

Condenser Peak LSR Enhancement Projects 2 and 3

Final Decision and Decision Rationale for Condenser Peak LSR Enhancement Projects 2 and 3

Environmental Assessment Number OR080-05-07

May 2008

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

Township 7 South, Range 8 West, Sections 13, 14 and 15, Willamette Meridian
Upper Siletz River, Mill Creek –South Yamhill River and Upper South Yamhill River 5th field
Watersheds
Polk County, Oregon

Responsible Agency: USDI - Bureau of Land Management

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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.

BLM/OR/WA/AE-08/056+1792

I. Introduction

The Bureau of Land Management (BLM) conducted an environmental analysis for the Condenser Peak LSR Enhancement Projects 2 and 3, which are documented in the *Condenser Peak LSR Enhancement Project Environmental Assessment* (Condenser Peak LSR Enhancement EA) (EA# OR080-05-07) and the associated project file. The projects are located in Late Successional Reserve (LSR) and Riparian Reserve (RR) Land Use Allocations (LUAs). A Finding of No Significant Impact (FONSI) was signed on January 31, 2007 and the EA and FONSI were then made available for public review.

Project 2 - The purpose of the project is to restore four small mesic meadows. Project 2 would cut or girdle most conifers in 4 meadows in T. 7 S., R. 8 W., Section 14 and would thin conifers within approximately 100 feet of the meadow edges. Meadows vary in size from ½ acre to 2½ acres. A minimum of 100 square feet of basal area would be maintained in thinned areas around the meadows and trees felled or girdled would be suppressed, intermediates and codominants, leaving the largest trees standing.

Project 3 - The purpose of this project is to enhance habitat for wildlife species that are associated with late-seral forest habitats and CWD by creating CWD and snags in areas adjacent to Project 1. Trees would also be felled into area streams to enhance stream structure. The proposed treatment area is approximately 172 acres.

The decision documented in this Decision Rationale (DR) is based on the analysis documented in the EA. This decision authorizes the implementation of only those activities directly related to and included within Projects 2 and 3.

II. Decision

I have decided to implement Condenser Peak LSR Enhancement Projects 2 and 3 as described in the proposed action (EA pp. 47 to 48 and p. 54) with modifications described below, hereafter referred to as the “selected action”. The selected action is shown on the map attached to this Decision Rationale. This decision is based on site-specific analysis in the Condenser Peak LSR Enhancement Project Environmental Assessment (EA # OR080-05-07), the supporting project record, management recommendations contained in the *Rowell Creek, Mill Creek, Rickreall Creek, and Luckiamute River Watershed Analysis*, (USDI, BLM, 1998); *Upper Siletz Watershed Analysis* (USDI BLM, 1996); and *Upper South Yamhill Watershed Assessment* (Yamhill Basin Council, 2002) as well as the management direction contained in the Salem District Resource Management Plan (May 1995), which are incorporated by reference in the EA.

Since the release of the EA, there is a need to correct some information included in the EA.

Changes to the EA

The EA included outdated information concerning Conformance with Land Use Plans, Policies, and Programs (p. 3).

- *Record of Decision to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines in Forest Service and Bureau of Land Management Planning*

Documents Within the Range of the Northern Spotted Owl, March 2004 and Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines, (SSSP/SEIS) January 2004.

This DR changes the above conformance paragraph as follows:

- *2007 Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl, July 2007 and Final Supplement to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines, (SEIS) June 2007.*

The following is a summary of this decision.

Project 2

- Project 2 would cut or girdle most conifers in 4 meadows in T. 7 S., R. 8 W., Section 14 (Map 2) and would thin conifers within approximately 100 feet of the meadow edges.
- A minimum of 100 square feet of basal area would be maintained in thinned areas around the meadows and trees felled or girdled would be suppressed, intermediates and codominants, leaving the largest trees standing. All noble fir trees and all other conifer over 16" DBH would be reserved. All cut trees would remain in place. Except within the meadows, no cutting would be allowed within 10 feet of streams or open water.

