

**Maxfield Creek Large Woody Debris Placement on Private Land/Meadow  
Restoration Project**

Final Decision and Decision Rationale for Maxfield Creek Large Woody Debris  
Placement on Private Land/Meadow Restoration Project

Environmental Assessment Number OR080-07-15

March 2008

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

Township 10 South, Range 5 West, Section 19, and Township 10 South, Range 6 West,  
Sections 23 and 24, Willamette Meridian  
Luckiamute Watershed 5<sup>th</sup> field Watershed.  
Benton County, Oregon

Responsible Agency: USDI - Bureau of Land Management

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

For further information, contact: Hugh Snook, Project Lead  
Marys Peak Resource Area  
1717 Fabry Road SE  
Salem, OR 97306  
(503) 315-5964

**BLM**  
Salem District



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/PL-07/068+1792**

## I. Introduction

The Bureau of Land Management (BLM) has conducted an environmental analysis for the Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Project, which is documented in the *Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Environmental Assessment* (OR080-07-15) and the associated project file. The proposed action of the Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Project is to remove approximately 50 conifer trees scattered over 25 acres affecting meadow habitat or competing with oak trees that are greater than 24" DBHOB and utilize them for in-stream aquatic habitat enhancement work. The project will include the placement of approximately 50 pieces of large woody debris (LWD) in Maxfield Creek using selected trees from upland treatment areas and transported to the stream via helicopter. Maxfield Creek is an anadromous fish-bearing stream with Oregon Coast (OC) Winter Steelhead and resident cutthroat trout and this stream has been identified as being suitable for LWD enhancement [*Luckiamute/Ash Creek/American Bottom Watershed Assessment* (LAWA, June, 2004)].

The project will occur within Adaptive Management Area and Riparian Reserve Land Use Allocations (LUA's) and on private land. The project will be implemented through a cooperative agreement with Luckiamute Watershed Council, Starker Forests Inc., Rosboro Lumber Co. and the BLM. A Finding of No Significant Impact (FONSI) was signed on November 20, 2007 and the EA and FONSI were then made available for public review.

The decision documented in this Decision Rationale (DR) is based on the analysis documented in the EA.

## II. Decision

I have decided to implement the Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Project with modification 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 Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Project Environmental Assessment (EA # OR080-07-15), the supporting project record, 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 (pp. 1-2).

- *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.

- Remove approximately 50 selected standing trees from mid and late-seral stands
- Placement of individual logs and log structures along 2 miles of fish bearing streams on private lands to improve fish habitat under a cooperative agreement with Luckiamute Watershed Council, Starker Forests Inc., Rosboro Lumber Co. and the BLM.
- Standing trees will be felled with chainsaws. All logs will be lifted from the forest floor, flown to in-stream treatments sites, and placed into the streams with a helicopter. Blowdown trees transported by truck from the Teal Creek area will be placed using either a helicopter or excavator.
- In general, felling of trees adjacent to the stream is not anticipated to occur as part of this project, however, falling of individual alder trees adjacent to the stream channel may be necessary to safely and effectively place LWD in the stream channel.
- All design features and mitigation measures described in the EA (pp. 7 - 9) will be incorporated into the cooperative agreement.

### **III. Compliance with Direction:**

The analysis documented in the Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration EA is site-specific and supplements analyses found in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS). This project has 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 lands within the Salem District (EA pp. 1 &-2). All of these documents may be reviewed at the Marys Peak Resource Area 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
- reinstate 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 order further directs "Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities...unless such activities are in compliance with the provisions of the 2001 ROD (as amended or modified 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.

We do not expect that the litigation over the Annual Species Review process in Klamath-Siskiyou Wildlands Center et al. v. Boody et al will affect this project, because the development and design of this project exempt it from the Survey and Manage program. In Northwest Ecosystem Alliance et al. v. Rey et al the U.S. District Court modified its order on October 11, 2006, amending paragraph three of the January 9, 2006 injunction. This most recent order directs:

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

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

"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. "In any case, this project

falls within at least one of the exceptions (exception c) listed in the modified October 11, 2006 [injunction].”

**Comment [hws1]:** Are quotation marks needed here?

The decision is consistent with the Northwest Forest Plan, including all plan amendments in effect on the date of the decision. The Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Project conforms 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 U. S. 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 the Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration project meets the Aquatic Conservation Strategy in the context of PCFFA IV and PCFFA II.

