed in conformance with land and resource management plan standards and incorporates appropriate land and resource management plan guidelines for Management Areas MA-2c as amended by the Opal Creek Scenic Recreation Area Management Plan Environmental Assessment, and MA-15 Riparian Reserves as amended by the Northwest Forest Plan

This decision is consistent with all applicable Acts and Regulations such as the National Forest Management Act (NFMA) of 1976, National Environmental Policy Act (NEPA) of 1969, Endangered Species Act (ESA) of 1973, Clean Water Act (CWA) of 1972 and section 319 of the 1987 CWA, Clean Air Act of 1977, Civil Rights Act (CR) of 1964, Title VI and Executive Order 12898 on Environmental Justice, Executive Orders 11988 and 11990 on Wetland and Flood Plains, Executive Order 12112 on Invasive Species, Executive Orders 13084 and 13007 on American Indian Rights, The Preservation of Antiquities Act of June 1906 and the National Historic Preservation Act of October 1966, Magnuson-Stevens Fishery Conservation and Management Act, 1976, Wild and Scenic Rivers Act 1968, 1872 Mining Law, and Executive Order 13186 on Neotropical Migratory Birds. The decision is consistent with state rules and laws including the Three Basin Rule OAR 340-042-470, and Oregon State Scenic Waterway ORS 390.805-390.925 and OAR 736-040-0005 (EA pp. 62-68).

I am aware of the March 30, 2007 US District Court orders in the Pacific Coast Federation of Fishermen's Associations, et. al. v. National Marine Fisheries Service, et.al. Civ.No. C04-1299, WD Wash. that set aside the FSEIS and 2004 ROD Decision to Clarify Provisions Relating to the Aquatic Conservation Strategy (ACS). The Three Pools EA does not rely on the 2004 ROD clarifying the ACS. I have reviewed the EA and it is consistent with the Riparian Reserve standards and guidelines and all other Forest Plan standards and guidelines applicable to the Aquatic Conservation Strategy. I have also reviewed the EA from a watershed context and considered its watershed analysis and find that this Decision is consistent with the ACS (EA pp. 39). No actions in this Decision significantly impact the biological or physical components of the aquatic system (EA Project Record on File at the Detroit Ranger

District Office). The actions in this Decision will meet and do not prevent the attainment of the Aquatic Conservation Strategy objectives (Northwest Forest Plan ROD, B-11-17).

I am also aware of the August 1, 2005, and the January 9, 2006, U.S. District Court orders in the Northwest Ecosystem Alliance et al. v. Rey et al (NEA), Civ. No. 04-844, WD Wash. that set aside the 2004 Record of Decision (ROD) to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines. The Court re-instated the January 2001 ROD for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines, as amended by the 2001 and 2003 Annual Species Reviews. The Order allowed projects to continue or be implemented if they complied with the 2001 ROD as amended. The Three Pools project is in compliance with the 2001 ROD.

Subsequently, on November 6, 2006, the Ninth Circuit Court of Appeals in Klamath-Siskiyou Wildlands Center et al. v. Boody et al. (Klamath) No. 06-35214 (CV 03-3124 District of Oregon) held the 2001 and 2003 Annual Species Reviews regarding the red tree vole were invalid under Federal Land Policy and Management Act and National Environmental Policy Act as to the two Bureau of Land Management sales at issue in that case. Although the Klamath opinion is specific to the two named BLM timber sales, red tree vole surveys have been completed for the Three Pools project area and are discussed in the EA (EA pp. 52, 57, 61). No red tree voles were located so no protection measures are included in the selected Alternative 2.

As a result, I conclude that the Three Pools Day Use Site Rehabilitation Project is consistent with the January 9, 2006 NEA Order by complying with all survey and manage requirements in the 2001 ROD for Amendments to Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines.

## **Administrative Review or Appeal Opportunities**

Since the only comment received during the comment period was in favor of the proposed action, this decision is not subject to appeal pursuant to 36 CFR 215.12.

## **Contact**

For additional information concerning this decision contact Dani Pavoni, Recreation Planner, HC 73 Box 320, Mill City, OR 97360. Phone: (503) 854-4208.