Project 3

- To maintain shade in the primary shade zone, patch openings would be located at least 60 feet from perennial streams, and a canopy greater than 70% would be maintained.
- Individual scattered trees would be cut within the SPZ (typically within 50 feet of streams), but all trees thought to be stabilizing stream banks, typically within 5 feet of streams would be left standing.
- Where possible, trees within reach of streams would be directionally felled into or toward streams.
- Western hemlock and Douglas-fir trees would be selected for girdling, topping, or falling and leaving within defined boundaries that are adjacent to Project 1 (see Map 2)
- Selected trees would be scattered individuals or occur in patches up to ¼ acre in size, with no more than one such patch occurring per 2 acres of treatment area. No more than 10% of the total treatment area would be in open patches, while maintaining a canopy greater than 60% over the entire treatment area.
- To minimize Douglas-fir bark beetle infestation, no more than 20 Douglas-fir over 12" DBHOB per acre would be selected for treatment. Additional trees less than 12" and western hemlock of any size would be cut and left as needed to create patch openings. In no case would more than 10% of the total trees within the CWD project units be selected for treatment.

All design features and mitigation measures described in the EA (pp. 47 to 48 and p. 54) will be incorporated into a service contract.

III. Compliance with Direction:

The analysis documented in the Condenser Peak LSR Enhancement EA is site-specific and supplements analyses found in the *Salem District Proposed Resource Management Plan/Final*

Environmental Impact Statement, September 1994 (RMP/FEIS). These projects have been designed to conform to 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 managed lands within the Salem District (EA pp. 1 &-2). All of these documents may be reviewed at the Marys Peak Resource Area (RA) office.

Survey and Manage Species Review

Marys Peak RA is aware of the August 1, 2005, U.S. District Court order in Northwest Ecosystem Alliance et al. v. Rey et al. which found portions of the *Final Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (January, 2004) (EIS) inadequate.

The Marys Peak RA is also aware of the recent January 9, 2006, Court order which:

- set aside the 2004 Record of Decision *To Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines in Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern spotted Owl* (March, 2004) (2004 ROD) and
- reinstated the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measure Standards and Guidelines* (January, 2001) (2001 ROD), including any amendments or modifications in effect as of March 21, 2004.

The BLM is also aware of the November 6, 2006, Ninth Circuit Court opinion in Klamath-Siskiyou Wildlands Center et al. v. Boody et al., No. 06-35214 (CV 03-3124, District of Oregon). The court held that the 2001 and 2003 Annual Species Reviews (ASRs) regarding the red tree vole are invalid under the Federal Land Policy and Management Act (FLPMA) and National Environmental Policy Act (NEPA) and concluded that the BLM's Cow Catcher and Cotton Snake timber sales violate federal law.

This court opinion is specifically directed toward the two sales challenged in this lawsuit. The BLM anticipates the case to be remanded to the District Court for an order granting relief in regard to those two sales. At this time, the ASR process itself has not been invalidated, nor have all the changes made by the 2001-2003 ASR processes been vacated or withdrawn, nor have species been reinstated to the Survey and Manage program, except for the red tree vole. The Court has not yet specified what relief, such as an injunction, will be ordered in regard to the Ninth Circuit Court opinion. Injunctions for NEPA violations are common but not automatic.

On July 25, 2007, the Under Secretary of the Department of Interior signed a new *Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* that removed the survey and manage requirements from all of the BLM resource management plans (RMPs) within the range of the northern spotted owl.

The decision is consistent with the Northwest Forest Plan, including all plan amendments in effect on the date of the decision. Condenser Peak LSR Enhancement Projects 2 and 3 conform with the 2007 Record of Decision *To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl*.

Compliance with the Aquatic Conservation Strategy

On March 30, 2007, the District Court, Western District of Washington, ruled adverse to the US Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration (NOAA-Fisheries) and USFS and BLM (Agencies) in *Pacific Coast Fed. of Fishermen's Assn. et al v. Natl. Marine Fisheries Service, et al and American Forest Resource Council*, Civ. No. 04-1299RSM (W.D. Wash)(PCFFA IV). Based on violations of the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA), the Court set aside:

- the USFWS Biological Opinion (March 18, 2004),
- the NOAA-Fisheries Biological Opinion for the ACS Amendment (March 19, 2004),
- the ACS Amendment Final Supplemental Environmental Impact Statement (FSEIS) (October 2003), and
- the ACS Amendment adopted by the Record of Decision dated March 22, 2004.

Previously, in *Pacific Coast Fed. Of Fishermen's Assn. v. Natl. Marine Fisheries Service*, 265 F.3d 1028 (9th Cir. 2001) (*PCFFA II*), the United States Court of Appeals for the Ninth Circuit ruled that because the evaluation of a project's consistency with the long-term, watershed level ACS objectives could overlook short-term, site-scale effects that could have serious consequences to a listed species, these short-term, site-scale effects must be considered. The following paragraphs show how Condenser Peak LSR Enhancement Projects 2 and 3 meet the Aquatic Conservation Strategy in the context of PCFFA IV and PCFFA II.