#### ***Existing Watershed Condition***

The Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Project area is in the Luckiamute River 5th-field watershed which drains into the Willamette River. Four percent of the watershed is managed by BLM and 96% is managed by other landowners. The *Luckiamute\Ash Creek\American Bottom Watershed Assessment Appendix I* (2004) describes the events that contributed to the current condition such as timber harvest, wildfire, and road building.

Late seral and/or old growth (greater than 80 years old) forests comprise 35% of the BLM managed lands in the watershed. We can infer then, that commercial harvest or stand replacement fire has occurred on 65% 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.

**Review of Aquatic Conservation Strategy Compliance:**

I have reviewed this analysis and have determined that the project meets 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 this project complies with the four components of the Aquatic Conservation Strategy, originally documented in the EA, pp. 29-30. The project will comply with:

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

**Component 2 – Key Watershed:** by establishing that the Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration project is not within a designated key watershed;

**Component 3 – Watershed Analysis:** The *Luckiamute\Ash Creek\American Bottom Watershed Assessment Appendix I* (2004) describes the events that contributed to the current condition such as early hunting/gathering by aboriginal inhabitants, road building, agriculture, wildfire, and timber harvest. The following are watershed analysis findings that apply to or are components of this project:

- A potential negative effect to CWD recruitment was noted as approximately 96 percent of streams surveyed for LWD key pieces were categorized as undesirable for in-stream aquatic habitat within the Upper Luckiamute River watershed. For the streams surveyed, in-stream structure is lacking. The restoration strategy should include riparian plantings as well as supplying wood from some other sources. Several of the watersheds have stream reaches that meet desirable benchmarks for the number of pieces and large wood volume, but over all the majority of habitat surveyed falls into the undesirable category. (*Luckiamute/Ash Creek/American Bottom Watershed Assessment pp. 274, 281, 285*).
- The Maxfield Creek stream channel currently is deficient in large woody debris needed for structural habitat diversity.
- Action planning should focus on improving in-stream habitat quality by reconnecting floodplains and adding structural complexity to the streams. Short-term management planning may involve placing wood in streams to increase in-stream complexity that has been removed or degraded while not adding to the major debris jams that are known from some areas (*Luckiamute/Ash Creek/American Bottom Watershed Assessment p.11*).

**Component 4 – Watershed Restoration:** The project is specifically designed for watershed restoration. The project will maintain and restore stream habitat conditions and help restore stream flows.