Copies of the Environmental Assessment and this Decision Notice can be found on the Willamette National Forest Website at: [http://www.fs.fed.us/r6/willamette/manage/nepa/current\\_detroit.html](http://www.fs.fed.us/r6/willamette/manage/nepa/current_detroit.html)

## **Implementation Date**

Implementation can begin immediately for minor reconstruction activities that do not have potential to disturb nesting spotted owls or harlequin ducks from March 1 to July 15. Major reconstruction activities that would close the site to public use may begin after Labor Day weekend.

/s/ *Paul Matter*  
PAUL MATTER  
Detroit District Ranger

May 2, 2007  
Date

## Appendix A – Three Pools EA Response to Comment

### Introduction

The Environmental Assessment was available for public review and comment from March 22, 2007 to April 23, 2007. One written comment dated April 3, 2007 was received during the comment period from Karen Sjogren. The commenter is supportive of the project and states “the project is well-designed and greatly needed.”

Public responses submitted on the Three Pools EA were documented and analyzed using a process called content analysis. This is a systematic method of compiling and categorizing all of the public viewpoints and concerns submitted during the official comment period for the EA. Content analysis helps the Forest Service identify issues and concerns with the Environmental Assessment and helps the decision maker arrive at an informed decision.

### Editorial Comments

The commenter provided several suggestions for grammatical changes and typographical corrections. Edits would not result in substantive changes to the document, its content or understanding of the analysis. The EA is a final document, however, clarification to questions is provided below and an erratum of specifically noted edits follow in Appendix B.

### Timing of Implementation

**Question :** As I understand it, Public Law 106-393 was not renewed in 2007. Are the funds approved for this project from previous allocations? If not, where will the money come from?

**Response:** As described on page 14, Payments to Counties funding was approved and is available for the project. The contract must be awarded by September 30<sup>th</sup> of this year and is dependant on completing the Environmental Analysis in a timely manner.

**Comment:** I enjoy this area most in September, when daytime temperatures are optimal and fall colors can be enjoyed. Major construction activities should not begin until October 1 at the earliest.

**Response:** Unfortunately, the project will affect visitors regardless of when implemented and we have minimized that as best as practically possible. To protect water quality and minimize potential sedimentation, construction activities should occur during dry weather. In addition, paving would need to occur during periods of dry weather and warmer temperatures. If temperatures are too cold or the ground is wet, the pavement cannot setup properly. Waiting until October to begin construction does not allow enough time for construction to be completed before the cool and rainy season begins. Consequently, exposed soils and aggregate could erode before construction activities would be completed the following dry season. Also, wildlife restrictions further restricts construction between March 1 and July 15, creating a very tight window of opportunity to implement the project. We have opted not to implement major reconstructions activities that would close the site to public use during the busy summer season. Use levels drop significantly after Labor Day. Construction implementation is planned to begin after Labor



Day to take advantage of more optimal weather conditions. The Opal Creek Trail and Little North Santiam Trail will remain open so visitors can continue to enjoy the Little North Santiam River and fall colors in the corridor.

## **Purpose and Need**

**Comment:** I agree that there is a need for all of the bulleted items on Page 5. They are necessary but perhaps not sufficient to meet the purpose of the project.

**Response:** The physical improvements begin to provide the basic infrastructure to manage use more effectively. We recognize other elements such as law enforcement, education, new regulations, and proposed fees are important considerations and components. Formalizing the site helps enhance the setting and establishes a maximum capacity and orderliness. The parking and access improvement will give law enforcement the ability to access and deal with the public more effectively and safely.

## **Facilities and Design**

**Question:** Will the additional vault toilet be burn proof? How will the smell of the new toilet be reduced so it does not deter enjoyment of using the lower pool? How close will the toilet be to the pool?

**Response:** The toilets are CXT® concrete buildings and are the most vandal-resistant toilet available and easy to maintain. The old toilet structure that was burned down was made of wood. We have had good success with CXT® toilets and are replacing old units with these. Upon review of installation feasibility, the toilet will be located near the top of the existing stairs and edge of parking area. It provides the most convenient location for the majority of users at the site. With proper installation, the CXT toilet (known as a “sweet smelling” toilet) is designed to remove odor through tall south-facing stacks by solar heating. The toilet is about 200’ distance and 50’ elevation above the main pool and is not anticipated to cause unpleasant odors at the river below. Moving the toilet elsewhere would result in less use and no improvement of current sanitation issues.