Existing Watershed Conditions

The Condenser Peak LSR Enhancement Projects 2 and 3 areas lie within three 5th-field watersheds: Upper Siletz River, Upper South Yamhill River, and Mill Creek - South Yamhill River. The Upper Siletz River Watershed drains into the Siletz River. The Upper South Yamhill River Watershed and Mill Creek - South Yamhill River Watershed drain into the Willamette River. The *Rowell, Mill and Rickreall Creek, and Luckiamute River Watershed Analysis Watershed Analysis, Upper Siletz Watershed Analysis and Upper South Yamhill Watershed Assessment* describes the events that contributed to the current condition such as early hunting/gathering by aboriginal inhabitants, road building, agriculture, wildfire, and timber harvest.

Upper Siletz River Watershed

Twenty-seven percent of the watershed is managed by BLM and 73% is managed by private timber companies.

Late seral and/or old growth (greater than 80 years old) forests comprise four percent of the total ownership in the watershed. We can infer then, that commercial harvest or stand replacement fire has occurred on 96% of the lands in the watershed since 1918. The earliest harvests on BLM managed lands have been regenerated and are progressing towards providing mature forest structure. Most of the private industrial lands have been and will continue to be moved from mid condition class to the early condition class.

There is a total of about 13,279 acres of riparian vegetation within 100 ft of stream channels in the Upper Siletz watershed; BLM manages about 3374 acres (25%) and private landowners about 9905 acres (75%). About 10,916 acres (53%) of the total have low LWD recruitment potential; 2,083 acres

are managed by BLM and 8,833 acres by private landowners.

Upper South Yamhill River Watershed

Four percent of the watershed is managed by BLM and 96% is managed by private timber companies.

Late seral and/or old growth (greater than 80 years old) forests comprise 13 percent of the total BLM managed land in the watershed. We can infer then, that commercial harvest or stand replacement fire has occurred on 87% of the BLM managed lands in the watershed. The earliest harvests on BLM managed lands have been regenerated and are progressing towards providing mature forest structure. Most of the private industrial lands have been and will continue to be moved from mid condition class to the early condition class.

There is a total of about 18,216 acres of riparian vegetation within 100 ft of stream channels in the Upper South Yamhill River Watershed; BLM manages about 641 acres (4%) and private landowners about 17,575 acres (96%).

Mill Creek - South Yamhill River Watershed

Thirty-six percent of the watershed is managed by BLM and 64% is managed by private timber companies.

Late seral and/or old growth (greater than 80 years old) forests comprise 15 percent of the total BLM managed land in the watershed. We can infer then, that commercial harvest or stand replacement fire has occurred on 85% of the BLM managed lands in the watershed. The earliest harvests on BLM managed lands have been regenerated and are progressing towards providing mature forest structure. Most of the private industrial lands have been and will continue to be moved from mid condition class to the early condition class.

There is a total of about 8,774 acres of riparian vegetation within 100 ft of stream channels in the Mill Creek - South Yamhill River Watershed; BLM manages about 3,525 acres (40%) and private landowners about 5,249 acres (60%).

Review of Aquatic Conservation Strategy Compliance:

I have reviewed this analysis and have determined that the projects meet the Aquatic Conservation Strategy in the context of PCFFA IV and PCFFA II [complies with the ACS on the project (site) scale]. The following is an update of how these projects comply with the four components of the Aquatic Conservation Strategy, originally documented in the EA, Section 7.0 (pg. 65). The projects will comply with:

Component 1 – Riparian Reserves: by maintaining canopy cover along all streams and wetlands, stream bank stability and water temperature will be protected . Riparian Reserve boundaries will be established consistent with direction from the *Salem District Resource Management Plan*;

Component 2 – Key Watershed: by establishing that the Condenser Peak LSR Enhancement Projects 2 and 3 are within the North Fork Siletz River/Warnicke Creek key watershed;

Component 3 – Watershed Analysis: The *Rowell, Mill and Rickreall Creek, and Luckiamute River Watershed Analysis* (1998), *Upper Siletz Watershed Analysis* (1996), and *Upper South Yamhill*

Watershed Assessment (2002) describes the events that contributed to the current condition such as early hunting/gathering by aboriginal inhabitants, mining, road building, agriculture, wildfire, and timber harvest. The following are watershed analysis findings that apply to or are components of these projects:

Rowell, Mill and Rickreall Creek, and Luckiamute River Watershed Analysis

- In project areas less than 110 years of age, manage tree density to increase growth and achieve structural and density diversity (SI&MR 9).
- Management activities in the Riparian Reserves should be used to promote older forest characteristics, attain ACS objectives and move the Riparian Reserves on a trajectory toward older forest characteristics (see Appendix V, “Riparian Reserve Project Design”). Desired riparian characteristics include:
 - ✓ Diverse vegetation appropriate to the water table, geomorphic land type and stream channel type,
 - ✓ Mature conifers where they have occurred in the past,
 - ✓ Dead standing/down wood,
 - ✓ Stream connected to its floodplain (floodplain inundated every 1 to 3 years),
 - ✓ Stream bank vegetation with adequate root strength to maintain bank stability (SI&MR 10).
- Create Special Habitat Components (snags, CWD, wolf trees, multi-layered canopies) where and when appropriate in stands 40 to 110 years old in riparian and upland forest habitats. Inventory the existing pre- and post-treatment special habitat component conditions. In stands with an average DBHOB of 12 inches or more, use trees which are at least 12 inches in diameter to create snags, coarse down woody debris, and wolf trees if these special habitat components are lacking (SI&MR 18).

Upper Siletz Watershed Analysis

- Conifer forests older than 80 years old comprise 3.5% of the acreage within 100 feet of active streams, compared to an estimated 60% in pre-settlement times. Evaluate other projects to promote large tree development and to develop desirable vegetative structure (p. 7).
- Most of the early and mid-seral habitat is deficient in snags and large, hard woody debris based on field observations. In stands with less than 400 feet of hard, downed wood per acre, cut live conifers to create this level (p. 9).

Upper South Yamhill Watershed Assessment

- To increase the size and amount of large woody debris, the best areas for enhancement are those dominated by hardwoods or overstocked conifer stands (p. 115)
- Increase coarse woody debris and/or large woody debris where it is lacking by felling trees and restricting removal of down logs and snags within Riparian Reserves (p.115).

Component 4 – Watershed Restoration: by maintaining more than half of the canopy cover, implementing project design features to protect aquatic and riparian resources, and increasing structural diversity, the projects will not preclude future restoration projects.

In addition I have reviewed these projects against the ACS objectives at the project or site scale. Section 11.1 of the Condenser Peak LSR Enhancement EA addressed the effects on the nine aquatic conservation strategy objectives at the project level, project/site scale at the time of the original analysis. The projects do not retard or prevent the attainment of Aquatic Conservation Objectives (ACSO) 1-9 (Table 15, EA pp. 76-77) because the projects will:

- Restore meadow habitat where conifers are encroaching on it, thus adding diversity to the landscape in Project 2. Project 3 will enhance late-successional forest conditions and speed up attainment of these conditions across the landscape. (ACSO 1);
- Maintain and restore both terrestrial and aquatic connectivity over the long-term (ACSO 2);
- Maintain the integrity of shorelines, banks and bottom configurations (ACSO 3);
- Protect stream shade within primary shade zones of streams by maintaining a canopy of greater than 70 percent (ACSO 4);
- Maintain and restore the sediment regime as yarding is not proposed. Therefore increases in sediment delivery to streams are unlikely to result from these actions (ACSO 5);
- Affect less than 0.4% of the forest cover in the Upper South Yamhill watershed, 0.3% of the cover in the Mill Creek watershed, and 0.5% of the cover in the Upper Siletz watershed—well below the 20% threshold for measurable effects (ACSO 6);
- Maintain groundwater levels and floodplain inundation rates through the implementation of SPZs, coupled with the relatively small percent of vegetation proposed to be removed (ACSO 7);
- Maintain and restore the species composition and structural diversity of plant communities in riparian areas and wetlands within Project 2 areas. Riparian areas within Project 3 areas would be minimally affected by falling occasional trees into streams (ACSO 8);
- Restore habitat to support well distributed riparian-dependent and riparian associated species by moderating tree species diversity, altering forest structural characteristics and amending CWD conditions (ACSO 9).

Unless otherwise specified, the No Action Alternative for the projects would not prevent the attainment of any of the nine ACS objectives. Current conditions and trends would continue and are described in EA Sections 4.6 and 5.5.

IV. 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 projects and have meaningful differences in environmental effects from the proposed action (EA Sections 4.6 and 5.5). Complete descriptions of the "action" and "no action" alternatives are contained in the EA, pp. 47-59.