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

**Table 1: Aquatic Conservation Strategy Objectives**

Aquatic Conservation Strategy Objectives (ACSOs)	Maxfield Creek LWD Placement on Private Land/Meadow Restoration Project
1. Maintain and restore the distribution, diversity, and complexity of watershed and landscape-scale features.	Does not prevent the attainment of <i>ACSO 1</i> . LWD placement will increase aquatic habitat complexity and diversity. Enhancing meadow habitats, will help restore the distribution and complexity of landscape features in the watershed. Management recommendations to maintain and restore oak, meadow and woodland habitat in conifer stands is consistent with this objective and will not prevent attainment of ACS objectives.
2. Maintain and restore spatial and temporal connectivity within and between watersheds.	Does not prevent the attainment of <i>ACSO 2</i> . Long term connectivity of terrestrial watershed features will be improved by increasing the availability and proximity of functioning riparian habitat.
3. Maintain and restore the physical integrity of the aquatic system, including shorelines, banks, and bottom configurations.	Does not prevent the attainment of <i>ACSO 3</i> . Placing LWD in Maxfield Creek will encourage the formation of pools/riffles, meanders, and other complex channel morphological features. Within meadow restoration areas, no-treatment buffers adjacent to all surface water will maintain the physical integrity of the aquatic system.
4. Maintain and restore water quality necessary to support healthy riparian, aquatic, and wetland ecosystems.	Does not prevent the attainment of <i>ACSO 4</i> . Although some short-term effects to water quality may occur (primarily increased fine sediment loads during LWD placement, the proposed project will help restore water quality over the long-term by restoring more natural channel conditions.
5. Maintain and restore the sediment regime under which aquatic ecosystems evolved.	Does not prevent the attainment of <i>ACSO 5</i> . Large woody debris placement will help restore the historical sediment regime of the aquatic ecosystem. Based on similar work this increase in sediment is expected to last less than 2 days before pre-project conditions re-establish themselves at the site.
6. Maintain and restore in-stream flows sufficient to create and sustain riparian, aquatic, and wetland habitats and to retain patterns of sediment, nutrient, and wood routing.	Does not prevent the attainment of <i>ACSO 6</i> . Large woody debris placement will not affect the volume of stream flow. However, it will help to restore the routing of instream flows. The proposed timber cutting will affect only 0.012% of the current forest cover in the watershed.
7. Maintain and restore the timing, variability, and duration of floodplain inundation and water table elevation in meadows and wetlands.	Does not prevent the attainment of <i>ACSO 7</i> . Large woody debris instream placement will help restore floodplain function by increasing the stream's ability to access its floodplain. The project will be unlikely to affect water table elevations. Project design features, such as no-treatment buffers, coupled with the small percent of vegetation proposed to be removed, will maintain groundwater levels and floodplain inundation rates. Recommendations to restore and maintain meadow habitat are consistent with this objective and will not prevent attainment of any ACS objective.
8. Maintain and restore the species composition and structural diversity of plant communities in riparian areas and wetlands.	Does not prevent the attainment of <i>ACSO 8</i> . Within the LWD instream placement project area, current species composition and diversity of plant communities will be maintained. Within riparian zones and wetlands, current species composition will be maintained, except as necessary to restore meadow, oak savanna, and oak woodland habitats that occurred there under reference conditions.
9. Maintain and restore habitat to support well-distributed populations of native plant, invertebrate and vertebrate riparian-dependent species.	Does not prevent the attainment of <i>ACSO 9</i> . Large woody debris placement will increase habitat connectivity for riparian-dependent species, in-channel habitat diversity, and riparian functions (floodplain inundation, CWD, increasing nutrients for primary producers, etc.). Vegetation management will help restore habitat by increasing species diversity and enhancing meadows.



#### 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 project and have meaningful differences in environmental effects from the proposed action (EA Section 3.2). Complete descriptions of the "action" and "no action" alternatives are contained in the EA, pages 14-28.

#### V. Decision Rationale

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

1. The selected action:

- Meets the purpose and need of the project (EA section 1.4), as shown in *Table 2*.
- Complies with the *Salem District Record of Decision and Resource Management Plan*, May 1995 (RMP) and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA pp. 1 & 2).
- The Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration project is in full and complete compliance 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*. This project is in compliance with Judge Marsha Pechman's January, 2006 ruling on the 2004 Record of Decision for Survey and Manage Standards and Guidelines, as stated in Point (3) on page 14 of the January 9, 2006, Court order in *Northwest Ecosystem Alliance et al. v. Rey et al.*
- Will not have significant impact on the affected elements of the environment (EA FONSI pp. i-iii) beyond those already anticipated and addressed in the RMP EIS.
- Has been adequately analyzed.

**Table 2: Comparison of the Alternatives with Regard to the Purpose of and Need for Action (EA section 1.4)**

**Table 2: Comparison of Alternatives with Regard to Purpose and Need**

Purpose and Need (EA section 1.4)	Alternative 1 (No Action)	Alternative 2 (Proposed Action)
To restore in dry grand fir/meadow habitat types the structure and species composition of oak-conifer woodland, oak savanna and meadow habitat to conditions believed to have existed during a regime of frequent, low-intensity fire. There is a need to cut and remove by helicopter approximately 50 trees adjacent to existing meadows and treat resulting fuels.	Some existing oak trees would eventually be overtopped by conifers and die. The extent of meadow habitat would be constrained by large conifer. Woodland habitat would not be restored from closed conifer conditions.	Releases existing oak from conifer shade. Conifer removal will help restore woodland and meadow structure and establish native species.
To provide short term habitat until natural processes can supply the materials needed to recover good stream habitat. There is a need to place in-stream LWD (50 trees described above) within 2 miles of anadromous fish bearing stream located on private land.	Recruitment of LWD to the stream channel would be delayed, potentially for decades, until natural recruitment occurs from mature and decadent stands.	The helicopter placement of large wood debris is expected to increase habitat complexity and provide key elements necessary to maintain that habitat in the future. LWD placement will be beneficial to the habitat and fish populations will respond to the improved habitat.