**Comment:** The loop road should be paved to keep the dust down and reduce noise levels.

**Response:** The road will be paved.

**Question :** Is it possible to show the actual loop road and parking spaces, perhaps an additional, higher detail map?

**Response:** To complete the Environmental Analysis in a timely manner, we had sufficient information and detail about the area affected to conduct the analysis without a final design completed. The final design will be completed once the decision is made.

**Question:** Do stairways have handrails on both sides as a safety feature?

**Response:** Yes

**Question :** Would receptacles for recycled items be practical? What about ash cans for cigarette butts?

**Response:** These considerations would be good additions once we get the area under control. This project is about providing the basic infrastructure to manage and accommodate site capacity. Trash receptacles are provided for people to throw away extinguished cigarette butts. Educational messages will hopefully encourage people to take responsibility and properly dispose all trash and the importance of this on the environment.

**Question :** Table 3 pp. 35, the table states that no accessible opportunities are currently provided. Does this include the present restroom? Would the addition restroom be handicap-accessible?

**Response:** No accessible *recreation* opportunities are currently provided. The project would create a new opportunity by providing wheelchair access to picnic sites and a scenic river overlook. The current and future restrooms are wheelchair-accessible and meet Americans with Disability Act Accessibility Guidelines.

**Question :** One of the signs should quote the regulations that it is prohibited to cut down trees, remove vegetation, harass wildlife, etc.

**Response:** Signing would include regulations that prohibit damaging and removal of vegetation as well as other pertinent regulations, safety and leave no trace messages.

**Question:** The new facilities must be adequately maintained as well, probably once a day, based on summer visitor numbers.

**Response:** Facilities will be maintained commensurate with use. On weekends, these facilities will be attended to more than once a day and cleaned up as needed.

## **Reasonably Foreseeable Actions**

**Comment:** Although outside the scope of the analysis, I will mention there are three reasonably foreseeable actions which should be taken to also help meet the desired condition. These are (1) ban glass bottles at the site; (2) disallow drinking alcoholic beverages in all federal parks; and (3) charge a day-use fee of \$5.00 per vehicle, with the alternative of honoring the Forest Service annual pass. The daily fee is only fair for an improved site with picnic tables, trash cans and restrooms. I pay five dollars to hike the Opal Creek Trail and it has none of these improvements, except poorly maintained porta-potties at the trailhead.

**Response:** Thank you for your comments. We plan to implement a glass bottle ban at Three Pools this season. We are also proposing to charge a \$5 day use fee that honors Northwest Forest Passes, Golden Passports and Interagency Passes next year after completion of the project. We will continue to monitor the alcohol use and determine if it should be prohibited next year. A new toilet will be installed at Opal Creek Trailhead this year to replace the port-pottis. Picnic tables, an interpretive sign, and garbage service have been provided at the trailhead for two years.

## Visitor Displacement

**Comment:** Displacement should be monitored for on weekends.

**Response:** Visitor displacement will be monitored during summer weekends as part of an ongoing annual monitoring plan for the Scenic Recreation Area.

## Invasive Weeds

**Question:** With respect to invasive weeds, shouldn't workers' boot soles also be washed off prior to working in the area? What about post-project monitoring? The presence of noxious weeds should be monitored for at least three years after the project is completed.

**Response:** Work boots are not considered a significant source of weed transport. Significant contributors such construction equipment and use of outside rock, seed and straw sources will have preventative measures to minimize the spread of weeds. Post-construction noxious weed surveys would be completed. Annual invasive weed monitoring and control will be ongoing indefinitely.

## Heritage Resources

**Question:** Text on pp. 34 says: "The common activity at many of the sites used by Indians was the manufacture and maintenance of lithic tools and biface reduction." What is biface reduction?

**Response:** A biface is any lithic material (e.g. obsidian) that has been flaked on two faces or surfaces. As flakes are detached using a hammerstone or other striking material, the original mass of stone is reduced; hence the term for this process. This process is used to obtain sharp flakes, on which a variety of tools can be made, or to rough out a blank for later refinement into a projectile point, knife, or other object.