V. Decision Rationale

Considering public comment, the content of the EA and supporting project record, the management recommendations contained in the *Rowell Creek/Mill Creek/Rickreall Creek/Luckiamute River Watershed Analysis*, *Upper Siletz Watershed Analysis* and *Upper South Yamhill Watershed Assessment* and the management direction contained in the RMP, I have decided to implement Alternative 1, hereafter referred to as the selected action as described above. The following is my rationale for this decision.

1. The selected actions:
 - Meet the purpose and need of Projects 2 and 3 (EA sections 4.1 and 5.1), as shown in *Table 1*.
 - Comply 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 pp. 1 & 2).
 - Are in full and complete compliance with the *2007 Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Forest Service Land and Resource Management Plans Within the Range of the Northern Spotted Owl* (July, 2007) and *Final Supplement to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines*, (SEIS) June 2007.
 - Will not have significant impact on the affected elements of the environment (EA FONSI pp. ii-iv) beyond those already anticipated and addressed in the RMP EIS.
 - Have been adequately analyzed.

Table 1: Comparison of the Alternatives with Regard to the Purpose of and Need for Action (EA sections 4.1 and 5.1)

Purpose and Need (EA section 4.1 and 5.1)	Alternative 1 (Proposed Action)	(No Action)
To restore the structure and species composition of small mesic meadow habitat to conditions believed to have existed before fire exclusion and intensive management.	Removal of encroaching conifer trees and opening the meadow edges to additional sunlight would release herbaceous species native to the meadows.	Does not meet this purpose and need. Conifers would continue to encroach on the meadows, decreasing their size and shading herbaceous species native to the meadows.
CWD and snags, required for terrestrial wildlife habitat are lacking in the project area watersheds as a whole.	Creates small patches, increases size of scattered dominant conifers, creates immediate CWD and snags.	Does not meet this purpose and need.

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 4.1 and 5.1), as shown in *Table 1*.

VI. Public Involvement/Consultation/Coordination

Public Scoping:

- A description of the proposals were included in the December 2004, March, June and December 2005, and March, June and December 2006 Salem Bureau of Land Management Project Update which was mailed to more than 1070 individuals and organizations.
- A letter asking for scoping input on the proposals was mailed on May 19, 2005, to adjacent landowners and individuals who expressed an interest in management activities in the resource area as a whole or in this area. One response was received during the scoping period.

EA and FONSI Comment Period and Comments:

The EA and FONSI were made available for public review November 29, 2006 to December 28, 2006. The notice for public comment was published in a legal notice by the *Polk County Itemizer Observer* newspaper; and posted on the Internet under Environmental Assessments at <http://www.or.blm.gov/salem/html/planning/index.htm>

Two comment letters (Oregon Wild and American Forest Resource Council) were received. Responses to their comments can be found in Appendix A of the Decision Rationale.

Consultation/Coordination:

Wildlife: To address concerns for effects to federally listed wildlife species and potential modification of critical habitats, the Proposed Action was consulted upon with the U.S. Fish and Wildlife Service, as required under Section 7 of the ESA. Consultation for this Proposed Action was facilitated by its inclusion within a programmatic 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 2007 and 2008. The resulting Letter of Concurrence (ref# 1-7-2006-I-0190, dated October 3, 2006) concurred with the BA, that these actions were not likely to adversely affect spotted owl critical habitat. This Proposed Actions have been designed to incorporate all appropriate design standards set forth in the Biological Assessment which form the basis for compliance with the Letter of Concurrence.

Fish: Consultation with National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) is required for all actions which 'may affect' ESA listed fish species and critical habitat. The area where the proposed action is located contains tributaries to streams and rivers where Upper Willamette River (UWR) steelhead trout, UWR Chinook salmon and Oregon Coastal coho salmon are listed as threatened under the Endangered Species Act.

A determination has been made that the proposed Condenser Peak Projects 2 and 3 will have no effect to UWR steelhead trout as well as its designated critical habitat. Since the proposed actions are not anticipated to negatively affect hydrology and soil resources beyond short-term site scale effects, or

measurably contribute to negative cumulative effects, the proposed actions are subsequently unlikely to negatively affect fish habitat 1,800 feet to 3 miles downstream.

A determination has been made that these proposed projects will have 'no effect' to Spring Chinook salmon and Oregon chub. Generally, the 'no effect' determination is based on the distance upstream of project activities (approximately 65 miles) from ESA listed Chinook critical habitat and historic habitat for Oregon chub.

Oregon Coast (OC) coho salmon do not migrate past Siletz Falls, 12 miles downstream from the project area (ODFW 1997). No effects are anticipated to OC coho salmon habitat due to distance to occupied habitat.