2. The No Action alternative was not selected because it does not meet the Purpose and Need directly, or delays the achievement of the Purpose and Need (EA section 1.4), as shown in *Table 2*.

## VI. Public Involvement/ Consultation/Coordination

In compliance with the National Environmental Policy Act, a scoping letter, dated August 21, 2007, was sent to 14 potentially affected and/or interested individuals, groups, and agencies.

A description of the project was included in the March, June, September and December 2007 and March 2008 *Salem District Project Update*, which was mailed to over 1,200 addresses. All adjacent land owners to the project area were sent scoping letters. No response(s) was received during the scoping period.

### Comment Period and Comments:

The original EA and/or notice of availability of EA were mailed to approximately 14 agencies, individuals and organizations on November 20, 2007. A legal notice was placed in a local newspaper (*Gazette Times*) soliciting public input on the action from November 23, 2007 to December 22, 2007.

### Consultation/Coordination:

**Wildlife:** To address concerns for potential effects to spotted owl critical habitat, the proposed action was consulted upon with the U.S. Fish and Wildlife Service, as required under Section 7 of the ESA. A biological assessment describing the impacts to all ESA listed species was submitted to the U.S. Fish and Wildlife Service in the winter of 2005-2006. The proposed action is a may affect, likely to adversely affect the northern spotted owl and its habitat. The habitat is

fragmented, too small and too isolated from other federal lands to provide enough suitable habitat for one viable home range for the northern spotted owl. The proposed action is a may affect, likely to adversely affect the marbled murrelet and its habitat. The high level of edge habitat associated with the shape and size of the stands greatly decrease their quality as murrelet nesting habitat. The Taylor's checkerspot butterfly is a Federal Candidate species and is considered a listed species according to BLM policy. The proposed action would have a positive effect on the Taylor's checkerspot butterfly because the action would restore, improve, and maintain meadow habitat used by the butterfly. The Fender's blue butterfly is a Federal Endangered species and Kincaid's Lupine is a Federal Threatened species. The proposed action (restoration of existing meadow habitat) would have a positive effect on both the Fender's blue butterfly and Kincaid's lupine because the action may restore, improve, and maintain habitat for the lupine and butterfly, and would be considered a May Effect, Not Likely to Adversely Affect determination. The proposed action would have no effect on the bald eagle or its habitat since it does not occur in or adjacent to the proposed project area and potential nesting and foraging habitat is not being modified. Oregon chub is listed as endangered under the Endangered Species Act. Currently there are no known chub populations residing in the Luckiamute watershed. No effects are anticipated to Oregon chub historic habitat.

Fish: A determination has been made that the proposed Maxfield Creek LWD Placement on Private Land/Meadow Restoration project includes 'May Affect' action areas to ESA listed threatened UWR (Upper Willamette River) steelhead trout. This determination was primarily derived from the distance of listed fish and critical habitat from treatment areas. Proposed actions which 'May Affect' UWR steelhead trout would comply with existing programmatic consultation and relevant design criteria. Existing programmatic consultation covers log removal for in-stream restoration projects. Log removal for in-stream restoration is covered under NOAA NMFS *Endangered Species Act Section 7 Formal Programmatic Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Fish Habitat Restoration Activities in Oregon and Washington, CY2007-CY2012*.

Protection of 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 actions in the Maxfield Creek LWD Placement on Private Land/Meadow Restoration EA are not anticipated to adversely affect EFH. This determination is primarily due to the distance of EFH from treatment areas.

## **VII. Conclusion**

I have determined that change to the Finding of No Significant Impact (FONSI – November 2007) for the Maxfield Creek Large Woody Debris Placement on Private Land/Meadow Restoration Project is 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 *Corvallis Gazette Times* newspaper on Monday, March 17, 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 *Gazette Times*. The public notice is scheduled to appear in the *Gazette Times* on Monday, March 17, 2008.

Contact Person: For additional information concerning this decision, contact Hugh Snook (503) 315-5964, Marys Peak Resource Area, Salem BLM, 1717 Fabry SE, Salem, Oregon 97306.

Approved by: Trish Wilson  
Trish Wilson  
Marys Peak Resource Area Field Manager

3-12-08  
Date

# VIII. Map