## Soils

**Question:** Text from EA pp. 36 says: "This stream terrace is comprised of nonplastic, silty sands and gravels..." "What is nonplastic?"

**Response:** Soils can be characterized by different means. From an engineering standpoint, they can be divided into two basic categories: plastic and nonplastic. Plastic soils are those with clay and can be rolled into a thin ribbon. Nonplastic soils are generally sands and gravels, and they cannot be rolled into a ribbon. Nonplastic soils usually have better bearing strength and permeability than plastic soils because don't liquefy and cause soft spots that get muddy.

## Hydrology

**Question:** Is it true that most water quality concerns are "socially orientated," (oriented) caused by human waste and trash entering the river as well as erosion?

**Response:** Yes, that is correct.

**Question:** Please explain how there will be a net decrease of 11.7 miles within the SRA when combined with the proposed action. Will 12 miles of road be decommissioned by the time the 0.3 miles here is added?

**Response:** The *net decrease of road miles* is the result of the proposed 12 miles of decommissioning projects within the SRA plus the 0.3 miles of new road at Three Pools. The eastern watershed has a very low road density when compared to the remainder of the watershed outside of the National Forest. Decommissioning of other roads will occur when funds become available but are not in conjunction with the Three Pools project. Some roads are closing themselves due to vegetation growth and will just be taken off the road system inventory since they are hydrologically stable.

## **Fisheries**

**Question:** What is the natural barrier downstream from Opal Creek?

**Response:** Historically, anadromous fish distribution ended at Salmon Falls at river mile 15.9 until a fish ladder was built in 1958. Now anadromous fish distribution ends at a natural waterfall barrier at river mile 23.9 near Jawbone Flats.

**Question:** Table 5 (page 42). Are these acreages for the LNS (Little North Santiam) watershed, the eastern half or what?

**Response:** As described in the paragraphs prior to the Table 5, the acres are for the entire watershed in order to analyze the affects of the alternatives on fisheries. The context of the entire Little North Santiam basin must be understood in order to complete the analysis.

**Question :** The text in the Fisheries Conclusion section on pp. 47 says: “Since there is no mechanism for effect of habitat indicators; there would be no effect on designated critical habitat.” Please explain what this means?

**Response:** If there is no mechanism for effect (or no way for ground disturbing activities to result in an effect) to fish habitat indicators such as; temperature, sediment, large woody debris, pool habitat and off channel habitat, then there would be no change to designated critical habitat. This is standard language used for determining effects in Biological Assessments during Endangered Species Act consultation with NOAA Fisheries.

**Comment:** With respect to the proposed Action, the additional 0.3 miles of road, as well as paving the entire road, will add to the already high road density in this watershed. This can be justified only by making the case that this is better than the status quo with respect to effects.

**Response:** This is correct. The effects of the status quo is currently not following the Northwest Forest Plan or meeting the best management practices for this site. By improving the site and delineating travel routes and parking areas, the effect of recreational use on aquatic resources is reduced. Implementing Alternative 2, the Northwest Forest Plan and best management practices will be met.

## Wildlife

**Comment:** In Table 2 (EA page 24), what is the habitat of Baird's shrew, the Pacific Shrew and the Oregon Slender Salamander, such that this project may impact them? The text says that they occur in riparian areas, but that is not sufficient to explain why the project would impact them. What are their specific habitats?

**Response:** The tables at the end of Chapter 2 are merely a concise summary that compares the effects of each alternative. As referenced above the tables on page 23, Chapter 3 of the Environmental Assessment has the detailed discussion of the effects. For these species, the habitat descriptions are found on pages 54-55 and associated impacts are discussed on pages 59-60.

**Comment:** In the current condition section on page 54, the suitable habitat requirements for the Baird's shrew/Pacific shrew need to be described more specifically, and for the Oregon slender salamander more accurately. The text for each species should follow its listing' thus, the Pacific fringe-tailed bat and other species described at the top of page 56 should be listed directly above this text, not elsewhere.