Protection of Essential Fish Habitat (EFH) as described by the Magnuson/Stevens Fisheries Conservation and Management Act and consultation with NOAA-NMFS is required for all projects which may adversely affect EFH of Chinook and coho salmon. The proposed Projects 2 and 3 are not expected to adversely affect EFH due to distance of all activities associated with the projects from occupied habitat. Consultation with NOAA NMFS on EFH is not required for these projects.

VII. Conclusion

I have determined that change to the Finding of No Significant Impact (FONSI, January 2007) for the Condenser Peak LSR Enhancement Projects 2 and 3 are not necessary because I've considered and concur with information in the EA and FONSI. The comments on the EA were reviewed and no information was provided in the comments that lead 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.

This decision may be appealed to the Interior Board of Land Appeals in accordance with the regulations contained in 43 Code of Federal Regulations (CFR), Part 4 and Form 1842-1. Form 1842-1 can be obtained from the Salem District website at <http://www.or.blm.gov/salem/html/planning/index.htm>.

If you appeal: A public notice for this decision is scheduled to appear in the *Polk County Itemizer Observer* newspaper on Wednesday, June 18, 2008. Within 15 days of this notification, a *Notice of Appeal* must be filed in writing to the office which issued this decision – Marys Peak Field Manager, Bureau of Land Management, 1717 Fabry Road SE, Salem, OR, 97306. A copy of the *Notice of Appeal* must also be sent to the BLM Regional Solicitor (see Form 1842-1). The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the 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 Board 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.

Standards for Obtaining a Stay: 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:

The relative harm to the parties if the stay is granted or denied,
The likelihood of the appellant's success on the merits,
The likelihood of immediate and irreparable harm if the stay is not granted, and
Whether the public interest favors granting the stay.

Statement of Reasons: Within 30 days of the filing of the *Notice of Appeal*, a complete statement of reasons why you are appealing must be filed with the Interior Board of Land Appeals (see Form 1842-1).

If no appeals are filed, this decision will become effective and be implemented 15 calendar days after the public notice of the Decision Record appears in the *Polk County Itemizer Observer*. The public notice is scheduled to appear on Wednesday, June 18, 2008.

Contact Person: For additional information concerning this decision, contact Gary Humbard (503) 315-5981, Marys Peak Resource Area, Salem BLM, 1717 Fabry SE, Salem, Oregon 97306.

Approved by: Trish Wilson 5/16/08
Trish Wilson Date
Marys Peak Resource Area Field Manager

VIII. Appendix A: Response to Public Comments Received on the Condenser Peak LSR Enhancement Projects 2 and 3 (EA#OR080-05-07)

Two letters were received commenting on the Condenser Peak LSR Enhancement Environmental Assessment. Although the letters communicated a number of issues and opinions on forest management in general, the response to comments below only discusses those specifically directed to the Environmental Analysis which was made available for public review from November 29, 2006 to December 28, 2006. Comments are in *italics*. The BLM response follows each comment.

Oregon Wild, Doug Heiken Received December 22, 2006

1. *When conducting commercial thinning projects take the opportunity to implement other critical aspects of watershed restoration especially pre-commercial thinning, restoring fish passage, reducing the impacts of the road system, and treating invasive weeds.*

Response: The EA includes a project (Project 2) to restore four small meadows by felling selected conifers. Project 3 (Coarse Woody Debris/Snag Creation) is a proposal to create down wood and snags on approximately 172 acres adjacent to the proposed density management area for terrestrial habitat improvement.

2. *Focus on treating the youngest stands that are most "plastic" and amenable to restoration.*

Response: Projects 2 and 3 will be enhancing stands by creating snags and CWD (girdling/falling/leaving average stand diameter reserve trees); falling and leaving on site trees that are encroaching on meadows and impeding the survival of the largest trees with the greatest crowns (primarily in the mid-seral stands) that are threatened by canopy encroachment and by falling trees into live streams for LWD enhancement purposes. The stands range in age from 50 to 54 years of age and consist of Douglas-fir and western hemlock dominated forest where habitat restoration type projects typically occur.

April 24, 2008

United States Department of the Interior - BUREAU OF LAND MANAGEMENT

CONDENSER PEAK LSR ENHANCEMENT SELECTED ACTION MAP - PROJECTS 2 and 3

T. 7 S., R. 8 W., Sections 13, 14, and 15, W.M. - SALEM DISTRICT - OREGON