**Response:** These three species are poorly understood or habitat preferences are not known so habitat descriptions are fairly general. Basically these species inhabit most of the forested habitat types found in the eastern watershed and the project itself represents a very small proportion of this area. The Oregon slender salamander lives in forested areas, especially old-growth Douglas-fir and younger stands with abundant downed large logs. Species that did not have habitat descriptions had no habitat in the project analysis area. As described on page 56, the following species have no habitat in the project analysis area; therefore, were not discussed further in the environmental analysis: Black Swift, Bufflehead, Pacific fringe-tailed bat, Cascade Torrent Salamander, Foothill Yellow-legged Frog, Northwestern Pond Turtle, Oregon Spotted Frog, Crater Lake tightcoil snail and Mardon Skipper.

**Question:** The effects analysis for the Baird's shrew, Pacific shrew and Oregon slender salamander is not accurate. Are all forested riparian environments suitable habitat for the Bairds' shrew, and all forested environments suitable habitat for the Pacific shrew and Oregon slender salamander? The author's best argument is that suitable habitat components for all of these species are located in close proximity in protected Opal Creek Wilderness area.

**Response:** As described in the EA pp. 54-55, Baird's shrew is known to inhabit forested riparian areas in the Cascade mountains. The Pacific shrew is found in humid forests of western Oregon. Oregon slender salamander habitat is in forested areas under bark and moss in Douglas-fir trees. The project only affects a very small percent of the overall habitat, or 0.43 acres out of over 30,000 acres including the Opal Creek Wilderness, Opal Creek SRA and a late successional reserve (LSR) or 9,987 acres of forested riparian reserves within these specially protected areas (EA pp.59-60). This implies that thousands of acres of suitable habitat components for these species are located adjacent Three Pools. Since the area of habitat removal is very small in terms of the overall habitat available in the eastern watershed (which includes the Wilderness, SRA, LSR and riparian reserves), the impact on these species is inconsequential. Impacts are not expected to jeopardize the species or move it toward federal listing as a threatened or endangered species.

**Question:** For Peregrine falcons, why was potential nesting habitat within 3 miles not surveyed for occupancy:

**Response:** Peregrine falcons are highly visually oriented birds and are disturbed by activities which they are not accustomed to within direct line of sight of their nesting area. The project area is not in direct line of sight to potential cliff nesting habitat or within a distance which would cause disruption of birds if they were nesting there (EA pp. 53, 58). In addition the project is scheduled to occur outside their breeding season so there is no effect to peregrines by the project. For these reasons, surveys were not required.

**Question:** What are the prey species for peregrine falcon, and how would their habitat be altered by this project?

**Response:** Peregrine falcons primarily feed on other birds. The habitat would be altered by removal of .43 acres of vegetation. No change in prey species numbers are expected from project related activities. (EA pp 58)

**Question:** For the northern spotted owl, will it really take 200-300 years for foraging habitat to develop into nesting habitat? (pp. 54)

**Response:** Growth rates and the development of multi-stories old growth depend on the site where trees are growing. For instance low elevation warmer sites in the coast range may develop these conditions in less than 200 years while in comparison a colder rockier site in the Cascade mountains can take much longer. The 200-300 year range was an estimate for this site class based on the project area being in a fairly cold area with poorly developed soils.

**Question:** Are there individual trees suitable for northern spotted owl nesting within the foraging area? The document sightings (for northern spotted owls) are old; are there any more recently?

**Response:** The project area was evaluated for larger trees during red tree vole surveys. No residual old growth was located in the project area or immediately adjacent it during these surveys. The area of foraging habitat is located outside of the project area to the west. The foraging habitat was not checked for potential nest trees. It is possible for residual old-growth to be present but is predominantly foraging habitat by stand structure. Foraging habitat is considered suitable habitat for spotted owls and given the same protection nesting habitat receives. The project was consulted on with the US Fish and Wildlife Service. The project is seasonally restricted from March 1 – July 15 during the critical breeding period to avoid any potential disturbance to nesting spotted owls which could be using the foraging habitat or nesting in a residual old growth tree in the foraging habitat. There are no recent sightings of spotted owls.

**Comment:** The migratory birds section is not specific enough.

**Response:** The Three Pools Project Area contains populations of migratory land birds typical of the western Cascades. Habitat will remain coniferous forest and the species using this habitat will remain unchanged. The project is surrounded by thousands of acres of similar habitat. Further analysis was not needed. (EA pp. 52, 57, 60, 66)

**Question:** Which raptors/colonial nesting birds were surveyed for?

**Response:** Surveys were conducted in the fall after nesting season for any possible raptor or colonial nesting birds. Surveys focused on remaining nest structures which would indicate species occupying them (EA 52, 56). None were located in the project area. As potential red tree vole nests were part of the search, the survey was very thorough and binoculars were used.

**Question:** When were red tree vole nests surveyed for?

**Response:** A red tree voles survey was conducted to protocol and completed in the fall of 2006 (October 10, 2006). (EA pp. 52).

## Appendix B – Errata to the Environmental Assessment

1. Page 1, Introduction, Environmental Analysis: “comparison of the other alternatives that follow” should be “comparison of the other *alternative that follows*.”
2. Page 11, fourth bullet: “...prevent vehicles from being parking on road shoulders...” should be “...*prevent vehicles* from parking on road shoulders...”
3. Page 12, Decision Framework: “The Responsible Official for the proposal District Ranger...” should be “The Responsible Official for the proposal is the District Ranger.”
4. Page 14, second sentence: the word “provided” should be “*provide*.”
5. Page 27, Vegetation management, 3rd bullet: “On November 13, 1996 when the Omnibus Parks and Public Lands Management Act was passed,...” should be “On November 13, 1996, the Omnibus Parks and Public Lands Management Act was passed,...”
6. Pg. 28, third bullet: “...has been treated on the 2209-201.” should be “...has been treated *along Road 2209-201*.”
7. Page 34, first sentence: “District Archaeologist designed a unit-base heritage resource inventory...” should be “*The* District Archaeologist designed a unit-base heritage resource inventory...”
8. Page 40, Table 4 Consistency with Direction and Regulations for Hydrology, Stream Channels, and Water Quality should describe and references Executive Orders 11988 and 11990:

Regulation	Hydrology	Stream Channels	Water Quality
Willamette National Forest Land and Resource Management Plan for Watersheds	Consistent	Consistent	Consistent
Northwest Forest Plan and Aquatic Conservation Strategy Objectives	Consistent	Consistent	Consistent
Clean Water Act	Consistent	Consistent	Consistent
DEQ Sufficiency Analysis for Stream Temperature 303d listing Water Quality Management Plan.	Consistent	Consistent	Consistent
General Water Quality Best Management Practices	Consistent	Consistent	Consistent
Executive Orders 11988 and 11990 on Floodlands and Wetlands (see pp. 64)	Consistent	Consistent	Consistent



9. Page 42, table 5. Change title as follows and description of headings to include the word “acres.”

**Table 5. Federal Land Management Areas (US Forest Service (USFS) & Bureau of Land Management (BLM)) in the Little North Santiam Watershed**

Management Areas	Riparian Reserve (Acres)	Outside Riparian (Acres)	Total Acres
Late Successional Reserve (USFS)	1,200	1,997	3,197
Matrix -General Forest (BLM)	3,124	3,556	6,680
Connectivity/Diversity Blocks (BLM)	2,154	2,562	4,716
Scenic Recreation Area (USFS)	3,653	6,699	10,352
Wilderness (USFS)	8,361	11,857	20,218
Elkhorn Creek Wild Scenic River Corridor (USFS/BLM)	1,520	1,968	3,488
District Designated Reserve (BLM)	296	419	715
Total	20,308	29,058	49,366

10. Page 48-49: Botany species scientific names should be italicized: *Dendriscoaulon intricatum*, *Nephroma occultum*, *Peltigera pacific*, *Pilophorus nigricaulis*, *Pseudocyphellaria rainierensis*, and *Peltigera pacifica*.

11. Page 53, Table 6. The title “Table 6. Threatened, Endangered, and Regionally Sensitive Species: Presence of Habitat within Three Pools Day Use Area” should be “Presence of Threatened, Endangered, and Regionally Sensitive Species Habitat within Three Pools Day Use Area”

12. Page 59. Last sentence in paragraph 3 under Northern Spotted Owl was inadvertently omitted on Page 59 and should be: “Consultation with the U.S. Fish and Wildlife concluded that the action alternative may affect and is not likely to adversely affect spotted owl habitat.” However, this statement was included on Pages 24 and 53.